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# Executive Orders

## EXECUTIVE ORDER JBE 20-16

Flags at Half-Staff—United States  
Representative John Lewis

WHEREAS, the Honorable John Robert Lewis, a Representative to the United States House of Representatives for Georgia’s 5th Congressional District, and a pioneer in the Civil Rights Movement, died at the age of 80, on Friday, July 17, 2020;

WHEREAS, John Robert Lewis was born in Troy, Alabama, on February 21, 1940, the son of rural sharecroppers; he grew up on his family’s farm and attended segregated public schools in Pike County, Alabama;

WHEREAS, as a young boy, he was inspired by the activism surrounding the Montgomery Bus Boycott and the words of the Reverend Dr. Martin Luther King, Jr., which he heard on radio broadcasts; in those pivotal moments, he decided to become a part of the Civil Rights Movement;

WHEREAS, he graduated from the American Baptist Theological Seminary in Nashville, Tennessee, and then received a bachelor’s degree in religion and philosophy from Fisk University;

WHEREAS, Representative Lewis became one of the 13 original Freedom Riders in 1961, and in 1963, at the age of 23, he became Chairman of the Student Nonviolent Coordinating Committee (SNCC), which he had helped form;

WHEREAS, during the height of the Civil Rights Movement, John Lewis was a nationally recognized leader, dubbed one of the Big Six leaders of the Civil Rights Movement in 1963; and he was the youngest persons to deliver a keynote speech at the March on Washington that summer, alongside fellow Civil Rights luminaries A. Philip Randolph, Bayard Rustin, and the Reverend Dr. Martin Luther King, Jr.;

WHEREAS, in 1965, John Lewis led over 600 peaceful, orderly protestors across the Edmund Pettus Bridge in Selma, Alabama; the marchers were attacked by Alabama state troopers in a brutal confrontation that became known as “Bloody Sunday;” news broadcasts and photographs revealing the senseless cruelty of the segregated South helped hasten the passage of the Voting Rights Act of 1965;

WHEREAS, John Lewis was elected to the United States House of Representatives in November, 1986, and served as U.S. Representative for Georgia’s Fifth Congressional District for thirty-four years;

WHEREAS, the recipient of numerous awards from eminent national and international institutions, he continued his legacy of leadership in the U.S. Congress as Senior Chief Deputy Whip for the Democratic Party in the House, and as a member of the powerful House Ways and Means Committee, and a member on its subcommittee on Income Security and Family Support, and Ranking Member of its Subcommittee on Oversight;

WHEREAS, John Lewis is an icon of the American Civil Rights Movement and dedicated his life to protecting

human rights, securing civil liberties, and building what he called “The Beloved Community” in America, poignantly having stated, “When we see something that’s not right, or not just, we have a moral obligation to speak up and speak out to do something about it;” and

WHEREAS, Representative John Lewis lived his life with integrity and honor, setting an example for all with his passionate and tireless activism and public service, and he will long be remembered by the people of Louisiana, and of these United States, and further across the world.

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: As an expression of respect for John Lewis, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol until sunset on Monday, July 20, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, July 20, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 18th day of July, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2008#020

## EXECUTIVE ORDER JBE 20-17

Flags at Half-Staff—Frank Alden “Frankie” Howard

WHEREAS, Frank Alden “Frankie” Howard, a former distinguished member of the Louisiana Legislature, died at the age of 81 on Saturday, July 26, 2020;

WHEREAS, he was predeceased by his wife of 54 years, Betty Pauline, and he is survived by his wife Macel, his sons Robert, Rodney, and Ryan; grandchildren Katy, Matt, Lesley, Brian, Jacob, Catherine, Courtney, and Daniel; his great-granddaughter Kora; his sister Martha; as well as a host of extended family and friends;

WHEREAS, a veteran of the United States Army, he entered into public service in 1961; he was elected in 1975 to Sheriff of Vernon Parish and served for twenty-four years in that position, during which time he introduced the first Drug Abuse Resistance Education (DARE) program in Vernon Parish and served as president of the Louisiana Sheriffs’ Association;

WHEREAS, he served the parishes of Vernon, Sabine, and Natchitoches, and his home of Hornbeck, in the Louisiana Legislature for twelve years, first elected to the

House of Representatives in 2007, where he served for three terms until January of 2020; and

WHEREAS, Frank Alden Howard lived his life with integrity and honor, and his public service as a lawmaker to the State of Louisiana will long be remembered.

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: As an expression of respect for Frank Alden "Frankie" Howard, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Thursday, July 30, 2020.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on Thursday, July 30, 2020.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 28th day of July, 2020.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
2008#014

# Emergency Rules

## DECLARATION OF EMERGENCY

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

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

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5553 Vulnerable Communities and Peoples Initiative. This Emergency Rule shall be effective August 1, 2020 and shall remain in effect for a period of 120 days.

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

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

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

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

#### Chapter 55. TANF Initiatives

#### §5553. Vulnerable Communities and Peoples Initiative

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

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

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

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

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

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

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

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

Marketa Garner Walters  
Secretary

2008#015

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) has adopted emergency amendments to *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*, *Bulletin 741—Louisiana Handbook for School Administrators*, and *Bulletin 126—Charter Schools*. Act 9 of the 2020 First Extraordinary Session requires that BESE adopt, no later than July 15, 2020, emergency rules reflective of the Centers for Disease Control and Prevention (CDC) guidelines to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. In response to this Act and in light of the coronavirus pandemic (COVID-19), these amendments provide minimum health and safety standards, ensuring the protection of students, faculty, staff, and others on school property to the greatest extent possible and practical, for the reopening of school facilities for the 2020-2021 school year. Use of the emergency provision provided in the APA will allow for these minimum health and safety standards to take immediate effect and inform local reopening plans for the 2020-2021 school year. This Declaration of Emergency, effective July 14, 2020, will remain in effect for a period of 120 days from the day of adoption, or until adopted as a final Rule.

#### Title 28

#### EDUCATION

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

#### Chapter 11. Health

#### Subchapter A. General Provisions

#### §1101. Immunization

A. - F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November

2003), amended LR 31:3078 (December 2005), LR 35:1232 (July 2009), LR 35:2348 (November 2009), LR 39:1443 (June 2013), repromulgated LR 46:

### **§1103. Diabetes Management and Treatment**

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

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

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

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

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

#### **§1105. Purpose and Background**

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

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

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

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

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

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

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

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

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

#### **§1107. Minimum Requirements for Reopening and Operating School Facilities**

A. Group Sizes

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

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

2. Group Composition

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

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

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

B. Physical Standards for the use of School Facilities

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

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

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

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

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

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

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

D. Environmental Cleaning and Personal Hygiene

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

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

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

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

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

### E. Hygienic Supplies

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

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

### F. Transportation

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

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

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

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

### G. Student Programming Determinations

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

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

### H. Essential Visitors to School Facilities

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

a. conduct CLASS<sup>®</sup> observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

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

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

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

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

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

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

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

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

## Chapter 33. Glossary

### §3303. Definitions

\* \* \*

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

\* \* \*

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

\* \* \*

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

\* \* \*

*LDH*—the Louisiana Department of Health.

\* \* \*

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

\* \* \*

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

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

## Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

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

#### §401. Purpose and Background

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

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

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

D. By executive order, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase

3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

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

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

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

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

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

### **§403. Minimum Requirements for Reopening and Operating School Facilities**

#### **A. Group Sizes**

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

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

#### **2. Group Composition**

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

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

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

#### **B. Physical Standards for the use of School Facilities**

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

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

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

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

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

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

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

#### **D. Environmental Cleaning and Personal Hygiene**

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

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

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

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

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

#### **E. Hygienic Supplies**

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

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

#### **F. Transportation**

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

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

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

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

#### **G. Student Programming Determinations**

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

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

#### **H. Essential Visitors to School Facilities**

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in



accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

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

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

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

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

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

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

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

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

### **Chapter 37. Glossary**

#### **§3703. Definitions**

\*\*\*

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

\*\*\*

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

\*\*\*

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

\*\*\*

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

\*\*\*

*LDH*—the Louisiana Department of Health.

\*\*\*

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

\*\*\*

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

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

### **Part CXXXIX. Bulletin 126—Charter Schools**

#### **Chapter 1. General Provisions**

#### **§103. Definitions**

A. - A.2. ...

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*Face Covering*—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier

to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

\*\*\*

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

\*\*\*

*LDH*—the Louisiana Department of Health.

\*\*\*

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

\*\*\*

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

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

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

#### **§4101. Purpose and Background**

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

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

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

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

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

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

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

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

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

### **§4103. Minimum Requirements for Reopening and Operating School Facilities**

#### **A. Group Sizes**

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

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

#### **2. Group Composition**

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

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

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

#### **B. Physical Standards for the use of School Facilities**

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

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

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

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

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

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

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

#### **D. Environmental Cleaning and Personal Hygiene**

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

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

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

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

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

#### **E. Hygienic Supplies**

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

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

#### **F. Transportation**

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

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

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

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

#### **G. Student Programming Determinations**

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

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

#### **H. Essential Visitors to School Facilities**

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

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

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

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

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

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

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

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

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

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

Shan N. Davis  
Executive Director

2008#019

**DECLARATION OF EMERGENCY**

**Department of Health  
Board of Drug and Device Distributors**

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

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

**Title 46**

**PROFESSIONAL AND OCCUPATION STANDARDS**

**Part XXXIV. Drug and Device Distributors**

**Chapter 8. Fees**

**§801. Fees**

A.1. - 6. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006), amended LR 35:1540 (August 2009), LR 38:1961 (August 2012), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016), LR 46:

George Lovecchio  
Executive Director

2008#003

**DECLARATION OF EMERGENCY**

**Department of Health  
Board of Pharmacy**

Marijuana Recommendations (LAC 46:LIII.2457)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953 (B), to amend one section of its rules for marijuana pharmacies relative to recordkeeping requirements as well as professional practice standards relative to recommendations for therapeutic marijuana.

Act 286 of the 2020 Legislature made several changes to the state medical marijuana law (R.S. 40:1046) including changes in the eligibility of physicians authorized to issue recommendations for therapeutic marijuana as well as the removal of the authority for the Louisiana State Board of Medical Examiners to promulgate rules relative to physicians issuing marijuana recommendations. Prior to the August 1, 2020 effective date of the new legislative act, rules had been promulgated by the Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy to govern the issuance, receipt, and processing of marijuana recommendations. With the removal of the authority of the Board of Medical Examiners to promulgate rules relative to physicians issuing marijuana recommendations, the Board of Pharmacy has determined it necessary to amend its rules for marijuana recommendations to provide the regulatory structure necessary to properly administer the state medical marijuana law at R.S. 40:1046.

The proposed changes in Subsection D for recordkeeping requirements include a repeal of the existing Paragraph 1 referencing a recommendation as an order, a technical change in the re-numbered Paragraph 1, and a clarification of an inventory recordkeeping requirement in the re-numbered Paragraph 3. The proposed changes in Subsection E for professional practice standards include a new Paragraph 1 with the current paragraphs re-numbered sequentially. Within Paragraph 1, Subparagraph (a) permits a marijuana pharmacy to accept a recommendation from a physician in possession of a current and unrestricted license to practice medicine as well as a current state controlled substance license with privileges for Schedule I. The subparagraph also requires the pharmacy to accept the recommendation directly from the physician either through electronic prescriptions or through facsimile. Subparagraph (b) identifies the information which shall be disclosed within the recommendation. Subparagraph (c) expires a recommendation one year after the date of issue unless a shorter period of time is specified by the physician; and further, permits a pharmacist to dispense products one or more times prior to the expiration date but limits the dispensing to a maximum of a 90-day supply in a single dispensing and a maximum of a one-year supply pursuant to a single recommendation. The proposed change in the re-numbered Paragraph 4 clarifies the requirement for the pharmacist to comply with standards for drug utilization review and patient counseling. The proposed changes in the re-numbered Paragraph 6 remove the prohibition on the

return of marijuana product inventory to the marijuana producer as well as the additional requirement to record product disposal in the Louisiana Medical Marijuana Tracking System (LMMTS).

Given the significant and beneficial impact of therapeutic marijuana on the health of patients using such treatment, the Board of Pharmacy has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. This Emergency Rule shall become effective on August 1, 2020 and shall remain in effect for 120 days unless extended or rescinded.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIII. Pharmacists**

#### **Chapter 24. Limited Service Providers**

#### **Subchapter E. Marijuana Pharmacy**

#### **§2457. Standards of Practice**

A. - C.2.a. ...

#### **D. Recordkeeping Requirements**

1. When the pharmacy receives a request for marijuana from a recommending physician in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with §1123 of this Part.

2. Request forms (and electronic images thereof) shall be retained on the pharmacy's premises for at least two years after the date of dispensing, and further, shall be readily retrievable upon request by the board.

#### **3. Inventory of Marijuana Product**

a. The pharmacist-in-charge shall develop and maintain a perpetual inventory of all marijuana products acquired, held, dispensed, and disposed by the pharmacy.

b. The pharmacy shall access the LMMTS and enter all acquisitions and product transfer transactions in that system.

c. In the event the pharmacist-in-charge designates an agent to retrieve new marijuana product inventory from the production facility, the pharmacist shall verify the agent is at least 21 years of age and is eligible to drive on public roadways.

d. The pharmacist-in-charge shall conduct an annual inventory of all marijuana products in the possession of the pharmacy on any date which is within one year of the previous annual inventory, and further, shall conduct additional inventory counts on the following occasions:

- i. arrival of a new pharmacist-in-charge;
- ii. discovery of any significant loss, disappearance, or theft of marijuana product;
- iii. departure of a new pharmacist-in-charge; and
- iv. permanent closure of the pharmacy.

e. Inventory records shall be retained on the pharmacy's premises for at least two years after the most recent entry.

4. The pharmacy shall develop and maintain sufficient records to fully reveal the business transactions related to marijuana products, including their procurement and sale, for the current tax year as well as the two immediately preceding tax years, all of which shall be made available to the board upon request.

5. The board may require any pharmacy or its owners to furnish such information as the board considers necessary

for the proper administration of R.S. 40:1046, and may require a financial audit of the business of any marijuana pharmacy, and the expense thereof shall be paid by the marijuana pharmacy.

#### **E. Professional Practice Standards**

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

a. The pharmacist may accept any request for a marijuana product which has been:

i. issued by a physician in possession of a current and unrestricted license to practice medicine from the Louisiana State Board of Medical Examiners as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and

ii. received directly from the physician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the physician.

b. The request shall disclose the following information, at a minimum:

i. name, address, telephone number, and national provider identifier (NPI) number of the physician issuing the request;

ii. name, address, and date of birth (or age) of the patient for whom the request was issued;

iii. identification of the debilitating medical condition for which the treatment has been requested;

iv. treatment requested;

v. date request was issued;

vi. self-certification the physician holds a current and unrestricted license to practice medicine issued by the Louisiana State Board of Medical Examiners; and

vii. signature of the physician issuing the recommendation, excluding any proxy or agent.

c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the physician. A pharmacist may dispense marijuana product on multiple occasions as indicated by the physician and needed by the patient until the request expires; however, the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one-year supply of marijuana product pursuant to a single request. A pharmacist shall not dispense marijuana product pursuant to an expired request.

2. Prior to dispensing any marijuana product to a patient, the pharmacist shall review the patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

#### **3. Labeling of Marijuana Product Dispensed**

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by the LDAF, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

i. name and address of the pharmacy dispensing the product;

ii. telephone number or other contact information of the pharmacy dispensing the product;

- iii. name of the recommending physician;
- iv. name of the patient;
- v. date the product was dispensed;
- vi. prescription number, which shall be a unique identifier for that specific transaction;
- vii. name of the marijuana product, including any concentration, strength, or other identifiers of the marijuana product;
- viii. quantity of marijuana dispensed;
- ix. directions for use of the product;
- x. expiration date of the product, which shall not exceed the expiration date determined by the producer of the product; and
- xi. other information selected by the dispensing pharmacist to inform the patient as to the best use of the product for the intended purpose.

4. The pharmacist shall comply with the rules on drug utilization review and patient counseling in Chapter 5 of this Part.

5. Reporting transactions to state prescription monitoring program. The pharmacy shall comply with the reporting requirements as found in Chapter 29 of this Part.

6. Disposal of Marijuana Product

a. A pharmacy may refuse to accept the delivery of marijuana product from a producer when it is determined to be misbranded, adulterated, expired, deteriorated, undesired, excess, unauthorized, or unfit for dispensing.

b. When the pharmacist determines a marijuana product is no longer suitable for dispensing, the product shall be removed from active dispensing stock and quarantined in the pharmacy pending its disposal.

c. - 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 46:

Malcolm J Broussard  
Executive Director

2008#006

**DECLARATION OF EMERGENCY**

**Department of Health  
Licensed Professional Counselors Board of Examiners**

**Internet Counseling and Teletherapy Guidelines  
(LAC 46:LX.503 and 505)**

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Section 505 and the definition of Internet Counseling in Section 503. The LPCBE finds an imminent danger to the public's health, safety, and welfare; thereby, requiring the immediate adoption of this Rule to respond to the Covid-19 health emergency. The following Emergency Rule, effective July 24, 2020, shall remain in effect for a maximum of 120 days.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LX. Licensed Professional Counselors Board of Examiners**

**Subpart 1. Licensed Professional Counselors**

**Chapter 5. License and Practice of Counseling**

**§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors**

A. ...

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*Practice of Mental Health Counseling/Psychotherapy—...*

a. - g. ...

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019), LR 46:

**§505. Teletherapy Guidelines for Licensees  
(Formerly Diagnosing for Serious Mental  
Illnesses)**

A. This Chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques

and has set forth the following regulatory standards to ensure competence and safety. This Rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. The licensee must have been practicing for at least one year.
4. The licensee must complete either option below.
  - a. Graduate-Level Academic Training. At least one graduate-level academic course in telemental health counseling. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course).
  - b. Professional Training with a minimum of nine synchronous clock hours in teletherapy. The presenter shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:
    - i. appropriateness of teletherapy;
    - ii. teletherapy theory and practice;
    - iii. theory integration;
    - iv. modes of delivery;
    - v. risk management;
    - vi. managing emergencies;
    - vii. legal/ethical issues.
5. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

- a. mode and parameter of technology-assisted media(s), and technical failure;
- b. scheduling and structure of teletherapy;
- c. risks of teletherapy;
- d. privacy and limits of confidentiality;
- e. contact between sessions;
- f. emergency plan;
- g. consultation and coordination of care with other professionals;
- h. referrals and termination of services;
- i. information and record keeping;
- j. billing and third-party payors;
- k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following:

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases where conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of

service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 percent of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019), amended LR 46:

Jamie S. Doming  
Executive Director

2008#005

## DECLARATION OF EMERGENCY

### Department of Health Licensed Professional Counselors Board of Examiners

Online Continuing Education Hours  
(LAC 46:LX.611 and 3315)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Section 611(B)(2) and 3315(C)(2)(b). The LPCBE finds an imminent danger to the public's health, safety, and welfare; thereby, requiring the immediate adoption of this rule to respond to the Covid-19 health emergency. The following

Emergency Rule, effective August 1, 2020, shall remain in effect for a maximum of 120 days.

## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LX. Licensed Professional Counselors Board of Examiners

##### Subpart 1. Licensed Professional Counselors

#### §611. Continuing Education Requirements for Provisional Licensed Professional Counselors

A. - B.1. ...

2. A licensee may obtain the 20 CEHs through one or more of the options listed below. A maximum of 10 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education.

B.2.a. - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 41:717 (April 2015), amended LR 46:

#### §3315. Application, Practice, and Renewal Requirements for Provisional Licensed Marriage and Family Therapists

A. - E.2.a. ...

b. A licensee may obtain the 20 CEHs through one or more of the options listed below. A maximum of 10 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education.

E.2.b. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:1204 (September 2019), LR 46:

Jamie S. Doming  
Executive Director

2008#010

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Office of the State Fire Marshal Uniform Construction Code Council

State Uniform Construction Code  
(LAC 17:I.111)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council, hereafter referred to as the "LSUCCC" or the "Council", has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend LAC 17:I.Chapter 1 in the State Uniform Construction Code as authorized by R.S.40:1730.28. Furthermore, the LSUCCC has found an

immediate need to adopt amendments of the current State Uniform Construction Code, 2015 *International Plumbing Code*, Section 422.11, Handwashing Facilities. A letter from Dr. Jimmy Guidry, State Health Officer, Department of Health, was received by the LSUCCC requesting an amendment be adopted by the Council. This amendment will serve to better protect the public and to follow national guidelines from the Center for Disease Control (CDC).

In Dr. Guidry’s letter, he states the following: “In the absence of nationally mandated requirements or guidelines regarding handwashing facilities in medical office exam rooms, I’ve considered the minimum indications for handwashing and antiseptics, as accepted by the Center for Disease Control (CDC). The CDC recognizes hand hygiene in health-care settings, based on the recommendations of the Healthcare Infection Control Practices Advisory Council. It is my recommendation that the following language be added as an exception to the referred to section above as an Emergency Rule Amendment. This should only be acceptable in lieu of handwashing facilities alone, in a healthcare setting such as doctor’s offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM).”

The LSUCCC is promulgating this Emergency Rule to provide greater health and safety for the public and for those providing medical care to patients. This rule was first adopted and published in the January 20, 2018 edition of the *Louisiana Register* (Vol. 44, No. 1). The rule became effective on February 1, 2018. This Emergency Rule is being promulgated to amend those provisions. It was favorably

voted on by the LSUCCC on November 20, 2019. By the signature of the agency head, Chief H. “Butch” Browning, Jr., it was adopted and became effective on December 3, 2019. It was published in the December 2019 edition of the *Louisiana Register* (Vol. 45, No. 12). This provision was readopted and became effective April 2, 2020. It was published in the April 2020 edition of the *Louisiana Register* (Vol. 46, No. 04). This Emergency Rule is being promulgated to continue the provisions of the April 2, 2020 Emergency Rule. It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first. The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote greater access to safer hygiene practices and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

**Title 17  
CONSTRUCTION**

**Part I. Uniform Construction Code**

**Chapter 1. Adoption of the Louisiana State Uniform Construction Code**

**§111. *The International Plumbing Code*  
(Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2015 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

***		
Amend	Chapter 4	
***		
Adopt	Section 422.11, Handwashing Facilities.	Medical facilities, including doctor’s office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.
Amend	Exception	1. In healthcare setting such as doctor’s offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM), where hands are not expected to be visibly soiled and clinical situations described in items 1C-J (IA) (74,93,166,169,283,294,312,398) are followed, use of an alcohol-based hand rub for routinely decontaminating hands shall be allowed in lieu of handwashing facilities. The design professional shall provide documentation to the building official specifying the anticipated exposure.
* * *		

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act 836 of the 2014 of the Regular Louisiana Legislative Session.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform

Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672(October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 46:

Chief H. “Butch” Browning, Jr.  
State Fire Marshal

2008#004



## DECLARATION OF EMERGENCY

### Department of Revenue Policy Services Division

#### Frontline Workers COVID-19 Hazard Pay Rebate Program (LAC 61:I.1919)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), notice is hereby given that the Department of Revenue ("department") is, by Emergency Rule, adopting LAC 61:I.1919. The purpose of this regulation is to administer and implement, on an emergency basis, the provisions of Act No. 12 of the 2020 First Extraordinary Session of the Louisiana Legislature. This Emergency Rule is effective July 13, 2020, and will remain in effect for 120 days, unless renewed or revoked.

The promulgation of this Rule on an emergency basis is necessary to avoid sanctions or penalties from the United States Government under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and Louisiana received over \$1.8 billion from the Fund. The Louisiana Legislature has authorized the utilization of \$50 million of the CARES Act funding to provide a one-time hazard pay rebate for essential critical infrastructure workers. The CARES Act provides that payments from the Fund may only be used for COVID-19 related expenses and the United States Treasury has issued Guidance for State, Local and Tribal Governments providing Treasury's interpretation on the permissible uses of the Fund (the "Guidance"). In accordance with the Guidance and the Coronavirus Relief Fund Frequently Asked Questions Updated as of July 8, 2020, any program created using monies from the Fund should be administered in a manner that satisfies the requirements of the CARES Act and maintain records sufficient to demonstrate the monies have been used in accordance with Section 601(d) of the Social Security Act. Any State not utilizing the funding in accordance with the CARES Act and Guidance is subject to a repayment requirement.

This Emergency Rule provides for the administration and implementation of Act No. 12 to provide the \$50 million from the Fund is timely and efficiently distributed to Louisiana's frontline workers during an application window of July 15 to October 31, 2020 in accordance with the CARES Act and the Guidance. Absent utilization of the emergency rule process, the time delay in the rulemaking procedures of R.S. 49:953(A) would render this program obsolete because adoption and promulgation would not occur until after the program's application period ends. Authorization for promulgation of this rule on an emergency basis is hereby deemed necessary by the Secretary of Revenue as legislatively delegated to her by R.S. 51:1787(K)(6).

Under the authority of R.S. 51:1787(K)(6) and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:I.1919 regarding the Frontline Workers COVID-19 Hazard Pay Rebate Program.

## Title 61

### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

#### §1919. Frontline Workers COVID-19 Hazard Pay Rebate Program

A. General Description. Act 12 of the 2020 First Extraordinary Session of the Louisiana Legislature provides for a one-time hazard pay rebate for essential critical infrastructure workers as those terms are defined in the enabling legislation.

##### B. Definitions

*Assistants and Aides*—assistants and aides providing services in the medical and healthcare fields

*Department*—the Louisiana Department of Revenue

*In-Person Services*—services provided on the frontline within Louisiana where the worker was in contact with customers, patients, or the general public and shall not include call center personnel or persons whose job is conducted exclusively via telephone, computer, or other remote or virtual means.

*Rebate*—one-time hazard pay rebate as defined by Act 12.

*Rebate Program*—the Frontline Workers COVID-19 Hazard Pay Rebate Program

*Storage and Disposal Personnel*—storage and disposal personnel providing services related to residential, commercial, and industrial solid waste and hazardous waste

*Workers*—essential critical infrastructure workers as defined by Act 12

*Worker's Residence*—any residence or other dwelling occupied by the worker, including the worker's primary residence

##### C. Eligibility

1. The Frontline Workers COVID-19 Hazard Pay Rebate Program provides a one-time \$250 rebate for applicants who meet all of the following eligibility requirements:

a. the applicant is determined to be an essential critical infrastructure worker as that term is defined by the federal Cybersecurity & Infrastructure Security Agency (CISA) in its publication "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response Version 3.1";

b. the applicant was employed in at least one of the following jobs on or after March 11, 2020:

i. nurses, assistants, aides, medical residents, pharmacy staff, phlebotomists, respiratory therapist, and workers providing direct patient care in inpatient and outpatient dialysis facilities;

ii. housekeeping, laundry services, food services and waste management personnel in hospitals and healthcare facilities;

iii. long-term care facility personnel, outpatient care workers, home care workers, personal assistance providers, home health providers, home delivered meal providers, and childcare service providers;

iv. emergency medical services (EMS) personnel, fire and rescue personnel, law enforcement personnel, and public health epidemiologists;

v. bus drivers; retail fuel service personnel; sanitation personnel; residential, commercial and industrial solid waste and hazardous waste removal personnel; storage and disposal personnel;

vi. grocery store, convenience store, and food assistance program personnel;

vii. mortuary service providers; or

viii. veterinary service staff; and

c. the applicant was required to provide in-person services outside of the worker's residence substantially dedicated to responding to or mitigating the COVID-19 public health emergency for at least 200 hours during the period from March 22, 2020, through May 14, 2020.

2. Only applicants whose adjusted gross income is \$50,000 or less are eligible for the rebate. For purposes of this requirement, the adjusted gross income on the applicant's 2019 income tax return shall be used. If the applicant has not filed his or her 2019 income tax return, the adjusted gross income from the applicant's 2018 income tax return shall be used.

3. If the applicant is employed in one of the enumerated jobs in Subparagraph C.1.b above and worked at least 200 hours outside his or her residence during the period between March 22, 2020, and May 14, 2020, the applicant shall be presumed to have been responding to or mitigating the COVID-19 public health emergency.

a. This presumption shall be rebuttable by evidence or documentation obtained from the applicant's employer.

4. To the extent possible, the department shall rely upon definitions in the CISA guidance of the enumerated jobs listed in Subparagraph C.1.b of this Section. However, when no definition is provided, the department shall apply a broad, definitional approach giving words their common, generally understood meaning for purposes of determining applicant eligibility.

5. The representative of the estate of any worker who met all rebate eligibility requirements, but who died before applying for the rebate, shall be allowed to claim the benefit on behalf of the worker.

#### D. Application

1. The department shall receive applications for the rebate between July 15, 2020, and October 31, 2020, on Form R-6186, *Frontline Workers COVID-19 Hazard Pay Rebate Application*.

2. Applicants may apply either electronically by utilizing a portal on the department's website or by submitting a paper form to the department.

3. If an applicant files both or more than one electronic and paper application, the application received first by the department shall be reviewed for eligibility purposes, and the second and subsequent applications received by the department shall be denied.

4. If an applicant does not complete the application in its entirety, the department shall notify the applicant of the deficiencies by mail. The applicant shall have 30 calendar days from the date of the department's notification to correct the deficiencies. If the applicant fails to respond during the 30-day window, the application shall be denied.

5. The department may consult with Louisiana Department of Economic Development or the Louisiana Workforce Commission to verify information provided on the application. The applicant shall certify on the application

that information contained in the files or records of the Louisiana Workforce Commission may be shared with the department.

6. Applications for the rebate shall be considered a report filed for purposes of R.S. 47:1565. Applications and applicant submitted documentation are the records and files of the Secretary of the Department of Revenue and are subject to the confidentiality provisions of R.S. 47:1508.

7. The department may request additional information from an applicant to determine eligibility. A request for additional information shall not impact or change the application's received date for purposes of administration of the rebate program cap if the applicant provides the requested information within 30 calendar days from date of the department's request letter.

#### E. Payment and Offset of the Rebate

##### 1. Payment of the Rebate

a. After review and verification of the application, payment of the rebate shall be made by direct deposit if bank account and routing information is provided with the application and verified in the Department's record. Otherwise, the payment shall be made by paper check.

b. The rebate shall only be direct deposited into a bank account on which the applicant is a named account holder.

##### 2. Offset of the Rebate.

a. After consultation with the Department of Children and Family Services, the department shall offset the rebate for any delinquent child support payments.

b. The department shall also offset the rebate for any reported delinquent spousal support payments.

c. The department shall not offset the rebate for any outstanding tax liabilities or other outstanding judgments or liabilities reported to the department. Creditors and banks shall take reasonable steps to ensure rebates are not seized pursuant to existing judgments and orders.

#### F. Limitations on the Rebate Program

1. The rebate program is subject to a \$50,000,000 program cap. Additional rebates beyond the \$50,000,000 may be paid if monies are made available and the Joint Legislative Committee on the Budget approves payment of additional rebates.

2. The cap shall be administered on a first-come, first-served basis based upon the date that the department is in receipt of the application. Applications received on the day the cap is reached shall be paid in the order in which the applications were received and the rebates shall not be prorated.

a. For electronic applications, the receipt date shall be the date the application is submitted through the department's website.

b. For paper applications mailed via the U.S. Postal Service, the receipt date shall be the postmark date as shown on the envelope containing the paper application.

c. For paper applications transmitted via common carrier, the receipt date shall be the date the application is delivered to the department.

3. Twenty-five percent of the cap, or \$12,500,000, shall be reserved for rebate claims filed on paper applications. If the entire \$12,500,000 is not utilized to pay rebate claims filed by paper applications received on or before October 31, 2020, the remaining available amount

shall be used to pay any remaining rebate claims received by electronically submitted applications which have not been paid because the remaining \$37,500,000 cap has been exhausted.

4. In the event additional rebates over the \$50,000,000 program cap are made available and the Joint Legislative Committee on the Budget approves payment of additional rebates, rebate claims previously denied due to the attainment of the \$50,000,000 cap shall take priority and be issued in order of the date that the department received the application. In this event, applicants shall not be required to submit a subsequent application.

G. Recapture of the Rebate

1. In accordance with R.S. 47:1561.2, rebates previously granted to an applicant, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the rebate was paid or to assess or to collect under any other provision of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 51:1787(K).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

Kimberly Lewis Robinson  
Secretary

2008#001

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Fall Inshore Shrimp Season Opening Dates**

The Louisiana Wildlife and Fisheries Commission received information regarding biological sampling for white shrimp in state inshore waters. The Louisiana 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 Louisiana 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 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 2020 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 10, 2020 except for the area as described below which will open at 6:00 a.m. August 24, 2020:

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 10, 2020; 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 10, 2020 except for the area as described below which will open at 6:00 a.m. August 24, 2020:

From a point on the shrimp inside/outside line and the western shore of the Mermentau River at 29 degrees 43 minutes 46.14 seconds north latitude, 93 degrees 00 minutes 40.50 seconds west longitude; thence northerly following the western shore of the Mermentau River to its intersection with Catfish Locks 29 degrees 52 minutes 47.31 seconds north latitude, 92 degrees 50 minutes 57.25 seconds west longitude; thence southeasterly following Catfish Locks to its intersection with the eastern shore of the Mermentau River (29 degrees 51 minutes 44.20 seconds north latitude, 92 degrees 50 minutes 52.98 seconds west longitude); thence southerly following the eastern shore of the Mermentau River to the point where it intersects the shrimp inside/outside line (29 degrees 43 minutes 46.33 seconds north latitude, 93 degrees 00 minutes 31.71 seconds west longitude); thence westerly along the shrimp inside/outside line to the point of origin.

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, and to open and close special shrimp seasons 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.

William Hogan  
Chairman

2008#028

## DECLARATION OF EMERGENCY

### Workforce Commission Office of Workers' Compensation Administration

#### State Income Tax Withholding from Unemployment Insurance Benefits (LAC 40:IV.383)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address the withholding of state income taxes.

This Emergency Rule is necessary to implement Act 33 of the 2020 First Extraordinary Session that created R.S. 23:1693(J), which addresses the withholding of state income taxes from unemployment insurance benefits when a temporary increase in federal emergency unemployment insurance is in effect. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for federal funding because R.S. 23:1693(J) is not in conformity with 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA) as required under R.S. 23:1664(2). It is imperative that the LWC proceed expediently with this Rule because of the precarious position

of the immense number of recently unemployed workers due to COVID-19, which is an imminent peril to public health, safety, and welfare that requires immediate action to provide benefits. Failure to adopt this Rule on an emergency basis may imperil LWC's ability to receive federal funding for failure to meet conformity requirements, which would affect the ability of unemployed workers to receive benefits.

This Declaration of Emergency is effective August 29, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until adoption of the final Rule, whichever occurs first.

## Title 40

### LABOR AND EMPLOYMENT

#### Part IV. Employment Security

##### Subpart 1 Board of review

#### Chapter 3. Employment Security Law

#### §383. Voluntary State Income Tax Withholdings from Unemployment Insurance Benefits

A. Pursuant to R.S. 23:1693(J), which was created by Act 33 of the 2020 First Extraordinary Session, withholding of state income taxes was made mandatory. However, under 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA), withholding from unemployment insurance must be voluntary in order to conform with federal requirements. R.S. 23:1664(2) requires that the administrator take such actions as may be necessary to meet the requirements of FUTA as interpreted by the U.S. Department of Labor. Therefore, whenever additional federal benefits are in effect, a claimant may voluntarily elect to have state income taxes withheld at a rate of 4 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1664(2), R.S. 23:1693(J), and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

Ava M. Dejoie  
Secretary

2008#007

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Horticulture Commission

Examinations, Administration, Sod Quality and  
Classification Form (LAC 7:XXIX.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:3801(F), the Department of Agriculture and Forestry ("Department") and the Horticulture Commission has amended LAC 7:XXIX.113 to add language that addresses cheating on professional licensing exams and ensure that persons who cheat on exams know the consequences of their actions.

The department and the Horticulture Commission has amended LAC 7:XXIX.115 and 117 to repeal the requirement that licensees or permittees selling sod in quantities of two pallets or 100 square yards or more provide a completed form to the consumer at the time of sale, indicating the type and class of sod. These rules and regulations were originally enacted to provide protections for the consumer when purchasing sod. The department and the Horticulture Commission have determined that this requirement is no longer necessary to protect the consumer as consumer protections are adequately addressed in LAC 7:XXIX.117(F)(1), which regulates sod quality offered for sale by nursery stock dealers, and by routine inspections performed by the department pertaining to sod quality. This Rule is hereby adopted on the day of promulgation.

### Title 7

### AGRICULTURE AND ANIMALS

### Part XXIX. Horticulture Commission

### Chapter 1. Horticulture

### §113. Examination Schedule and Examination

A. ...

B. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination. Cheating consists of:

1. giving or receiving unauthorized assistance to answer examination questions;
2. bringing unauthorized materials into the exam room or using unauthorized materials to answer examination questions;
3. using answers from another examinee;
4. copying questions or answers to examination questions to take from the examination room;
5. removing an examination booklet, answer sheet, or scratch paper from the examination room; or
6. any other action which may undermine the integrity of the examination process.

C. Any applicant caught or found to be cheating shall not be allowed to finish the examination and shall receive a

score of zero. If an applicant finished the examination prior to the discovery of the cheating the applicant's examination shall be voided and the applicant shall receive a score of zero.

D. Any applicant who is not allowed under this Subsection C to finish an examination, or whose examination is voided, or who is disqualified from taking the examination or any other examination administered under these rules and regulations may appeal the action to the commission.

1. The appeal shall be in writing, state the grounds for the appeal, and filed with the director within 30 days after the date of the examination.

2. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.

3. The appeal will be decided by the commission. The decision of the commission shall be the final administrative decision in the matter.

4. An appeal from the decision of the commission shall be in accordance with the Administrative Procedure Act.

5. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.

E. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.

F. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without the approval of the commission given at a meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018), LR 46:1076 (August 2020).

### §115. General Requirements for All Licenses or Permittee

A. - C. ...

D. - D.4. Repealed.

E. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982),

amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:2547 (December 2008), LR 35:1227 (July 2009), LR 46:1076 (August 2020).

### **§117. Professional and Occupational Standards and Requirements**

- A. - B.3.c. ...
  - 4. Repealed.
- B.5. - D.3. ...
  - 4. Repealed.
- D.5. - F.5. ...
  - 6. Repealed.
- G. - I.6.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016), LR 46:1077 (August 2020).

Mike Strain, DVM  
Commissioner

2008#033

## **RULE**

### **Department of Economic Development Office of Entertainment Industry Development**

Louisiana Entertainment Development Fund—Education Development Grant Program (LAC 13:III.Chapter 21)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has enacted program rules for issuance of awards from the fund known as the Louisiana Entertainment Development Fund created by Act 223 of the 2017 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

#### **Title 13**

#### **ECONOMIC DEVELOPMENT**

#### **Part III. Financial Assistance Programs**

#### **Chapter 21. Louisiana Entertainment Development Fund**

#### **Subchapter A. Education Development Grant Programs**

#### **§2101. Preamble and Purpose**

A. Workforce development and job training is vital to support the state's commitment to the development of strategies and initiatives for the entertainment industry, and the state's long-term goal of achieving an independent, self-supporting entertainment industry.

B. The purpose of the program is to support entertainment industry workforce development and education with appropriate curriculum and equipment by approved training providers and educational institutions as a

means of improving the competitiveness and productivity of Louisiana's entertainment industry workforce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1077 (August 2020).

#### **§2103. Definitions**

*Applicant*—the entity or training provider requesting an award from LED under this program.

*Award*—funding approved under this program for eligible equipment, technology or training activities.

*Award Agreement*—that agreement or contract hereinafter referred to between the training provider and LED, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives of the award provided pursuant to these rules.

*LED*—Louisiana Department of Economic Development, or their designee, including any third party administrator engaged by LED.

*OEID*—Office of Entertainment Industry Development.

*Program*—the Education Development Grant Program.

*Secretary*—Secretary of the Department of Economic Development, or designee.

*Training Provider*—the entity or applicant undertaking the approved project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1077 (August 2020).

#### **§2105. General Principles**

A. The following general principles will direct the administration of the program.

1. Awards are not to be construed as an entitlement for companies, and the secretary has the sole discretion to determine whether or not each particular applicant is eligible and meet the criteria for the award, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of the applicants' award status.

2. Award amounts may vary at the discretion of LED, with a minimum of \$5,000 up to a maximum of \$250,000 per applicant, per year.

3. LED shall negotiate with each applicant seeking an award based on the individual merits of each project.

4. Contracts for awards shall contain "clawback" (or refund) provisions to protect the state in the event of a default.

5. Award funds shall be used for the approved project only.

6. Awards may be administered by LED through OEID, or LED may use funds to contract with a third party administrator to undertake such activities.

7. Applications will be accepted on a year round basis, subject to availability of funding in any given year, or as otherwise determined by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1077 (August 2020).

## §2107. Program Descriptions

A. This program provides two types of assistance:

1. technology or equipment funding for approved training providers, related to entertainment industry training, as approved by LED. The funding may include but not be limited to:

a. replacement or upgraded equipment to replace existing equipment that has exceeded its useful life, which goes beyond replacing basic technology or performing incremental upgrades;

b. new technology or equipment, including the following by example: apps, cloud-based software, or technology now known or hereafter developed, or as otherwise approved by LED; and

2. on-the-job (and/or upgrade) training assistance to enhance the quantity and quality of individuals who possess sufficient skills to perform jobs in the entertainment industry. The training to be funded may include, but is not limited to:

a. film—lighting; hair and make-up; grip; electric; set construction; camera; post visual editing; post sound editing; post visual effects; digital animation;

b. sound—scoring; engineering;

c. live performance—staging; lighting; sound; rigging; carpentry; wardrobe; special effects; and

d. digital media—immersive technology (VR/AR/MR), programming; animation/computer generated imagery; interactive animation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

## §2109. Eligibility

A. An eligible applicant is an accredited Louisiana higher education institution, or customized training provider in the areas of arts, media and entertainment, with a proven track record of offering career oriented programs, as approved by LED.

B. Applicants must demonstrate a track record of successful organization and operations that have been in effect for at least two years. Start-up companies or training providers with less than two years of documented program history or performance shall be ineligible for this program, unless evidence of funding can be provided from established arts and entertainment organizations, as approved by LED.

C. A training provider shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to its failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceedings, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company has a previous contract with LED in which the company is in default and/or is not in compliance.

D. Training providers must be in full compliance with all state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

## §2111. Criteria

A. LED will consider various factors when determining which proposal will be funded. Among the factors which may be taken into account in the review of the award requests are the following:

1. needs of the entertainment industry;
2. unique or innovative nature of the proposed project;
3. training or equipment cost per student;
4. the number of students to be trained;
5. evidence of a method of job placement;
6. evidence of need;
7. availability of other federal, state, local or private funding programs for the project;
8. the terms of the “clawback” (or refund) provisions, in the event of a default;
9. evidence of likely success of project;
10. availability of funding; and
11. best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

## §2113. Application Procedure

A. The applicant(s) must submit an application to LED, which may be in letter form or in a more formal application format, as directed by LED, which shall contain, but not be limited to the following:

1. an overview of the training provider institution, its history, and the business climate in which it operates;
2. a preliminary budget, overall description of the proposed project, and specific breakdown of costs for equipment to be purchased, or training programs to be provided, as applicable;
3. information evidencing eligibility;
4. an articulation of any relevant factors in §2111; and
5. any additional information required to make a determination of qualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

## §2115. General Award Provisions

A. In the event the secretary determines, in his discretion, that an award would be appropriate, an award agreement shall demonstrate the intent and commitments of the applicant and LED to enter into an award agreement consistent with the Constitution and laws of the state of Louisiana and with these rules.

1. The award agreement will specify the amount of the award, the terms and conditions of the award, the performance objectives expected of the applicant and the compliance requirements in exchange for the award. Under the agreement, LED or its designated third party administrator will oversee the progress of the project.

2. Eligible training costs are limited to the scope of the approved project only and may include the following, on an individual, negotiated basis: instruction costs, wages for trainers and training coordinators, materials and supplies costs, and other justifiable costs when necessary for training, such as equipment or software.

3. Project costs ineligible for award funds include, but are not limited to: trainee wages and fringe benefits, employee handbooks, food and refreshments, costs associated with infrastructure upgrades or renovation of office space necessary to accommodate new equipment or technology, or any other costs LED determines to be ineligible.

4. Award funds will be disbursed to the applicant on an as-needed reimbursement basis following submission of required documentation to LED or its third party administrator, sufficient to demonstrate compliance, as set forth in the award agreement between the parties.

5. In the event a party to the award agreement fails to meet its performance objectives as specified in its award agreement with LED, LED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

6. In the event an applicant knowingly files a false statement in its application or in subsequent compliance documentation, the applicant may be guilty of the offense of filing false public records, and may be subject to the penalty provided in R.S. 14:133.

7. LED shall retain the right, for itself, for the Legislative Auditor, and for the Division of Administration, to require and/or conduct financial and performance audits of a project, including all relevant documents of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

**Subchapter B. Louisiana Filmmaker Matching Grants—Reserved.**

**Subchapter C. Loan Guarantee Program—Reserved.**

**Subchapter D. Deal Closing Fund—Reserved.**

Anne G. Villa  
Undersecretary

2008#027

**RULE**

**Department of Economic Development  
Office of Entertainment Industry Development**

Louisiana Entertainment Development Fund—Filmmaker  
Matching Grants (LAC 13:III.Chapter 21)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has enacted program rules for issuance of awards from the fund known as the Louisiana Entertainment Development Fund created by Act 223 of the 2017 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

**Title 13**

**ECONOMIC DEVELOPMENT**

**Part III. Financial Assistance Programs**

**Chapter 21. Louisiana Entertainment Development  
Fund**

**Subchapter B. Louisiana Filmmaker Matching Grants**

**§2125. Preamble and Purpose**

A. Film festivals, fellowships, filmmaking labs, and other entertainment initiatives designed to champion indigenous filmmaking talent provide vital opportunities for new and aspiring filmmakers to showcase their work and receive feedback, and support the state's long-term goal of achieving an independent, self-supporting filmmaking industry.

B. The purpose of the program is to support filmmakers statewide by providing matching funds to existing arts and film organizations with film festivals, film grant programs, fellowships, filmmaking labs, and other entertainment initiatives designed to champion indigenous filmmaking talent as approved by LED, as a means of ensuring a high-quality filmmaker matching grant program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

**§2127. Definitions**

*Applicant*—the arts or film organization requesting a matching award from LED under this program.

*Award*—funding approved under this program for eligible matching funds.

*Award Agreement*—that agreement or contract hereinafter referred to between the training provider and LED, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives of the award provided pursuant to these rules.

*LED*—Louisiana Department of Economic Development, or their designee, including any third party administrator engaged by LED.

*OEID*—Office of Entertainment Industry Development.

*Program*—the Education Development Grant Program.

*Secretary*—Secretary of the Department of Economic Development, or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

**§2129. General Principles**

A. The following general principles will direct the administration of the program.

1. Awards are not to be construed as an entitlement for companies, and the secretary has the sole discretion to determine whether or not each particular applicant is eligible and meet the criteria for the award, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of the applicants' award status.



2. Award amounts may vary at the discretion of LED, up to a maximum of \$100,000 per applicant, per year.

3. LED shall negotiate with each applicant seeking an award based on the individual merits of each project.

4. Contracts for awards shall contain “clawback” (or refund) provisions to protect the state in the event of a default.

5. Award funds shall be used for the approved project only.

6. Awards may be administered by LED through OEID, or LED may use funds to contract with a third party administrator to undertake such activities.

7. Applications will be accepted on a year round basis, subject to availability of funding in any given year, or as otherwise determined by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

### **§2131. Eligibility**

A. An eligible applicant is a non-profit arts or film organization approved by LED, with a proven track record of organizing film festivals, film grant programs, fellowships, filmmaking labs, or other entertainment initiatives designed to champion indigenous filmmaking talent as approved by LED.

B. Applicants must demonstrate a track record of successful organization and operations that have been in effect for at least two years. Start-up companies or training providers with less than two years of documented program history or performance shall be ineligible for this program, unless evidence of funding can be provided from established arts, film or entertainment organizations, as approved by LED.

C. An applicant shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to its failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceedings, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company has a previous contract with LED in which the company is in default and/or is not in compliance.

D. Applicants must be in full compliance with all state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

### **§2133. Criteria**

A. LED will consider various factors when determining which proposal will be funded. Among the factors which may be taken into account in the review of the award requests are the following:

1. needs of the entertainment industry;
2. disbursement of funding statewide;
3. unique or innovative nature of the proposed project;
4. availability of other federal, state, local or private funding programs for the project;
5. the terms of the “clawback” (or refund) provisions, in the event of a default;

6. evidence of likely success of project;

7. availability of funding; and

8. best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

### **§2135. Application Procedure**

A. The applicant(s) must submit an application to LED, or if a third party administrator has been engaged, as otherwise directed by LED, which may be in letter form or in a more formal application format, as directed by LED, which shall contain, but not be limited to the following:

1. an overview of the arts organization, its history, and the business climate in which it operates;
2. a preliminary budget, overall description of the proposed film initiative, and funding to be provided;
3. information evidencing eligibility;
4. an articulation of any relevant factors in §2133; and
5. any additional information required to make a determination of qualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

### **§2137. General Award Provisions**

A. In the event the secretary determines, in his discretion, that an award would be appropriate, an award agreement shall demonstrate the intent and commitments of the applicant and LED to enter into an award agreement consistent with the Constitution and laws of the state of Louisiana and with these rules.

1. The award agreement will specify the amount of the award, the terms and conditions of the award, the performance objectives expected of the applicant and the compliance requirements in exchange for the award. Under the agreement, LED or its designated third party administrator will oversee the progress of the project.

2. Award funds will be disbursed to the applicant on an as-needed reimbursement basis following submission of required documentation to LED or its third party administrator, sufficient to demonstrate compliance, as set forth in the award agreement between the parties.

3. In the event a party to the award agreement fails to meet its performance objectives as specified in its award agreement with LED, LED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

4. In the event an applicant knowingly files a false statement in its application or in subsequent compliance documentation, the applicant may be guilty of the offense of filing false public records, and may be subject to the penalty provided in R.S. 14:133.

5. LED shall retain the right, for itself, for the Legislative Auditor, and for the Division of Administration, to require and/or conduct financial and performance audits of a project, including all relevant documents of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

**Subchapter C. Loan Guarantee Program—Reserved.**

**Subchapter D. Deal Closing Fund Reserved.**

Anne G. Villa  
Undersecretary

2008#026

## RULE

### Department of Economic Development Office of Entertainment Industry Development

#### Sound Recording Investor Tax Credit Program (LAC 61:I.Chapter 65)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the Sound Recording Investor Tax Credit Program (R.S. 47:6023) to align the rules with current statutory provisions and administrative practices. This Rule is hereby adopted on the day of promulgation.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 65. Louisiana Sound Recording Investor Tax Credit Program

#### §6531. Purpose and Description

A. The purpose of this program is to encourage development in Louisiana of a strong capital and infrastructure base for sound recording productions in order to achieve an independent, self-supporting sound recording industry, and to encourage investments in multiple state-certified sound recording production projects.

B. Approvals and certifications as to whether a project qualifies as a state-certified production as required for Sound Recording Investor Tax Credits are not to be considered as entitlements for sound recording production companies, and the Louisiana Department of Economic Development shall have the discretion to determine whether or not each particular sound recording, meets the criteria for such qualification as provided herein.

C. These rules implement the Louisiana sound recording investor tax credit pursuant to R.S. 47:6023.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1081 (August 2020).

#### §6533. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Base Investment*—the actual investment made and expended in the state by a state-certified production as production expenditures incurred in this state that are directly used in state-certified production or productions.

\* \* \*

*Investor*—any individual or entity that makes an investment in a state-certified production, including but not limited to any individual or entity that is identified as a source of funds for a state certified production on its expenditure verification report, or any tax credit broker, individual or entity identified as an irrevocable designee for receipt of tax credits.

\* \* \*

*Project Completion*—completion or end date outlined in the project application, or as otherwise approved in writing by LED.

*Qualified Music Company or “QMC”*—an entity authorized to do business in Louisiana, engaged directly or indirectly in the production, distribution and promotion of music, certified by the secretary as meeting program eligibility criteria, and executing a contract providing the terms and conditions for its participation.

\* \* \*

*Resident Copyright*—the copyright of a musical composition written by a Louisiana resident or owned by a Louisiana-domiciled music company as evidenced by documents of ownership such as registrations with the United States copyright office or performing rights organizations which denote authors and music publishing entities.

\* \* \*

*State-Certified Musical Recording Infrastructure Project*—repealed.

\* \* \*

*Source within the State*—a physical facility in Louisiana, operating with posted business hours and employing at least one full-time equivalent employee.

*State-Certified Production*—a sound recording production or a series of productions occurring over the course of a 12-month period, including but not limited to master and demonstration recordings, and costs related to such production or productions that are approved by the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010), LR 42:37 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1081 (August 2020).

#### §6535. Rules of Application

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.

1. There is authorized a credit against the state income tax for investments made in state-certified productions, which credit will be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year. No credit shall be allowed for any expenditures for which a credit was granted under R.S. 47:6007.

2. - 2.b.i. ...

c. for applications by qualified music companies ("QMC's") for state certified productions, received on or after June 18, 2019:

i. to the extent that the base investment by a QMC is expended on a sound recording production of a resident copyright, the investor shall be allowed an additional ten percent increase in the base investment rate.

3. -7. ...

8. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate as provided in R.S. 36.104.1, in the amounts set forth below:

a. for applicants with project expenditures of at least \$10,000 but less than \$25,000, an advance deposit of \$750, with a maximum fee of \$1,500;

b. for applicants with project expenditures of at least \$25,000, an advance deposit of \$1,500, with a maximum fee of \$3,000;

c. for applicants with project expenditures of at least \$50,000, but less than \$100,000, an advance deposit of \$2,500, with a maximum fee of \$5,000;

d. for applicants with project expenditures of more than \$100,000, an advance deposit of \$3,750, with a maximum fee of \$7,500;

e. any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010), LR 42:38 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1081 (August 2020).

### **§6537. Certification**

#### **A. Initial Certification of State-Certified Productions**

1. To obtain the approval of the department for a "state-certified production" as required by R.S. 47:6023(B)(5) and (6), the sound recording production company that will produce the sound recording production must submit a written request to the department for approval of the production as a "state-certified production" and setting forth the following facts, when applicable:

a - 1.vii. ...

2. After review, and upon a determination of qualification, the department shall submit its initial certification of a project as an "initial state-certified production" to investors and to the Secretary of the Department of Revenue, containing a unique identifying number.

3.a. The applicant shall countersign the initial certification letter, acknowledging the conditions therein stated, and return a countersigned original to the department within 30 business days of receipt.

b. If a countersigned original is not returned to the department within the allotted time frame, it shall be nullified unless reissued or confirmed by the department.

4.a. For projects with applications received by LED prior to 2020 rule promulgation, the initial certification shall be effective for expenditures made no more than 12 months prior to the date of application and shall be valid until the project is complete.

b. For projects with applications received by LED on or after 2020 rule promulgation, the initial certification shall be effective for qualifying expenditures made within a period 12 months prior to the date of application and 12 months after the date of initial certification, as outlined in the initial certification letter. Expenditures outside of this approved initial certification period shall not qualify for tax credits.

#### **B. Final Certification of Sound Recording Investor Tax Credits**

1. For projects with applications received by LED prior to 2020 rule promulgation, upon project completion, or for projects with applications received by LED on or after 2020 rule promulgation, no later than six months after the expiration of the initial certification period, the applicant shall make a request to LED to proceed to final certification by submitting to the department a cost report of production expenditures to be formatted in accordance with instructions of the department, after which time all claims to tax credits shall be deemed waived. The applicant shall make all records related to the cost report available for inspection by the department and the CPA selected by the department to prepare the expenditure verification report. After review and investigation of the cost report, the CPA shall submit to the department an expenditure verification report. The department shall review such expenditures and shall issue a tax credit certification letter to the investors and the Louisiana Department of Revenue indicating the amount of tax credits certified for the state-certified production.

a. - c. ...

2. After receiving a written request from an investor and after the meeting of all criteria, the department shall issue a letter of certification to such investor signed by the secretary reflecting the investor's name, the dollar amount of sound recording investor tax credits earned by the investor pursuant to R.S. 47:6023(C) through the date of such request, the calendar year in which the sound recording investor tax credits were earned by the investor, the state-certified production with respect to which the investor earned the sound recording investor tax credits, and the identifying number assigned to such state-certified production.

3. ...

4. Once certification of a project has been granted under the criteria established within this provision and pursuant to R.S. 47:6023, the granting of such credit will be based upon a first come, first serve basis of the approved cost report or audit and shall be set for a maximum aggregate amount not to exceed \$2,160,000 during any calendar year. For purposes of this Section the applicant will be considered the investor.

a. However, 50 percent of the aggregate amount of credits certified each year shall be reserved for QMC's.

b. No more than \$100,000 in tax credits may be granted per project, per calendar year.

5. - 6.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Department of Revenue, LR 34:1348 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:305 (February 2010), amended LR 37:310 (January 2011), LR 42:38 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:883 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1082 (August 2020).

#### **§6541. Illustrative Examples of Production Expenses**

A. - C.1. ...

2. Producer fees may be subject to limitation as follows.

a. Applicants must provide detailed accounting and verification of expenditures relating to "all-in producer deals." For example, audits must reflect payments made to all vendors, and Producer Agreements should reflect the scope of services to be provided in Louisiana and include a clause allowing the State to audit the Producer's accounting records directly related to any expenses claimed for tax credits.

b. LED establishes a benchmark of up to 20 percent of total qualifying Louisiana production expenditures for Producers Fees (for the calculation, Louisiana production expenditures exclude any producer fees), which shall be considered fair market value. While applicants may enter into producer agreements with fees in excess of LED's approved benchmark, producer fee payments exceeding 20 percent may not be eligible to earn tax credits.

c. LED establishes a benchmark of up to 12 percent of total qualifying Louisiana production expenditures (for the calculation, Louisiana production expenditures exclude any producer fees), for related-party producer fee expenditures, which must be supported by a cost report or audit, when applicable, and documentation of services provided. Fair market value for related-party services rendered must also be established by submission of third-party contracts for similarly-sized projects and scope of work or other documents as approved by LED. While productions may enter into agreements with fees in excess of LED's approved benchmark, payments exceeding 12 percent will not be eligible to earn tax credits unless the benchmark is exceeded through expenditures (supported by a cost report

or audit, when applicable, and documentation of services provided) under third-party contracts only with no related-party expenditures.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:38 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:885 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1083 (August 2020).

Anne G. Villa  
Undersecretary

2008#025

### **RULE**

#### **Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Diploma Integrity—Individual Graduation Plans and Credit Recovery Courses and Units (LAC 28:CXV.901 and 2324)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXV (Bulletin 741). Amendments will provide clarity for credit recovery courses and units and establish best-practices for valid course recognition. Beginning with the 2020-2021 school year, graduating seniors must finalize individual graduation plans (IGPs) with the school counselor. Further, prior to being awarded a diploma, all academic records must be uploaded to the state student transcript system (STS) with a graduation date posted. This Rule is hereby adopted on the day of promulgation.

### **Title 28 EDUCATION**

#### **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

#### **Chapter 9. Scheduling**

#### **§901. Scheduling**

A. - E. ...

F. Beginning with the 2020-2021 school year, the school counselor must:

1. finalize the individual graduation plan for each graduating senior;

2. upload all academic records into the state student transcript system (STS); and

3. post the student's graduation date prior to the awarding of a diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:175, and 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016), LR 43:2483 (December 2017), LR 46:1083 (August 2020).

**Chapter 23. Curriculum and Instruction**  
**Subchapter A. Standards and Curricula**

**§2324. Credit Recovery Courses and Units**

- A. ...
- B. LEAs may implement credit recovery programs.
1. Beginning in 2020-2021, LEA credit recovery program and policy will be included in the local pupil progression plan submitted to LDE.
  2. Students may earn a maximum of seven credit recovery units that may be applied towards diploma graduation requirements and no more than two Carnegie units annually. The school system must annually report to LDE the rationale for any student:
    - a. receiving more than two credit recovery credits annually; and/or
    - b. applying more than seven total credit recovery Carnegie units towards graduation requirements.
  3. Students earning Carnegie credit in a credit recovery course must have previously taken and failed the course. Previously-attempted coursework is considered an academic record and must be recorded on the official transcript.
  4. Completed credit recovery courses must be recorded and clearly labeled on the official transcript.
    - a. Repealed.
  5. Students enrolled in credit recovery courses are not required to meet the instructional minute requirements found in §333.A of this Part.
  6. Credit recovery courses must be aligned with state content standards and include a standards-aligned pre-assessment to identify unfinished learning and a standards-aligned post-assessment to demonstrate course proficiency for content identified as non-proficient.
  7. Credit recovery courses taught in a classroom setting using online courses designed for credit recovery must have an assigned certified Louisiana teacher of record or certified teacher of record recognized through a state reciprocity agreement facilitating the instruction.
  8. The end-of-course exam weight in a student's final grade determined by the LEA must be the same for a traditional course and a credit recovery course. Students who have previously passed the end-of-course exam, but have failed the course, may choose to retain the previous end-of-course exam score in lieu of participating in an additional administration of the exam.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, and 17:24.4.
- HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 38:3134 (December 2012), LR 39:2216 (August 2013), LR 39:3260 (December 2013), LR 46:1084 (August 2020).

Shan N. Davis  
Executive Director

2008#034

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators  
Carnegie Credit and Credit Flexibility  
Health and Physical Education  
(LAC 28:LXXIX.2102, 2109, 2319, and 2320)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Amendments will give nonpublic administrators increased flexibility in the awarding of Carnegie credit, regarding health and physical education, to students enrolled in nonpublic schools. This Rule is hereby adopted on the day of promulgation.

**Title 28**

**EDUCATION**

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

**Chapter 21. Curriculum and Instruction**  
**Subchapter A. General**

**§2102. Carnegie Credit and Credit Flexibility**

A. Schools may permit students to earn Carnegie credit as middle school students in all courses except physical education.

B. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, and 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014), LR 41:1268 (July 2015), LR 46:1084 (August 2020).

**Subchapter C. Secondary Schools**

**§2109. High School Graduation Requirements**

A. - D.6.j. ...

7. physical education—1 1/2 units in accordance with §2319.A of this Part;

8. health education—1/2 unit;

9. electives—3 units;

10. total—24 units.

E. - F.3.b. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019), LR 46:1084 (August 2020).

**Chapter 23. High School Program of Studies**

**§2319. Physical Education**

A. One and one-half units of physical education will be required for graduation, including:

1. physical education I and II;
2. adapted physical education I and II for eligible special education students;
3. JROTC I, II, III, or IV; or
- 4.a. physical education I—1 unit; and
  - b. marching band, extracurricular sports, cheering, or dance team—1/2 unit.

B. Physical education course offerings are as follows.

Physical Education Courses	
Course Title(s)	Units
Adapted Health and Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	1/2
***	

1. The required units of physical education in Subsection A of this Section must be earned in grades 9-12.

2. - 3. Repealed.

C. No more than four units of physical education are allowed for meeting high school graduation requirements.

D. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in physical education.

E. Marching band, cheering, extracurricular sports, and dance team may be substituted for the physical education II credit and must:

1. include a minimum of 100 minutes of physical activity per week; and
2. encourage the benefits of a physically active lifestyle.
3. Repealed.

F. Students will be exempted from the requirements in physical education for medical reasons only; however, the minimum number of credits required for graduation will remain 24.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014), LR 41:1268 (July 2015), LR 46:1085 (August 2020).

**§2320. Health Education**

A. One-half unit of health education course offerings is required.

1. Health education will include instruction on dating violence awareness and prevention in accordance R.S. 17:81.

2. Cardiopulmonary resuscitation (CPR) will be taught.

a. Instruction must be provided for CPR and the use of an automated external defibrillator.

b. The instructional program must be nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines.

c. Students are required to perform hands-on practice.

d. The instructor is not required to be CPR-certified.

e. Students trained in CPR are not required to obtain CPR certification.

f. The physical presence of an automated external defibrillator is not required.

B. JROTC I and II may be used to meet the health education requirement if the following requirements are met.

1. A minimum of 2000 minutes of instructional time must be devoted to health education in JROTC I and II. Students must take both JROTC I and II to meet the health education requirement.

2. All standards and GLEs for health must be covered in JROTC I and II.

3. JROTC I and II must include the instruction listed in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, and 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1085 (August 2020).

Shan N. Davis  
Executive Director

2008#035

**RULE**

**Board of Elementary and Secondary Education**

Jump Start—Waiver Requests; Career Diploma; and Program Authorization (LAC 28: CXV.345 and 2319 and CLXIII.201)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28: CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Amendments will:

- provide the Jump Start 1.0 course sequences for incoming freshmen through the 2020-2021 school year;
- provide the Jump Start 2.0 course sequences for incoming freshmen beginning in 2020-2021 school year and beyond;
- establish a Jump Start 2.0 Career Diploma CTE hardship waiver process for eligible students; and
- align regional teams for Jump Start programs with the federal Carl D. Perkins Career and Technical Education Act. This Rule is hereby adopted on the day of promulgation.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 3. Operation and Administration  
§345. Requesting Waivers of BESE Policy**

A. - C.1.a.iii. ...

2. Course requirement waivers:

a. the LDE may waive up to one Carnegie unit required for graduation in the following circumstances:

i. waivers for students who transfer to Louisiana from another state during their senior year, are on course to

graduate in their previous state of residence, and are unable to schedule and complete the needed course; and

ii. waivers due to administrative errors;

b. beginning with the 2020-2021 incoming freshman class, the LDE may grant a Jump Start 2.0 career diploma CTE hardship waiver for applicable students:

i. waiver requests may be considered for seniors with extraordinary circumstances; and

ii. school systems must submit Jump Start 2.0 course waiver requests with proposed CTE course equivalents via the LDE Jump Start 2.0 course waiver request form, using the Secure ID; and

c. in each situation, the district must provide:

i. a letter of justification from the local superintendent; and

ii. a copy of the student's transcript.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:10.2(B)(5), 17:24.10(C)(1)(c), 17:151(B)(2), 17:192(B)(2), 17:274(D), and 17:416.2(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1264 (June 2005), amended LR 39:2198 (August 2013), LR 46:1085 (August 2020).

## **Chapter 23. Curriculum and Instruction**

### **Subchapter A. Standards and Curricula**

#### **§2319. The Career Diploma**

A. - B.6.a. ...

C. Minimum Course Requirements

1. - 2.f.iv....

g. at least nine credits in the Jump Start course sequence, workplace experiences, and credentials;

i. Jump Start 1.0 course sequences will be available for incoming freshmen through 2020-2021; and

ii. Jump Start 2.0 course sequences will be available for incoming freshmen beginning in 2020-2021 and beyond;

2.h. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:1086 (August 2020).

### **Part CLXIII. Bulletin 138—Jump Start Program**

#### **Chapter 2. Jump Start Regional Teams and Program Authorization**

##### **§201. Jump Start Program Authorization**

A. Regional teams for Jump Start programs that are aligned with the federal Carl D. Perkins Career and Technical Education Act must consist of:

A.1. - C. ...

D. The LDE will collaborate with Louisiana Workforce Commission, the Board of Regents, and the Department of Economic Development to evaluate proposed regional CTE pathways and Jump Start regional team proposals. The evaluation process may include, but is not limited to, assessments of:

1. - 4. ...

E. Following the evaluation of proposed regional CTE pathways and review of the Jump Start program proposal, the state superintendent of education will recommend that BESE approve an authorization period of five years for proposals receiving a favorable evaluation.

1. The recommendation may be for approval of all, some, or none of the proposed regional CTE pathways based upon the evaluation process described in this Section.

F. - F.12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:183.2, and 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1326 (July 2014), amended LR 46:1086 (August 2020).

Shan N. Davis

Executive Director

2008#036

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division**

#### **Cross Lake and Cross Bayou Stream Descriptions (LAC 33:IX.1123)(WQ106)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123, Table 3 (WQ106).

The Rule will include a revision to the stream descriptions to include tributaries for Cross Bayou and Cross Lake, Subsegment Codes 100309 and 100310, in Table 3 of LAC 33:IX.1123.

The rulemaking is necessary so that tributaries in the Louisiana portion of the Cross Lake watershed have the "drinking water supply" designation applied. Cross Lake is the City of Shreveport's drinking water source. Cross Lake is fed by several very small tributaries within its 256 square mile watershed area. Cross Lake essentially does not have any constant flowing sources into its watershed, so the Lake relies almost exclusively upon rainfall events for replenishment. During prolonged dry weather conditions, it is not unusual for there to be virtually no natural flow into the lake from its tributaries. Under the circumstances described here, contaminants discharged into any of Cross Lake's tributaries can potentially have a direct and disproportionately significant impact on the lake, in some cases virtually no different from a direct discharge to the lake itself. Cross Lake and Cross Bayou are designated as "drinking water supply" in Table 3 of LAC 33:IX:1123. LAC

33:IX.1111.A states that the drinking water supply designation does not apply to a designated water body's tributaries "unless so specified". Because tributaries are not specified in the stream descriptions for Cross Lake and Cross Bayou, the drinking water supply designation does not currently apply to tributaries in those subsegments. The basis and rationale for this Rule are to ensure the proper protection of the City of Shreveport's drinking water supply from Cross Lake. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water Quality**  
**Subpart 1. Water Pollution Control**  
**Chapter 11. Surface Water Quality Standards**  
**§1123. Numerical Criteria and Designated Uses**  
A. - E. ...

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish and Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO4	DO	pH	BAC	°C	TDS
* * *									
<b>Red River Basin (10)</b>									
* * *									
100309	Cross Bayou—From Texas state line to Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
100310	Cross Lake; includes tributaries	A B C D F	75	25	5.0	6.0-8.5	1	32	150
* * *									

ENDNOTES [1]. - [25]. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:2603 (December 2015), LR 42:737 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1178 (September 2019), LR 46:1087 (August 2020).

Courtney J Burdette  
General Counsel

2008#032

**RULE**

**Department of Health**  
**Bureau of Health Services Financing**

Hospital Licensing Standards  
Obstetrical and Newborn Services  
(LAC 48:I.9505)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.9505 as authorized by R.S. 36:254 and 40:2109. 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 48**  
**PUBLIC HEALTH—GENERAL**  
**Part I. General Administration**  
**Subpart 3. Licensing and Certification**  
**Chapter 93 Hospitals**  
**Subchapter S. Obstetrical and Newborn Services**  
**(Optional)**  
**§9505. General Provisions**

A. This Subchapter S requires that the level of care on the neonatal intensive care unit shall match or exceed the level of obstetrical care for each level of obstetric service, except for free standing children's hospitals and for any hospital which has a current cooperative endeavor agreement linking the hospital to a public-private partnership with the state. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

\* \* \*

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:75 (January 2017), LR 46:1087 (August 2020).

Dr. Courtney N. Phillips  
Secretary

2008#039



**RULE**

**Department of Health  
Bureau of Health Services Financing**

Inpatient Hospital Services  
Coverage of Donor Human Breast Milk  
(LAC 50:V.111)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospitals Services**

**Chapter 1. General Provisions**

**§111. Coverage of Donor Human Breast Milk**

A. The Medicaid Program shall provide reimbursement to acute care hospitals for donor human breast milk provided to hospitalized infants.

B. Reimbursement. Hospitals shall be reimbursed for donor human breast milk when obtained from a member bank of the Human Milk Banking Association of North America. Reimbursement will be made as an add-on service in addition to the hospital payment for the inpatient hospital stay.

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 46:1088 (August 2020).

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

Dr. Courtney N. Phillips  
Secretary

2008#040

**RULE**

**Department of Health  
Emergency Response Network Board**

Stroke Center Recognition (LAC 48:I.Chapter 187)

The Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and has codified in LAC 48:I.18701-18708, as amended and/or adopted by the Louisiana Emergency Response Network Board in a meeting of November 21, 2019, specifically by amending LAC 48:I.18701, 18703 and 18705, and by adopting LAC 48:I.18706 and 18708, amended and adopted as authorized by R.S. 9:2798.5, under Chapter 187, Requirements for

Stroke Recognition. The rules amend the designations of and criteria for stroke centers and attestations for stroke centers in Louisiana, and adopt stroke center data submission requirements and set forth consequences for failure to submit stroke data to LERN. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 15. Emergency Response Network**

**Chapter 187. Requirements for Louisiana Stroke Center Recognition**

**§18701. Stroke Center Recognition**

A. The Louisiana Emergency Response Network Board (LERN) and the Louisiana Department of Health recognize the following six levels of stroke facilities:

1. CSC: comprehensive stroke center (formerly designated as level 1);
2. TSC: thrombectomy capable stroke center;
3. PSC-E: primary stroke center with endovascular capability;
4. PSC: primary stroke center (formerly designated as level 2);
5. ASRH: acute stroke ready hospital (formerly designated as level 3); and
6. stroke bypass hospital (formerly designated as level 4).

B. Participation in Louisiana stroke center recognition is voluntary and no hospital shall be required to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1088 (August 2020).

**§18703. Stroke Center Criteria**

A. Each facility participating in stroke center recognition shall meet the following criteria.

1. CSC: a comprehensive stroke center (CSC) will meet the requirements specified by the joint commission or other board approved accrediting/certification body approved by LERN for comprehensive stroke center certification. Attestation as a CSC is only allowed after verification by the joint commission or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the CSC standards.

2. TSC: a thrombectomy capable stroke center (TSC) will meet the requirements specified by the joint commission or other board approved accrediting/certification body approved by LERN for thrombectomy capable stroke center certification. Attestation as a TSC is only allowed after verification by the joint commission or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the TSC standards.

3. PSC-E: a primary stroke center (PSC-E) shall meet the requirements specified by the joint commission, healthcare facilities accreditation program (HFAP), or other LERN approved accrediting/certification body for Primary Stroke Center verification. Attestation as a PSC-E is only allowed after verification by the joint commission, HFAP, or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the PSC

standards. In addition to PSC requirements, a PSC-E must have physician(s) credentialed to perform mechanical thrombectomy and must update resource management portal of endovascular availability at all times. If a physician credentialed to perform endovascular capability is not available, the PSC-E must notify all EMS providers in the region when endovascular resources are not available. The PSC-E must collect and submit quarterly to LERN the same data the joint commission requires the Thrombectomy Stroke Capable centers to collect.

4. PSC: a primary stroke center (PSC) shall meet the requirements specified by the joint commission, healthcare facilities accreditation program (HFAP), or other LERN approved accrediting/certification body for primary stroke center verification. Attestation as a PSC is only allowed after verification by the joint commission, HFAP, or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the PSC standards.

5. ASRH: an acute stroke ready hospital (ASRH) will provide timely access to stroke care but may not meet all criteria for a CSC, TSC, or a PSC or a PSC-E facility. An ASRH will provide acute stroke care in urban and rural areas where transportation and access are limited. An ASRH is intended to recognize models of care delivery that have shown utility, including “drip-and-ship” and telemedicine. An ASRH must meet requirements adopted by LERN and submit quarterly data as required by LERN. LERN approved requirements are based on national best practice guidelines.

6. Stroke bypass hospital: a stroke bypass hospital should not receive patients exhibiting signs or symptoms of stroke except for instances when the clinical situation requires stopping at the closest emergency department. A stroke bypass hospital must have:

a. transfer protocol in place for transfer to higher levels of care through written and agreed upon relationship with a CSC, TSC, PSC, PSC-E or ASRH stroke center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1088 (August 2020).

#### **§18705. Attestation for Stroke Center Recognition**

A. A hospital seeking CSC, TSC, PSC-E, ASRH or stroke bypass recognition will submit an affidavit of the hospital CEO to LERN detailing compliance with the requirements designated herein.

1. A center or hospital seeking CSC recognition which submits a copy of that level of certification by a LERN-recognized organization, such as the joint commission or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

2. A center or hospital seeking TSC stroke center recognition which submits a copy of that level of certification by a LERN-recognized organization, such as the joint commission, HFAP, or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

3. A center or hospital seeking PSC-E stroke center recognition which submits a copy of PSC certification by a LERN-recognized organization, such as the joint commission, HFAP, or other LERN approved

accrediting/certification body, shall be assumed to meet the requirements for recognition. In addition to a copy of the certification, the CEO must also attest to meeting the additional board approved requirements.

4. A center or hospital seeking PSC stroke center recognition which submits a copy of that level of certification by a LERN-recognized organization, such as the joint commission, HFAP, or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

5. Although a center or hospital seeking ASRH stroke center recognition is not required to obtain certification by an external certifying body, a hospital which submits a copy of ASRH certification by a LERN-recognized organization, such as the joint commission, HFAP or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition. Hospitals must all meet LERN ASRH requirements and approved data submission requirements.

6. Each center or hospital shall submit proof of continued compliance every two years by submission of an affidavit by its CEO.

B. A hospital or center which fails to meet the requirements as attested, or which no longer chooses to maintain state Stroke Facility level recognition, shall immediately notify LERN and local EMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 40:2590 (December 2014), amended by the Department of Health, Emergency Response Network LR 46:1089 (August 2020).

#### **§18706. Stroke Center Data Submission Requirements**

A. All stroke centers, whether CSC, TSC, PSC-E, PSC or ASRH are required to submit certain data to the board on a quarterly basis.

B. The requirements of and for data submission are posted on the LERN website, <http://lern.la.gov/lern-stroke-system/stroke-data-collection>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 46:1089 (August 2020).

#### **§18708. Failure to Submit Stroke Data to LERN**

A. Acute stroke ready hospitals not submitting data for one quarter or not submitting the required action plan and/or mock code, if applicable, will result in automatic probation, which will generate a warning letter to the CEO. The letter will communicate LERN board expectation for data and (action plan and/or mock code, if applicable) submission for the missed quarter and the following quarter.

B. For an ASRH not submitting data to the board for two consecutive quarters, the hospital will automatically be demoted to a stroke bypass hospital.

C. Once an ASRH demotes to a stroke bypass hospital for non-adherence with submission requirement, the hospital CEO cannot re-attest until the hospital has submitted two consecutive quarters of data meeting standards.

D. If an ASRH fails to meet the performance metrics after two quarters of participation in data review, the board appointed stroke subcommittee will present the blinded data to the board for a vote on demotion to stroke bypass hospital versus continued remediation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 46:1089 (August 2020).

Paige Hargrove  
Executive Director

2008#009

**RULE**

**Department of Health  
Office of Public Health**

Certification of Laboratories Performing  
Drinking Water Analyses  
(LAC 48:V.Chapter 80)

Under the authority of R.S. 36:254(B)(7) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health, Office of Public Health (LDH-OPH), has amended Chapter 80 (Accreditation of Laboratories Performing Drinking Water Analyses) of Subpart 28 (Drinking Water Laboratories) of Part V (Preventive Health Services) of Title 48 (Public Health—General) of the *Louisiana Administrative Code* (LAC). The amendments are necessary to withdraw the LDH-OPH Laboratory Certification Program from The NELAC Institute (TNI), the National Environmental Laboratory Accreditation Program (NELAP).

Through membership with the above entity, the LDH-OPH Laboratory Certification Program is required to offer certification to any laboratory that applies, regardless of location or size.

The limited resources of the LDH-OPH Laboratory Certification Program are being drained by large out-of-state laboratories that are taking advantage of low program fees. None of these laboratories are analyzing drinking water compliance samples for the State. One out-of-state assessment was performed in 2016, two in 2017, three in 2018, and three are scheduled for 2019. The out-of-state laboratories which have sought TNI NELAP accreditation from LDH-OPH have only covered the cost of travel for LDH-OPH laboratory certification personnel; however, the LDH-OPH Laboratory Certification Program’s resources including preparation time for the out-of-state assessment and the time spent at an out-of-state laboratory are essentially free.

Reciprocal, or secondary, certification (based on recognition of a TNI NELAP accreditation body) does not require an onsite assessment, and will still be offered to all out-of-state laboratories, but primary certification will be reserved for in-state laboratories.

This withdrawal will realign the Laboratory Certification Program with the departmental mission of protecting and promoting the health for all citizens of the state of Louisiana. Furthermore, it will allow the limited resources of the program to be focused on laboratories conducting analyses in the State and for the State.

Please note that Subchapter D of the Rule has been re-numbered so that every Section therein is to be identified by an odd number. For example, Section 8064 is repealed; however, the text of Section 8064 within the existing 2012

Rule is now amended and moved into Section 8065 in the Rule. Likewise, the text in the existing Section number below is now amended and moved into the very next Section number, as follows.

Existing Section Number	Action Proposed
8064	Repeal
Text within:	Amended and moved into:
8064	8065
8065	8067
8067	8069
8069	8071
8071	8073
8073	8075
8075	8077
8077	8079
8079	8081
8081	8083 (new Section created)

For the reasons set forth above, the following amendments are hereby adopted. This Rule is hereby adopted on the day of promulgation.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part V. Preventive Health Services**

**Subpart 28. Drinking Water Laboratories**

**Chapter 80. Certification of Laboratories Performing  
Drinking Water Analyses**

**Subchapter A. General Provisions**

**§8001. Scope and Authority**

A. This Chapter, adopted pursuant to R.S. 36:254(B)(7), the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), and the State Sanitary Code (LAC 51) constitutes the Department of Health, Office of Public Health (hereinafter referred to as "department") regulations governing the certification of laboratories performing drinking water analyses required to be performed by regulations or orders issued pursuant to those acts and regulations. The authority of the department to grant, maintain or revoke a laboratory's State Certification shall not be delegated to an outside person or body. Portions of the certification process may be contracted out by the department but the authority to grant, maintain, suspend or revoke certification remains with the department. This Chapter establishes the procedures for obtaining and maintaining certification, and the criteria and procedures laboratories shall follow in analyzing drinking water samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3215 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1090 (August 2020).

**§8003. Construction**

A. These rules shall be liberally construed to permit the department to discharge its statutory functions, and to effectuate the purposes of the laboratory certification program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1090 (August 2020).

### **§8005. Purpose of the Regulations**

A. This Chapter is promulgated for the following purposes:

1. to establish a certification program for laboratories performing analyses of drinking water samples;
2. to establish the administrative procedures to be followed by laboratories seeking certification and by laboratories maintaining certification;
3. to establish the categories and parameters for which laboratories may be certified;
4. to require that the certification status of a laboratory be contingent upon that laboratory's continued compliance with the standards set forth herein; and
5. to establish the enforcement procedures the department shall follow to ensure that all certified laboratories or laboratories seeking certification are in compliance with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

### **§8007. Certification Program Requirements**

A. The laboratory certification program is voluntary and open to any laboratory to apply for certification. However, any laboratory wishing to analyze drinking water samples for compliance with regulations adopted or orders issued pursuant to the Safe Drinking Water Act, or R.S. 36:254(B)(7), R.S. 36:254(B)(8), R.S.40:4(A)(8), R.S.40:5(6), R.S.40:5.9, or Part XII of the department's Sanitary Code (LAC 51) shall follow the procedures set forth herein in order to obtain and maintain certification.

B. Certified laboratories and laboratories seeking certification shall analyze all drinking water samples in accordance with the procedures and methods required by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

### **§8009. Incorporation by Reference**

A. The department hereby adopts and incorporates into these regulations:

1. the "National Primary Drinking Water Regulations," 40 CFR 141, July 1, 2019 edition;
2. the "National Secondary Drinking Water Regulations," 40 CFR 143, July 1, 2019 edition; and
3. the Manual for the Certification of Laboratories Analyzing Drinking Water, Criteria and Procedures Quality Assurance Fifth Edition (EPA 815-R-05-04) January 2005 including Supplement 1(EPA 815-F-08-006), June 2008, both published by the United States Environmental Protection Agency (USEPA or EPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

### **§8011. Program Information**

A. Unless otherwise specified, any questions concerning the requirements of this program as detailed in this Chapter should be directed to:

Laboratory Certification Program  
Department of Health  
Office of Public Health  
1209 Leesville Avenue Baton Rouge, LA 70802  
225-219-5200  
www.ldh.la.gov/lab

1. All requests for information and performance testing data shall be submitted to the entity above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

### **Subchapter B. Program Procedures and Requirements**

#### **§8015. Scope**

A. This Subchapter establishes the following:

1. requirements of certification;
2. categories for which certification is available;
3. procedures for becoming a certified drinking water laboratory;
4. procedures for a certified drinking water laboratory to renew or modify its certification;
5. procedures for cancellation, suspension, and revocation of certification; and,
6. fees for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3216 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

#### **§8017. Requirements of Certification**

A. All water sample analyses performed for the purpose of determining compliance with the chemical, physical, or radiological requirements of the State's primary and secondary drinking water regulations, or when required by order issued by the department pursuant to the authority of the federal Safe Drinking Water Act, or any other regulations adopted pursuant to those acts, shall be performed in laboratories certified for this purpose pursuant to this Chapter. Analyses performed in laboratories not so certified shall not be accepted by the department as being in compliance with the requirements, regulations or orders of the federal Safe Drinking Water Act.

B. To be clear, the requirements of LAC 48:V.8009.A.1 and 8009.A.2 shall apply to all laboratories regardless of the number of categories specified in §8019 for which the laboratory is seeking certification. The requirements of Paragraphs 8019.A.1, 8019.A.2 and 8019.A.3 shall apply dependent upon the particular category or categories for which the laboratory is seeking certification.

C. Primary certification shall only be granted to laboratories located in the state of Louisiana. The department shall, in accord with the provisions of this Section, grant reciprocity to a laboratory located outside of the state of Louisiana if the laboratory requesting certification also meets each of the following requirements:

1. the laboratory is accredited by a The NELAC Institute (TNI), the National Environmental Laboratory Accreditation Program (NELAP) recognized primary accreditation body;

2. the laboratory submits an acceptable application for certification to the State; and

3. ...

D. The department shall consider only the current certification of accreditation issued by the TNI NELAP recognized primary accreditation body and shall grant reciprocal certification for the fields of testing, methods and analytes for which the laboratory holds primary TNI NELAP accreditation. The department will issue a Louisiana certificate within 30 calendar days of receipt of the laboratory's application if all the above reciprocity requirements are met by the laboratory. The department, does not require any additional proficiency testing, quality assurance, or on-site assessment requirements for fields of testing for which the laboratory holds primary TNI NELAP accreditation.

E. Only laboratories certified pursuant to these regulations may be called a state certified drinking water laboratory and no laboratory may adopt any name or make any oral or written statement intended or likely to mislead the public with the respect to its certification status.

F. Once a laboratory is certified, the period of certification shall extend to the end of the calendar year in which certification is received. For laboratories seeking to renew certification, the period of certification shall be one year beginning on January 1 and shall be considered to be ongoing if the appropriate fees are timely received by the department.

G. If there is a difference in the drinking water regulations of the USEPA and the regulations of the department, a laboratory must follow the more stringent requirement(s).

H. Applications shall be processed in the chronological order in which they have been received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3217 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1091 (August 2020).

### **§8019. Categories for Certification**

A. A laboratory may apply for certification in any one or more of the following certification categories and shall be certified in those fields of certification within the category for which it demonstrates acceptable performance on proficiency samples and meets all other requirements of this Chapter. The laboratory certificate shall specify the categories and the fields of certification within each category for which the laboratory is certified and shall be conspicuously displayed in the laboratory in a location visible to the public. In addition, the current laboratory certificate specifying the certification categories, the fields of certification, and the expiration date of the certificate shall be posted on its publicly accessible website. The certificate must be removed and returned to the department if the laboratory's certification has been revoked. In addition, the laboratory shall post such revocation or suspension of the laboratory's certification on its publicly accessible website.

The certificate does not have to be returned if it simply expired (reached the expiration date). The following are the certification categories available.

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1092 (August 2020).

### **§8021. Application Procedures for Laboratories Located in Louisiana**

A. The owner or director of a laboratory who wishes an in-state laboratory to be certified in any or all of the certification categories and fields of certification/parameters thereof, described in the federal Safe Drinking Water Act regulations or §8019 of this Chapter, shall apply for certification to the department in writing on forms provided by the department. Laboratories applying for certification may be fixed-base or mobile. The department shall determine what constitutes an individual fixed-base laboratory when noncontiguous laboratory facilities operate under the same ownership, technical directorship, and quality system as the parent laboratory. A separate certification is not required for a mobile laboratory that is owned by a certified fixed-base laboratory, operates under the same quality system as the fixed-based laboratory, performs a subset of the analyses for which the fixed-base laboratory is certified, and analyzes samples exclusively from within the state. Separate certification is required for a mobile laboratory that is owned by a fixed-base laboratory but operates under a different quality system or performs analyses for which the parent fixed-base laboratory is not certified.

B. ...

C. If the applicant submits a complete, signed application, the appropriate fee, proficiency data (if required), quality manual (if required), and the information submitted meets the minimum requirements of this Chapter for the category or categories for which certification is requested, the application shall be accepted. Acceptance of the application does not authorize the laboratory to perform water analyses regulated by this Chapter. The applicant shall be notified of the acceptance and shall be subject to an evaluation including but not limited to the following:

1. personnel;
2. proficiency testing;
3. on-site assessment; and
4. quality assurance/quality control procedures.

D. Neither certified nor interim certified status will be granted to any laboratory which has not met the performance criteria specified in any federal Safe Drinking Water Act regulations or, for those chemicals or other analyses wherein performance criteria may not be specified under the federal Safe Drinking Water regulations, by the performance criteria specified under a written policy of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1092 (August 2020).

**§8023. Application Procedures for Laboratories Not Located in Louisiana**

A. Laboratories located outside of Louisiana, possessing TNI NELAP accreditation from an approved NELAP accreditation body, and desiring to perform water analyses in any or all of the categories described in §8019 for public water systems (PWSs) and for other potable water supplies located in Louisiana, or as required by the federal Safe Drinking Water Act regulations or Part XII of the Louisiana Sanitary Code (LAC 51), shall apply for reciprocal certification in accordance with the procedures set forth in §8017 and §8021 and shall submit the standard fee amount(s) specified under §8027 for the category or categories being applied for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3218 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1093 (August 2020).

**§8025. Renewal of Certification**

A. Applications for renewals of certification will be accepted by the department from October 15 through December 1 of each year and shall be submitted at least 30 calendar days prior to the expiration date of the current certificate on forms provided by the department. The appropriate application fee must accompany the application in accordance with §8027.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1093 (August 2020).

**§8027. Fees**

A. Owners of laboratories applying for certification or renewal of certification shall submit the appropriate fee obtained from the annual fee schedule below along with the required application materials. Fees are nonrefundable.

Annual Laboratory Certification Fee Schedule	
Chemistry Category/Categories	Fee
Inorganic	\$750
Organic	\$800
Both Inorganic and Organic	\$1000
Radiological Testing	\$800

B. The annual fees shall not be prorated and shall apply in full to any portion of the calendar year which remains prior to the annual renewal date.

C. This Section is also applicable to laboratories approved for interim certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7) [the same fee schedule amounts initially adopted in LR 15:968 (November 20, 1989) under this statute's authority].

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1093 (August 2020).

**§8029. Required Laboratory Personnel Policies**

A. Every certified laboratory and laboratories seeking certification shall have sufficient properly qualified personnel commensurate with the workload and types of tests or analyses required to be performed for the parameters

for which the laboratory is certified, or is seeking certification, pursuant to the requirements of this Chapter; and Chapters IV and VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

1. General requirements for technical staff. The management of a certified laboratory or laboratory seeking certification shall ensure the competency of all technical staff employed by the laboratory.

a. An environmental laboratory certified under this Chapter or seeking certification under this Chapter shall have sufficient personnel with the necessary education, training, technical knowledge, and experience for their assigned functions.

b. Each technical staff member of the environmental laboratory certified under this Chapter or seeking certification under this Chapter shall be responsible for complying with all quality assurance/quality control requirements that pertain to their organization/technical function.

1.c. - B.-3. ...

C. Data Integrity Training. Data integrity training shall be provided as a formal part of new employee orientation and shall also be provided on an annual basis for all current employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3219 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1093 (August 2020).

**§8031. Proficiency Testing**

A. At the time each laboratory applies for certification, it shall notify the department which field(s) of testing it chooses to become certified for and shall participate in the appropriate proficiency test (PT) studies. Except when determined by the department that an appropriate PT is not readily available, all certified laboratories or laboratories seeking certification shall participate in an approved proficiency testing program covering all tests, analytes and analytical methods as made available within the category and categories in which the laboratory is certified or seeks certification. The laboratory shall purchase PT studies for the parameters for which certification is requested. A laboratory seeking state of Louisiana drinking water laboratory certification only shall participate in proficiency studies at the frequency that meet the requirements of federal Safe Drinking Water Act regulations (40 CFR 141 and 40 CFR 143).

B. All PT records shall be retained for a minimum of 10 years and available for assessment by the department.

C. To be certified initially and to maintain certification the laboratory shall participate in one PT study, where available, per year for each PT field of testing for which it seeks or wants to maintain certification. For a laboratory seeking to obtain certification, the most recent three rounds attempted shall have occurred within 18 months of the laboratory's application date for certification with the analysis date of the most recent PT sample having been no more than six months prior to the application date for certification. The department will complete the assessment of the final evaluation report for PT studies within 60 days of receipt of each study report. The department shall suspend

the certification of a laboratory for a field of proficiency testing pursuant to the conditions specified in Chapter III of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3220 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1093 (August 2020).

### **§8033. On-Site Assessment**

A. The department will perform an initial on-site assessment of an environmental laboratory seeking certification, except as provided in §8017, prior to granting certification, and reassessments at intervals of three years and at such other times as the department deems necessary to determine continued compliance to this rule. All assessments performed by the department shall be pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. ...

C. The laboratory shall ensure that records including its quality manual, analytical methods, standard operating procedures, quality assurance/quality control data, proficiency testing data, and all records needed to verify compliance to the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143); the Louisiana State Sanitary Code (LAC 51) and this rule are available for review during the on-site assessment. The laboratory shall allow the department's authorized personnel to examine records, observe laboratory procedures, facilities, equipment and to interview staff during the on-site assessment.

D. - E. ...

F. In addition to on-site assessments, the department shall perform other surveillance activities to monitor certified laboratories' continued compliance to the provisions of this Chapter throughout the period of certification. Annually, the department shall review among other things, proficiency testing, internal audits, corrective action reports and any other certification-related laboratory records the department deems appropriate to establish continued compliance to the provisions of this Chapter.

G. Nothing in this Section shall be construed as requiring the department to reassess a laboratory prior to taking a regulatory or administrative action affecting the status of the laboratory's certification. Nothing in this Section shall be construed as limiting in anyway the department's ability to revoke or otherwise limit a laboratory's certification upon the identification of such deficiencies as to warrant such action.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3220 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1094 (August 2020).

### **§8035. Issuance and Display of Certificate and Use of Certification**

A. The department will issue a certificate to each laboratory meeting the requirements of this Chapter indicating that the laboratory is certified by the department.

The numbered certificate will be signed by a laboratory director, or assistant laboratory director, of the department's Laboratory Services Section and the designated laboratory certification staff personnel and will be considered an official document. It will be transmitted as a sealed and dated (effective date and expiration date) document and contain the certification logo. Addenda or attachments to the certificate shall be considered official documents. Information on the addenda or attachments shall include the matrix, fields of certification, methods, analyte/analyte group and technologies.

1. The certified laboratory shall display their most recent certificate in a prominent place in the laboratory, visible to the public. The certificate shall include the certification status of the laboratory and a list all fields of testing for which the laboratory is certified.

B. A certified laboratory must not use its certificate, certification status and/or certification logo to imply, either orally or in any literature, endorsement of the laboratory by the state of Louisiana or the department. A certified laboratory must not make any inaccurate statements concerning their fields of certification and certification status.

C. A certified laboratory's certification number or other identifier shall be included when the certification body's name is used on general literature such as catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical reports or other material.

D. The laboratory must distinguish between proposed testing for which the laboratory is certified and the proposed testing for which the laboratory is not certified.

E. The laboratory must return to the department any revoked certification certificate(s) and must discontinue use of all catalogs, advertising, business solicitations, proposals, quotations, laboratory analytical results or other materials that contain reference to their past certification status and/or display their past certification logo.

F. The department shall take suitable actions including, but not limited to, legal action when incorrect references to the certification body's certification, misleading use of the laboratory's certification status and/or unauthorized use of the certification logo is found in catalogs, advertisements, business solicitations, proposals, quotations, laboratory analytical reports or other materials. All reports of questionable laboratory practices must be reported to the department's laboratory director, or assistant laboratory director, and to the department's laboratory certification program manager. The department's laboratory certification program manager shall investigate the merits of the report and forward the findings to the department's laboratory director, or assistant laboratory director. If it is determined that a formal investigation is needed, the department's laboratory director, or assistant laboratory director, shall contact the Bureau of Legal Services within the Department of Health (LDH) for guidance and assistance in the investigation. If the investigation determines that action is merited, the laboratory shall be issued a revocation order via certified mail revoking the laboratory's certification. All legal actions taken by the department shall proceed in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) and under the direction of LDH's Bureau of Legal Services. No laboratory's certification shall

be revoked without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the revocation order. Said hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) All documents related to the investigation(s), including the final disposition, shall be retained by the department for 10 years from the date of such final disposition.

G. Certification may be transferred when the legal status or ownership of a certified laboratory changes without affecting its staff, equipment, and organization. The department may conduct an on-site assessment to verify the effects, if any, of such changes on laboratory performance.

H. The following conditions apply to the change in ownership and/or the change in location of a laboratory, as well as to a change in top management, key personnel, resources, or premises that is, or previously was, certified by the department under a previous owner and/or at a previous location.

1. In the event there are any changes in the name, location, ownership, top management, key personnel, main polices, resources or premises of a certified laboratory to which the provisions of this Chapter apply, written notice thereof shall be made within 30 days to the entity below:

Laboratory Certification Program  
Laboratory Services  
Department of Health,  
Office of Public Health  
1209 Leesville Avenue  
Baton Rouge, LA 70802

2. ...

3. A change in ownership and/or location will not necessarily require recertification or reapplication in any or all of the categories in which the laboratory is currently certified.

4. ...

5. Any change in ownership shall assure historical traceability of the laboratory certification number(s).

6. For a change in ownership, the following additional conditions shall be in effect.

a. The previous owner (transferor) shall agree in writing, before the transfer of ownership takes place, to be accountable and liable for any analyses, data and reports generated up to the time of legal transfer of ownership.

b. ...

c. All records and analyses performed pertaining to certification shall be kept for a minimum of 10 years and are subject to review and inspection by the department during this period without prior notification to the laboratory. This stipulation is applicable regardless of change in ownership, accountability or liability.

d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3221 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1094 (August 2020).

### **§8037. Management System Establishment**

A. The laboratory shall establish and maintain a management system pursuant to and meeting the required elements contained in Chapter III of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3222 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1095 (August 2020).

### **§8039. Denial, Suspension, Revocation and Voluntary Withdrawal of Certification**

A. Denial of Certification. Denial means to refuse to certify in part or in total a laboratory applying for initial certification or resubmission of initial application.

1. - 1.a. ...

b. failure of laboratory staff to meet the personnel qualifications as required by the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. These qualifications include, but are not limited to, education, training and experience requirements;

c. failure to successfully analyze and report PT samples as required in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water;

d. failure to attest that analyses are performed by methodologies as required in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters;

e. failure to implement a quality system as defined in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water;

f. - i. ...

j. misrepresentation of any material fact pertinent to receiving or maintaining certification; or

k. denial of entry during normal business hours for an on-site assessment as mentioned under §8033.B of this Chapter.

2. A laboratory shall have two opportunities to correct the areas of deficiencies which results in a denial of certification.

3. If the laboratory is not successful in correcting the deficiencies as required by §8033 of this Chapter, the laboratory must wait 6 months before again reapplying for certification.

4. Upon reapplication, the laboratory shall be responsible for all or part of the fees incurred as part of the initial application for certification.

5. No laboratory's certification will be denied without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the denial letter. Said administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

B. Suspension of Certification. Suspension means the temporary removal of a laboratory's certification for a defined period of time which shall not exceed 6 months. The purpose of suspension is to allow a laboratory time to correct deficiencies or areas of non-compliance with this Chapter.

1. A laboratory's certification may be suspended in part or in total. The laboratory shall retain those areas of certification where it continues to meet the requirements of this Chapter.

2. - 2.a. ...

b. failure to successfully complete PT studies and maintain a history of at least two successful PT studies for each affected certified field of testing out of the most recent three PT studies;



c. failure to notify the certification body of any changes in key certification criteria, as set forth in §8029 of this Chapter;

d. ...

e. failure of the laboratory to employ staff who meet the personnel qualifications including, but not limited to, education, training and experience as required by this Chapter.

3. A laboratory under suspension will not have to reapply for certification if the cause/causes for suspension are corrected within 6 months. The laboratory's suspended certification status will change to certified when the laboratory complies with this Chapter.

4. ...

a. cannot continue to analyze samples for the affected fields of testing for which it holds certification; and

b. ...

5. If the laboratory is unable to correct the reason for the suspension, the laboratory's certification shall be revoked in total or in part within 6 months after the effective date of the suspension.

6. No laboratory's certification will be suspended without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the suspension order. Said administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S.49:950 et seq.)

C. Revocation of Certification. Revocation means partial or total withdrawal of a laboratory's certification by the department.

1. The department's Laboratory Services Section shall revoke a laboratory's certification, in part or in total, for failure to correct the deficiencies after certification had been suspended. The laboratory shall retain those areas of certification where it continues to meet the requirements of this Chapter.

2. - a. ...

b. failure to correctly analyze a parameter(s) in three consecutive PT studies. Should this occur, the laboratory's certification shall be revoked for each affected certified field of testing(s), method(s) and analyte(s).

3. - a. ...

b. failure to participate in the PT program as required by §8031 of this Chapter;

c. submittal of PT sample results generated by another laboratory as its own;

d. misrepresentation of any material fact pertinent to receiving or maintaining certification;

e. denial of entry during normal business hours for an on-site assessment as required by §8033 of this Chapter;

f. ...

g. failure to remit the certification fees within the time limit as established by the department may be grounds for immediate revocation.

4. After correcting the reason/cause for revocation, the laboratory may reapply for certification no sooner than six months from the official date of revocation.

5. No laboratory's certification will be revoked without the right to due process. The laboratory has a right to an administrative hearing thereon, if requested in writing within 20 days of receipt of the revocation order. Said

administrative hearing shall be held before an Administrative Law Judge and in accordance with the Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

D. Voluntary Withdrawal of Certification. If an environmental laboratory wishes to withdraw from the laboratory certification program, it must submit written notification to the department no later than 30 calendar days before the end of the certification year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3222 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1095 (August 2020).

#### **§8041. Interim Certification**

A. If a laboratory completes all of the requirements for certification except that of an on-site assessment because the department is unable to schedule the assessment in a timely manner, the department may issue an interim certification. Interim certification is not available for first time certification of a laboratory or after revocation of certification. Interim certification will allow a laboratory to perform analyses and report results with the same status as a fully certified laboratory until the on-site assessment requirements have been completed. Interim certification status may not exceed 12 months. The interim certification status is a matter of public record and will be noted on the certificate of the laboratory.

B. Revocation of Interim Certification. Revocation of interim certification may be initiated for due cause in accord with the requirements of §8039 of this Chapter.

C. The department may approve a laboratory application to add an analyte or method to its scope of certification by performing a data review without an on-site assessment. An addition to the scope of certification via a data review of PT performance (if available), quality control performance, and written standard operating procedure is at the discretion of the department. An addition of a new technology or test method requiring specific equipment may require an on-site assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3223 (December 2012), amended by the Louisiana Department of Health, Office of Public Health, LR 46:1096 (August 2020).

#### **§8043. Ethics, Standards of Professional Conduct and Conflict of Interest**

A. Professional standards apply to every employee of the department including laboratory assessors, whether a government employee or an employee of a third party organization conducting assessments under an agreement with the department or other certification body.

1. Department employees, including assessors that knowingly engage in unprofessional activity, may be liable for punitive actions as initiated by the department. Standards for professional conduct outlined herein are based upon 5 CFR 2635, January 1, 2019 edition, (Standards of Ethical Conduct for Employees of the Executive Branch) and will be followed in all laboratory certification related matters. Additionally, conformance with the Louisiana Code of Governmental Ethics, R.S. 42:1101 et seq., is required.

2. All employees including assessors representing the department shall:

a. have no interest at play other than that of the department during the entire certification process;

b. - h. ...

i. not knowingly make unauthorized commitments or promises of any kind purporting to bind the department; and

j. ...

3. It is the individual's responsibility to report to the department any personal issues or activities that constitute a conflict of interest before an assessment occurs. It is up to the department to determine if the reported issues and activities regarding a specific assessor constitute, or may be construed as, a conflict of interest. The department's laboratory director, or assistant laboratory director, shall contact the Bureau of Legal Services within the Department of Health (LDH) for guidance and assistance in deciding a conflict of interest case and the course of action the department should take.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3223 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1096 (August 2020).

### **Subchapter C. Criteria and Procedures for Chemical Testing and Analysis**

#### **§8045. Scope**

A. This Subchapter establishes the department's requirements which a certified laboratory or laboratory seeking certification shall continually meet and follow when performing chemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8047. Laboratory Facilities and Safety**

A. All certified laboratories or laboratories seeking certification pursuant to this Subchapter shall have laboratory facilities and safety procedures that meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8049. Specifications for Laboratory Equipment and Instrumentation**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have on the premises and under the control of the technical manager, all of the equipment and instruments necessary to analyze each parameter in which the laboratory is certified, or is seeking certification. All instruments shall be properly maintained and calibrated and such equipment and instruments including records shall meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8051. Measurement Traceability**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall meet the measurement traceability requirements specified in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3224 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8053. Sample Collection, Handling and Preservation**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have procedures for sample collection, handling and preservation techniques that meet the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Samples requiring preservation shall be preserved at the time of collection. A laboratory that has interim approval or certification shall accept only samples which are properly labeled, and for which there is reasonable assurance that they have been collected, preserved, processed, stored and transported in such a manner as to identity and stability of the sample with respect to the requested tests or analyses. If the identity/stability of the sample has not been assured, the laboratory report shall clearly state that the result may be invalid due to an unsatisfactory sample.

C. All samples requiring thermal preservation shall be considered acceptable if the arrival temperature of a representative sample container is within the method's specified range. Additional acceptance criteria are specified in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The laboratory must measure and record the temperature of the sample when it arrives when temperature preservation is required by the method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8055. Methodology and Method Validation**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall use the test procedures specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Additionally, the laboratories shall comply with the requirements in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. ...

C. Applicable SOPs shall be available in the laboratory at the analyst's work station.

D. The laboratory shall validate reference methods via the procedures specified in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

E. Prior to the acceptance and institution of any method, a satisfactory initial Demonstration of Capability (DOC) shall be performed by the laboratory pursuant to the requirements in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Documentation shall be maintained by the laboratory for the initial and any ongoing DOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1097 (August 2020).

#### **§8057. Quality Assurance for Environmental Testing**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall have established quality control procedures pursuant to Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall implement the essential quality control procedures in Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3225 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1098 (August 2020).

#### **§8059. Records and Data Reporting**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall meet the requirements for reporting results pursuant to Chapter IV of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. - D. ...

D.1. date of sampling, location [including name of utility and PWS identification (ID) number (#) if the water system is a PWS], sampling site within the water system, time of sampling, name, organization and phone number of the sampler, and analyses required;

D.2. - H. ...

I. The original or true duplicate of the results of the test or analysis shall be sent promptly to the person who requested such tests or analysis. In addition, the results of compliance monitoring samples are to be sent to the Engineering Services Section of the department.

1. The results data shall be signed by the technical manager or a designee whose designation is in writing and whose name has been submitted to the department. Data and results submitted to the department shall be submitted electronically, maintained, and stored in writing in the format specified by the Engineering Services Section of the department. When any sample result exceeds the maximum contaminant level (MCL), secondary MCL, or may cause a treatment technique requirement violation for any regulated contaminant listed in the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), a certified laboratory shall report

the result to the supplier of water and the Engineering Services Section of the department as soon as possible but no later than the end of the next business day after the result was determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3226 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1098 (August 2020).

#### **§8061. General Laboratory Practices**

A. Chemicals/Reagents. Chemicals and reagents used must meet the specifications in the referenced method. If not specified therein, then analytical reagent (AR) grade or American Chemical Society (ACS) grade chemicals or better shall be used for analyses in certified laboratories.

B. Reagent Water. The laboratory shall have a source of reagent water having a resistance value of at least 0.5 megohms-cm (conductivity less than 2.0 micromhos/cm) at 25°C. High quality water meeting such specifications may be purchased from commercial suppliers. Quality of reagent water is best maintained by sealing it from the atmosphere. Quality checks to meet specifications above shall be made and documented at planned intervals based on use. This planned interval should not exceed daily. Individual analytical methods may specify additional requirements for the reagent water to be used. Reagent water for organic analysis must be free from interferences for the analytes being measured. It may be necessary to treat water with activated carbon to eliminate all interferences. If individual methods specify additional requirements for the reagent water to be used, these must be followed.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3226 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1098 (August 2020).

#### **§8063. Management Systems General Requirements**

A. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall establish, implement and maintain a management system. The laboratory's management system policies related to quality, including a quality policy statement, shall be defined in a quality assurance plan (however named). The quality assurance plan shall include all the requirements in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The quality assurance plan shall be made available to all laboratory personnel.

B. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall establish and maintain a documented data integrity system. There are four elements within a data integrity system. These are:

1. - 4. ...

C. The procedures of the data integrity system required under Subsection B of this Section shall be signed by top management.

D. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses, shall maintain SOPs that accurately reflect all

phases of current laboratory activities, such as assessing data integrity, corrective actions, handling customer complaints and all analytical methods. All quality control data and records required by this Section shall be retained by the laboratory for a minimum of 10 years and shall be made available for inspection by the department. Such retained data shall include, but shall not be limited to, the results of and raw data generated by PT analyses.

E. Control of Nonconforming Environmental Testing Work. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for the control of nonconforming environmental testing pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

F. Laboratory Improvement, Corrective Action and Preventive Action. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for improving the laboratory, and implementing corrective and preventive actions pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

G. Internal Audits. Laboratories which have received certification or are seeking certification to perform any of the required chemical analyses shall meet the requirements for establishing and conducting internal audits of laboratory activities pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3227 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1098 (August 2020).

#### **Subchapter D. Criteria and Procedures for Radiological/ Radiochemical Testing and Analysis**

##### **§8064. General**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), repealed by the Department of Health, Office of Public Health, LR 46:1099 (August 2020).

##### **§8065. General**

###### **[Formerly §8064]**

A. This Subchapter, in conjunction with other requirements contained in other portions of this Chapter, establishes the department's requirements to which a certified laboratory or laboratory seeking certification shall continually meet and follow when performing radiological/radiochemical analyses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1099 (August 2020).

##### **§8067. Laboratory Facilities and Safety**

###### **[Formerly §8065]**

A. All certified laboratories or laboratories seeking certification pursuant to this Subchapter shall have laboratory facilities and safety procedures that meet the

requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The analysis of compliance samples shall be conducted in a laboratory where the security and integrity of the samples and the data can be maintained.

C. The laboratory facilities must be clean, have adequate temperature and humidity control, have adequate lighting at the bench top and must meet applicable Occupational Safety and Health Administration (OSHA) standards.

D. The laboratory must have provisions for the proper storage and disposal of chemical and radiological wastes. The appropriate type of exhaust hood is required where applicable.

E. There must be sufficient bench space for processing samples. Workbench space should be convenient to sink, water, gas, vacuum and electrical sources free from surges.

F. Instruments must be properly electrically grounded.

G. Counting instruments must be located in a room other than one in which samples and standards are being prepared or where other types of chemical analyses are performed.

H. The analytical and sample storage areas must be isolated from all potential sources of contamination.

I. There should be sufficient storage space for chemicals, glassware and portable equipment, sufficient floor and bench space for stationary equipment and areas for cleaning materials.

J. Volatile or corrosive chemicals and flammable solvents shall be stored in accordance with the federal Occupational Safety and Health Act (OSH Act) and attendant OSHA regulations.

K. Adequate fire precautions shall be taken including, but not limited to, having readily available a fire extinguisher rated for the types of fires that may reasonably be foreseen given the types of testing and analyses performed by and the types of materials handled by the laboratory.

L. Appropriate occupational safety and health laws and regulations shall be posted and observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1099 (August 2020).

##### **§8069. Specifications for Laboratory Equipment and Instrumentation**

###### **[Formerly §8067]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall have on the premises and under the control of the technical manager, all of the equipment and instruments necessary to analyze each parameter in which the laboratory is certified, or is seeking certification. All instruments shall be properly maintained and calibrated and such equipment and instruments including records shall meet the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228

(December 2012), amended by the Department of Health, Office of Public Health, LR 46:1099 (August 2020).

**§8071. Measurement Traceability**  
**[Formerly §8069]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the measurement traceability requirements specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3228 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1100 (August 2020).

**§8073. Sample Collection, Handling and Preservation**  
**[Formerly §8071]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall have procedures for sample collection, handling and preservation techniques that meet the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Samples requiring preservation shall be preserved at the time of collection. A laboratory that has interim approval or certification shall accept only samples which are properly labeled, and for which there is reasonable assurance that they have been collected, preserved, processed, stored and transported in such a manner as to identity and stability of the sample with respect to the requested tests or analyses. If the identity/stability of the sample has not been assured, the laboratory report shall clearly state that the result may be invalid due to an unsatisfactory sample.

C. All samples requiring thermal preservation shall be considered acceptable if the arrival temperature of a representative sample container is within the method's specified range. Additional acceptance criteria are specified in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The laboratory must measure and record the temperature of the sample when it arrives when temperature preservation is required by the method.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1100 (August 2020).

**§8075. Methodology and Method Validation**  
**[Formerly §8073]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall use the test procedures specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. Additionally, the laboratories shall comply with the requirements in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall list, in its quality manual, and have on hand the SOPs for each analytical method used. This listing should include the name of the method and a complete reference as to the source.

C. Applicable SOPs shall be available in the laboratory at the analyst's work station.

D. The laboratory shall validate reference methods via the procedures specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

E. Prior to the acceptance and institution of any method, a satisfactory initial DOC shall be performed by the laboratory pursuant to the requirements in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters and in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. Documentation shall be maintained by the laboratory for the initial and any ongoing DOC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1100 (August 2020).

**§8077. Quality Assurance for Radiochemical Testing**  
**[Formerly §8075]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall have established quality control procedures pursuant to Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. The laboratory shall implement the essential quality controls procedures in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

C. The laboratory shall perform all quality control procedures at the frequency required in the approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters. In addition, the laboratory shall meet the acceptance criteria specified in the applicable, approved reference method(s) specified in 40 CFR Parts 141 and 143 for the analysis of drinking water parameters.

D. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall maintain control charts for each instrument and method used by the laboratory for compliance monitoring sample measurements. Instrument initial calibrations and all efficiency and instrument background checks shall be maintained in a permanent record. Control charts shall be maintained as specified in Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. Until sufficient data are available from the laboratory, usually a minimum of 20 to 30 test results on a specific analysis, the laboratory shall use the control limits (if specified) in the method. When sufficient data becomes available, the laboratory shall develop control charts from the mean percent recovery ( $\bar{X}$ ) and the standard deviation (S) of the percent recovery for the Quality Control (QC)

checks specified in the above Subsections of this Section (also, see Chapter VI of the Handbook for Analytical QC in Water and Wastewater Laboratories, EPA-600/4-79-019 or Standard Methods for the Examination of Water and Wastewater, 20th Edition, Part 1020B, or similar laboratory analytical QC reference texts for further information). These data are used to establish upper and lower control limits as follows:

1. upper control limit =  $\bar{X}$  + 3S  
(upper warning limit, use + 2S instead of + 3S);

2. lower control limit =  $\bar{X}$  - 3S  
(lower warning limit, use - 2S instead of - 3S).

E. After every 20 new recovery measurements, new control limits should be calculated using the most recent 20-30 data points. These calculated control limits shall not exceed those established in the method. If any of these calculated control limits are tighter than the control limits specified within the method, the laboratory shall use the tighter criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3229 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1100 (August 2020).

### **§8079. Records and Data Reporting** **[Formerly §8077]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses, shall meet the requirements for reporting results pursuant to Chapter VI of the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

B. Compliance monitoring data shall be made legally defensible by keeping thorough and accurate records. The quality manual and/or SOPs shall describe the policies and procedures used by the facility for record retention and storage. If samples are expected to become part of a legal action, chain of custody procedures shall be used.

C. Maintenance of Records. PWSs are required to maintain records of radiological/radiochemical analyses of compliance samples for 10 years (40 CFR 141.33). The laboratory should maintain easily accessible records for 10 years. The client water system should be notified before disposing of records so they may request copies if needed. This includes all raw data, calculations, and quality control data. These data files may be either hard copy, microfiche or electronic. Electronic data shall always be backed up by protected tape or disk or hard copy. If the laboratory changes its computer hardware or software, it should make provisions for transferring old data to the new system so that it remains retrievable within the time frames specified above.

D. Sampling Records. Data should be recorded in ink with any changes lined through such that the original entry is visible. Changes shall be initialed and dated. The following information should be readily available in a summary or other record(s):

1. date of sampling, location (including name of utility and PWS ID #, if the water system is a PWS), sampling site within the water system, time of sampling, name, organization and phone number of the sampler, and analyses required;

2. identification of the sample as to whether it is a routine distribution system sample, check sample, raw or finished water sample, repeat or confirmation sample or other special purpose sample;

3. date of receipt of the sample by the laboratory;

4. sample volume/weight, container type, preservation and holding time and condition on receipt;

5. pH (from plant records) and disinfectant residual at time of sampling (from on-site analysis by sampler at the time of sampling);

6. disinfectant residual by laboratory immediately prior to analysis; and

7. transportation and delivery of the sample (person/carrier, conditions).

E. Analytical Records. Data shall be recorded in ink with any changes lined through such that the original entry is visible. Changes shall be initialed and dated. The following information shall be readily available:

1. laboratory and persons responsible for performing the analysis;

2. analytical techniques/methods used;

3. date and time of analysis;

4. results of sample and quality control analyses; and

5. calibration and standards information.

F. Personnel Records. Résumés and training records shall be maintained for all personnel. Documentation of the initial demonstration of capability for analysts/technicians shall be kept on file as well as the results of proficiency testing.

G. Reconstruction of Data. Adequate information shall be available to allow the assessor to reconstruct the final results for compliance samples and performance evaluation samples.

H. Computer programs. Computer programs shall be verified initially and periodically by manual calculations and the calculations shall be available for inspection. Access to computer programs and electronic data shall be limited to appropriate personnel.

I. The original or true duplicate of the results of the test or analysis shall be sent promptly to the person who requested such tests or analysis. In addition, the results of compliance monitoring samples are to be sent to the Engineering Services Section of the department.

1. The results data shall be signed by the technical manager or a designee whose designation is in writing and whose name has been submitted to the department. Data and results submitted to the department shall be submitted electronically, maintained, and stored in writing in the format specified by the Engineering Services Section of the department. When any sample result exceeds the maximum contaminant level (MCL), secondary MCL, or may cause a treatment technique requirement violation for any regulated contaminant listed in the federal Safe Drinking Water Act (42 USC 300f et seq.) and its implementing regulations (40 CFR Parts 141 and 143), a certified laboratory shall report the result to the supplier of water and the Engineering Services Section of the department as soon as possible but no later than the end of the next business day after the result was determined.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3230

(December 2012), amended by the Department of Health, Office of Public Health, LR 46:1101 (August 2020).

**§8081. General Laboratory Practices**  
**[Formerly §8079]**

A. Chemicals/Reagents. Chemicals and reagents used must meet the specifications in the referenced method. If not specified therein, then analytical reagent (AR) grade or American Chemical Society (ACS) grade chemicals or better shall be used for analyses in certified laboratories.

B. Reagent Water. The laboratory shall have a source of reagent water meeting the requirements of being an American Society of Testing Materials (ASTM) Type 1, 2, or 3 reagent water, having a minimum resistivity of 10 megohms-cm (conductivity less than 0.1 microhoms/cm) at 25°C. It shall be monitored daily by measuring the reagent water's conductivity or resistivity and documented. Radioactive components have been known to break through reagent water manufacturing units before an increase in resistivity is noted. To monitor the background radioactivity of the reagent water, it is to be screened for radioactivity each time the treatment unit is serviced, and periodically thereafter depending on the volume of reagent water use at the laboratory between servicing units.

C. Glassware Preparation. Specific requirements in the methods for the cleaning of glassware must be followed. The purpose of these requirements are to minimize the possibility that glassware can contaminate samples, and should include acid rinsing. Acid rinsing not only mobilizes any metals remaining adhering to their surfaces, but also hydrates the outer silica layer on the glassware which inhibits contamination with radioactive materials. If there are no specifications for cleaning glassware in the method, then the glassware should first be washed in detergent solution, then thoroughly rinsed in tap water followed by a second rinse in a dilute acid solution, and finally rinsed with reagent water and dried.

D. Distilled and deionized water shall have at a minimum, resistivity values between 0.5 to 2.0 megohms-cm (2.0 to 0.5 micromhos/cm.) at 25° C. Preferably, distilled and deionized water should have resistivity values greater than 1.0 megohms-cm (less than 1.0 micromhos/cm) at 25°C. When purchasing distilled or deionized water, laboratories should request a list of quality specifications for the water purchased. Containers of distilled or deionized water should be capped when not in use and should be capped immediately after each use.

E. All solutions shall be properly labeled with identification of the compound, concentration, solvent, date, and analyst who prepared the solution.

F. All chemicals, solutions, and standards, shall be dated upon receipt by the laboratory; and the date opened by the laboratory shall also be noted.

G. Compositing of Samples. If deemed acceptable by the department, samples may be composited by the utility or the laboratory, provided that all the sample aliquots are properly preserved at the time of collection. Since the required compliance protocol monitoring measurements is "total activity" (i.e., the composited sample is required to represent the maximum potential exposure from drinking water), samples shall not to be filtered before preservation. Samples must be drawn on a quarterly basis and where compositing is not done by the laboratory, there shall be documentation

submitted with the composited sample detailing on what particular day(s) each aliquot was obtained, its volume, and when it was preserved. A sample of the preservative itself shall accompany the composited sample to the laboratory to determine the contribution of radioactivity, if any, from the addition of the preservative to the sample. Analysis of the composited sample shall be completed within 1 year after the first sample is collected or within normal holding times if the compositing period is less than 90 days. Wherever possible, the laboratory should be responsible for managing the compositing of samples.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:3231 (December 2012), amended by the Department of Health, Office of Public Health, LR 46:1102 (August 2020).

**§8083. Management System General Requirements**  
**[Formerly §8081]**

A. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall establish, implement and maintain a management system. The laboratory's management system policies related to quality, including a quality policy statement, shall be defined in a quality assurance plan (however named). The quality assurance plan shall include all the requirements in the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water. The quality assurance plan shall be made available to all laboratory personnel.

B. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall establish and maintain a documented data integrity system. There are four elements within a data integrity system. These are:

1. data integrity training;
2. signed data integrity documentation for all laboratory employees;
3. in-depth, periodic monitoring of data integrity; and
4. data integrity procedure documentation.

C. The procedures of the data integrity system required under Subsection B of this Section shall be signed by top management.

D. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall maintain SOPs that accurately reflect all phases of current laboratory activities, such as assessing data integrity, corrective actions, handling customer complaints and all analytical methods. All quality control data and records required by this Section shall be retained by the laboratory for a minimum of 10 years and shall be made available for inspection by the department. Such retained data shall include, but shall not be limited to, the results of and raw data generated by proficiency test analyses.

E. Control of Nonconforming Environmental Testing Work. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for the control of nonconforming environmental testing pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

F. Laboratory Improvement, Corrective Action and Preventive Action. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for improving the laboratory, and implementing corrective and preventive actions pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

G. Internal Audits. Laboratories which have received certification or are seeking certification to perform any of the required radiological/radiochemical analyses shall meet the requirements for establishing and conducting internal audits of laboratory activities pursuant to the USEPA Manual for the Certification of Laboratories Analyzing Drinking Water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254(B)(7).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:1102 (August 2020).

Dr. Courtney N. Phillips  
Secretary

2008#045

## RULE

### Department of Insurance Office of the Commissioner

#### Rule 4—Interlocal Risk Management Agency (LAC 37:XI.Chapter 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance has amended Rule 4 to comport with current law and implement the provisions of R.S. 33:2955. This Rule is hereby adopted on the day of promulgation.

### Title 37 INSURANCE Part XI. Rules

#### Chapter 3. Rule 4—Interlocal Risk Management Agency

##### §301. Purpose

A. The purpose of this amendment to Rule 4 is to provide for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under R.S. 33:2955 and to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature. This Rule is designed to facilitate and implement the provisions of that Act. It is intended to supplement, not alter in any manner, the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR 46:1103 (August 2020).

##### §303. Applicability

A. These provisions shall be applicable to any and all entities which may be defined as an *interlocal risk*

*management agency* by Act 462 of the 1979 Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:1103 (August 2020).

##### §304. Authority

A. Rule 4 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:1103 (August 2020).

##### §311. Solvency or Risk Management Agencies; Trustee Responsibilities

A. - A.3. ...

4. the board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workmen's compensation or public liability purposes. Further, it shall not borrow any monies from the fund, or in the name of the fund, without advising the Department of Insurance of the nature and purpose of the loan and obtaining approval. The board of trustees may, at its discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to:

a. direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States;

b. bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by federal agencies and provided such obligations are backed by the full faith and credit of the United States of America, which obligations include but are not limited to:

i. U.S. Export-Import Bank;  
ii. Farmers Home Administration;  
iii. Federal Financing Bank;  
iv. Federal Housing Administration Debentures;  
v. General Services Administration;  
vi. Government National Mortgage Association—guaranteed mortgage-backed bonds and guaranteed pass-through obligations;

vii. U.S. Maritime Administration—guaranteed Title XI financing;

viii. U.S. Department of Housing and Urban Development.

c. Bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by U.S. government instrumentalities, which are federally sponsored, and such obligations include but are not limited to:

i. Federal Home Loan Bank System;  
ii. Federal Home Loan Mortgage Corporation;  
iii. Federal National Mortgage Association;  
iv. Student Loan Marketing Association;  
v. Resolution Funding Corporation.



d. In no instance shall an interlocal risk management agency invest in obligations in Subparagraphs b and c of this Paragraph which are collateralized mortgage obligations that have been stripped into interest only or principal only obligations, inverse floaters, or structured notes. For the purposes of this Item, *structured notes* shall mean securities of U.S. government agencies, instrumentalities, or government-sponsored enterprises, which have been restructured, modified, and/or reissued by private entities.

e. Bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its political subdivisions provided that the indebtedness shall have a long-term rating of Baa or higher by Moody's Investors Service, a long-term rating of BBB- or higher by Standard and Poor's or a long-term rating of BBB- or higher by Fitch, Inc. or a short-term rating of MIGI or VMIGI by Moody's Investors Service, a short-term rating of A-1 or A-1+ by Standard and Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

f. Direct security repurchase agreements of any federal book entry only securities enumerated in Subparagraphs a, b, and c of this Paragraph. *Direct security repurchase agreement* means an agreement under which political subdivision buys, holds for a specified time, and then sells back those securities and obligations enumerated in Subparagraphs a, b, and c of this Paragraph.

g. Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares of savings and loan associations and savings bank, as defined by R.S. 6:703(16) or (17), or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. Funds invested herein shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution, or in any one savings and loan association, or National Credit Union Administration.

h. Deposits in savings and loan associations and commercial banks shall be limited in this state, except in those instances where higher interest rates paid on deposits by such institutions in other states will provide better investment income and such deposits shall not exceed the federally insured amount in any one account, except that the federally insured amount on any one account may be exceeded if the amount involved in such an account does not exceed the greater of either of the two factors:

i. 5 percent of the combination of surplus and undivided profits and reserves, as currently reported for each bank in this state of in the banking division annual report of the Financial Institution Office of the Department of Commerce (banking control) or financial reports filed with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Bank of Atlanta;

ii. \$500,000 per institution.

i. Mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Act of 1940, and which have underlying investments consisting solely of and limited to securities of the United States

government or its agencies. Investment of funds in such mutual or trust fund institutions shall be limited to 25 percent of the monies considered available for investment as provided by this Section.

j. Guaranteed investment contracts issued by a bank, financial institution, insurance company, or other entity having one of the two highest short-term rating categories of either Standard and Poor's Corporation or Moody's Investors Service, provided that no such investment may be made except in connection with a financing program for political subdivisions which financing program is approved by the state Bond Commission and offered by a public trust having the state as its beneficiary, provided further that no such investment shall be for a term longer than 18 months, and provided further that any such guaranteed investment contract shall contain a provision providing that in the event the issuer of the guaranteed investment contract is at any time no longer rated in either of the two highest short-term rating categories of Standard and Poor's Corporation or Moody's Investors Service, the investing unit of local government may either be released from the guaranteed investment contract without penalty, or be entitled to require that the guaranteed investment provider collateralize the guaranteed investment contract with any bonds or other obligations which as to principal and interest constitute direct general obligations of, or are unconditionally guaranteed by, the United States of America, including obligations set forth in Subparagraphs a and b of this Paragraph to the extent unconditionally guaranteed by the United States of America.

k. Investment grade commercial paper issued in the United States, traded in the United States markets, denominated in United States dollars, with a short-term rating of at least A-1 by Standard and Poor's Financial Services LLC or P-1 by Moody's Investor Service, Inc. or the equivalent rating by a Nationally Recognized Statistical Rating Organization (NRSRO).

l. Pre-approved first mortgage loans on commercial real estate owned by the fund administrator, located with the state of Louisiana, and occupied by the Fund or its trustees, administrator, or third party administrator.

m. Bonds, debentures, notes, or other indebtedness issued by a state of the United States of America other than Louisiana or any such state's political subdivisions provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of A3 or higher by Moody's Investors Service, a long-term rating of A- or higher by Standard and Poor's or a long-term rating of A- or higher by Fitch, Inc., or a short-term rating of MIG1 or VMIG1 by Moody's Investor's Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana,

that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

n. Bonds, debentures, notes or other indebtedness issued by domestic United States corporations provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard and Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

o. All interlocal risk management agencies shall develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives. All such investment policies should:

i. reflect the mandate to manage funds prudently;

ii. place appropriate emphasis on the goals of safety of principal first, liquidity second, and yield third.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:1103 (August 2020).

James J. Donelon  
Commissioner

2008#002

## RULE

### Department of Natural Resources Office of Conservation

#### Statewide Order No. 29-B—Monitoring Requirements for Commercial Class II Injection Wells (LAC 43:XIX.539, 545, and 549)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 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 amendment codifies Office of Conservation intra-office regulatory guidance previously approved, implemented, and enforced by the agency beginning in 2003 clarifying precisely when certain commercial facility and transfer station operations reports are to be received by the agency to maintain compliance with existing reporting requirements in

LAC 43:XIX.539, 545 and 549. This Rule is hereby adopted on the day of promulgation.

## Title 43

### NATURAL RESOURCES

#### Part XIX. Office of Conservation—General Operations

##### Subpart 1. Statewide Order No. 29-B

#### Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

##### §539. Monitoring Requirements for Commercial Class II Injection Wells

A. - E. ...

F. The daily log information shall be recorded on the appropriate form (UIC - 21, or latest revision) and submitted to the Office of Conservation. The original hard copy or original electronic copy Form UIC - 21 monthly reports(s) for all permitted commercial Class II injection wells must be received by the Office of Conservation on or before the 15<sup>th</sup> day of the following month. If delivered on the 15<sup>th</sup> day, the subject report(s) must be received by the Office of Conservation before the close of business, i.e., no later than 4:30 p.m. In the event that the 15<sup>th</sup> day of any given month falls on a Saturday, Sunday, or state holiday, the reporting deadline shall be the following regularly scheduled business day, before the close of business.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001), amended LR 46:1105 (August 2020).

##### §545. Manifest System

A. - J. ...

K. A monthly report of E and P Waste receipts shall be completed by each commercial facility, transfer station or DEQ permitted facility as defined by LAC 33:V and VII (that receives E and P Waste) on Form UIC-19, or latest revision. The original hard copy or original electronic copy Form UIC-19 monthly report(s) must be received by the Office of Conservation on or before 15 days of the end of each month. If delivered on the 15<sup>th</sup> day, the subject report(s) must be received by the Office of Conservation before the close of business, i.e., no later than 4:30 p.m. In the event that the 15<sup>th</sup> day of any given month falls on a Saturday, Sunday, or state holiday, the reporting deadline shall be the following regularly scheduled business day, before the close of business.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1911 (November 2001), amended LR 36:1017 (May 2010), LR 46:1105 (August 2020).

##### §549. Land Treatment Facility Requirements

A. - D.2.f. ...

g. The original hard copy or original electronic copy quarterly monitoring report(s) must be received by the Office of Conservation on or before the dates listed for each quarter as followed: 1st Quarter – due April 30; 2nd Quarter – due July 31; 3rd Quarter – due October 31; 4th Quarter – due January 31. If delivered on an April 30, July 31, October

31 or January 31, the subject report(s) must be received by the Office of Conservation before the close of business, i.e., no later than 4:30 p.m. In the event that April 30, July 31, October 31, or January 31 falls on a Saturday, Sunday, or state holiday, the reporting deadline shall be the following regularly scheduled business day, before the close of business. Each quarterly report must contain the following information:

D.2.g.i. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 27:1912 (November 2001), amended LR 34:1421 (July 2008), LR 46:1105 (August 2020).

Richard P. Ieyoub  
Commissioner

2008#016

## RULE

### Department of Treasury Municipal Police Employees' Retirement System

Allow Group Trusts Investments  
(LAC 58:XVIII.106)

The Municipal Police Employees' Retirement System has adopted LAC 58:XVIII.106 as authorized by R.S. 11:2225. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Board of Trustees of the Municipal Police Employees' Retirement System invests funds on behalf of its members. This system has amended the provisions pertaining to investment to allow participation in group trusts so long as it does not impact the tax qualified status of the retirement system. This Rule is hereby adopted on the day of promulgation.

#### Title 58

#### RETIREMENT

#### Part XVIII. Municipal Police Employees' Retirement System

#### Chapter 1. Internal Revenue Code Provisions

#### §106. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1106 (August 2020).

Benjamin A. Huxen  
Executive Director

2008#044

## RULE

### Department of Treasury Municipal Police Employees' Retirement System

Define True Annuity and Other Approved Methods Under  
New DROP Legislation (LAC 58:XVIII.301)

The Municipal Police Employees' Retirement System has adopted LAC 58:XVIII Chapter 3 as authorized by R.S. 11:2221. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system defines the term *true annuity* and how it relates to the retirement benefit payable to a member upon retirement. This Rule is simply codifying current practice within the Municipal Police Employees' Retirement System and defines the term "true annuity" and how it applies under the new Deferred Retirement Option Plan (DROP) statute. This Rule is hereby adopted on the day of promulgation.

#### Title 58

#### RETIREMENT

#### Part XVIII. Municipal Police Employees' Retirement System

#### Chapter 3: Deferred Retirement Option Plan (DROP)

#### §301. Definitions

A. For the purposes of R.S. 11:2221, the following definitions shall apply.

*True Annuity*—a retirement benefit that is payable in equal, unreduced monthly payments during the member's

lifetime, with no further payments to any other person after the member's death. This may sometimes be referred to as the *maximum benefit* or *maximum plan*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2221(N).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1106 (August 2020).

Benjamin A. Huxen  
Executive Director

2008#041

## RULE

### Department of Treasury Municipal Police Employees' Retirement System

Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) (LAC 58:XVIII.501)

The Municipal Police Employees' Retirement System has adopted LAC 58:XVIII.Chapter 5 as authorized by R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29-411, et seq. and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system allows the purchase of service credit for military time in accordance with R.S. 11:153 and will comply with the requirements of USERRA, as well as the rules and regulations set forth by the United States Department of Labor. This Rule is codifying practice already in use by the system as required by statute. This Rule is hereby adopted on the day of promulgation.

#### Title 58

#### RETIREMENT

#### Part XVIII. Municipal Police Employees' Retirement System

#### Chapter 5. Military Service Purchases

#### §501. Service Credit

A. This section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 11:153(I).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1107 (August 2020).

Benjamin A. Huxen  
Executive Director

2008#042

## RULE

### Department of Treasury Municipal Police Employees' Retirement System

Renunciation of Benefit  
(LAC 58:XVIII.701)

The Municipal Police Employees' Retirement System has adopted LAC 58:XVIII.Chapter 7 as authorized by R.S. 11:2220.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The system that allows any member of MPERS who is eligible to receive, or is receiving, a benefit may renounce such benefit under certain terms and conditions. This Rule is codifying practice that is already in use by the system as required by statute. This Rule is hereby adopted on the day of promulgation.

#### Title 58

#### RETIREMENT

#### Part XVIII. Municipal Police Employees' Retirement System

#### Chapter 7. Renunciation of Benefits

#### §701. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Municipal Police Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment of inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

2. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

3. If the party making the renunciation is married, the spouse must join in the renunciation.

4. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:2224(C).

5. If the person making the renunciation is legally separated or divorced but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

6. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

7. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

8. A renunciation must be made on a form provided by MPERS and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by MPERS.

9. A person revoking or participating in renunciation of a benefit must hold MPERS harmless from such action.

10. A renunciation may not be used to terminate active participation in MPERS.

11. Amounts credited to a DROP account cannot be renounced.

12. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

13. Only those who have selected the maximum benefit or Option 1 under R.S. 11:2224(A) may renounce their entire monthly benefit.

B. MPERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2220.4.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1107 (August 2020).

Benjamin A. Huxen  
Executive Director

2008#043

# Notices of Intent

## NOTICE OF INTENT

### Office of the Governor

#### Board of Examiners of Certified Shorthand Reporters

Digital Signature Certification  
(LAC 46:XXI.1109 and 1111)

The Louisiana Board of Examiners of Certified Shorthand Reporters, propose to adopt LAC 46:XXI.1109 and pursuant to Act 268. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt changes to establish technology standards, as well as the procedure for affixing a digital signature and certification to transcripts

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 11. Court Reporting Procedures

#### §1109. Digital Signature Certification Procedures

A. Effective January 1, 2020, the reporter by whom a deposition is taken may seal the deposition at the request of all parties by using secure electronic means to affix a digital signature certification statement in accordance with procedures approved by the board. A reporter must not seal the deposition electronically without first reviewing and approving the accuracy of the transcript to which the digital signature is affixed. The reporter must promptly and simultaneously distribute the sealed deposition to the party at whose request the deposition was taken and to all other parties to the action who have ordered a copy of the deposition transcript. The party at whose request the deposition was taken shall then become the custodian of the record.

B. *Digital Signature Certification* means the use by a reporter of technology approved by the board to seal a deposition by using a unique embedded code that identifies the particular reporter and that invalidates the reporter's digital signature if either the text or the format of the deposition is altered after sealing.

C. *Digital Signature Certification Statement*. Effective January 1, 2020, each certified court reporter who seals a deposition electronically must attest to the accuracy of the transcript by dating, signing, and sealing a digital signature certification statement containing substantially the following language:

This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.

I, [reporter's name], Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that [name of person(s) to whom oath was administered], after having been duly sworn by me

upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing [number of] pages; that this testimony was reported by me in the [stenotype; stenomask; penwriter; electronic] reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, and that I am informed about the complete arrangement, financial or otherwise, with the person or entity making arrangements for deposition services; that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; that I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter. I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

D. A reporter must not give the reporter's username or password to another or permit their use by a proxy to affix the digital signature certification statement to a deposition.

E. Any indication that the content or format of a transcript has been altered after affixing the reporter's digital signature certification statement to the deposition shall invalidate the digital signature certification.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 46:

#### §1111. Technological Standards and Criteria

A. The board is guided in its approval of digital signature certification technology by standards and criteria developed and periodically updated by the following:

1. National Digital Transcript Certification Authority (NDTCA);
2. Adobe Approved Trusted List (AATL);
3. American Society of Notaries.

B. In approving or disapproving digital signature certification technology, the board may consider the long-term viability of an electronically sealed document.

C. The board will maintain on its website a list of approved technologies and may from time to time add or delete technologies upon the affirmative vote of a majority of members attending a board meeting. The board may also list on its website certain technologies that are not approved for use in affixing a digital signature certification statement to a deposition and may from time to time add or delete technologies upon the affirmative vote of a majority of members attending a board meeting. A reporter who uses electronic means to seal a deposition must review the website and assure that only approved technologies are used to affix a digital signature certification statement.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 46:

### 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. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972.

### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments to Judge John J. Lee, Jr., Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2020, at 9:30 a.m. in Suite 630, Benson Tower, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Judge John J. Lee, Jr.  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Digital Signature Certification

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on the expenditures of the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) as a result of the proposed rules regarding digital signatures. The proposed rules establish technology standards, as well as the procedure for affixing a digital signature and certification to transcripts.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be an impact to those certified shorthand reporters that choose to utilize digital signatures and certifications on their transcripts. The use of digital signatures and certifications may result in a cost savings to reporters in reduced travel time and savings in postage and office supplies. However, the use of digital signatures and certifications may result in a cost increase to obtain the required technology.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this rule change.

Judge John J. Lee, J.  
Chairman  
2008#018

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor

### Board of Examiners of Certified Shorthand Reporters

Fees (LAC 46:XXI.901)

The Louisiana Board of Examiners of Certified Shorthand Reporters, propose to adopt LAC 46:XXI.901 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.

Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt rule changes to increase the fees paid to the CSR Board by those reporters wishing to obtain a certificate of registration, as current operating expenditures exceed revenue collections.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XXI. Certified Shorthand Reporters

#### Chapter 9. Fees

##### §901. Fees

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

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

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

3. - 4. ...

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

6. - 8. ...

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

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

#### **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. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Judge John J. Lee, Jr., Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2020, at 9:30 a.m. in Suite 630, Benson Tower, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Judge John J. Lee, Jr.  
Chairman

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Fees**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be an indeterminable impact on the expenditures of the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) as a result of the proposed rule change which increases fees for shorthand reporters. Operating expenditures currently exceed revenue collections forcing the board to reduce personnel and certain operating expenses. To the extent sufficient revenues are collected, staff and certain operational expenses may be reinstated, increasing costs from the existing level; alternatively, revenue collections may only be sufficient to continue operations at the existing staffing and resource level.

##### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will result in an increase in revenue collections to the CSR Board of approximately \$60,990 annually. The proposed rule change increases the fees paid to the CSR Board by those reporters wishing to obtain a certificate of registration. Reciprocal certificates, initial certificates, and renewal certificates fees will increase from \$125 to \$175. The reinstatement of a suspended or revoked certificate will increase from \$25 to \$50 for a certificate delinquent for a period of up to one year; increase from \$100 to \$175 for a certificate delinquent for a period of up to two years; and increase from \$200 to \$250 for a certificate delinquent for a period of two or more years.

##### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will impact those shorthand reporters who are issued an initial certificate, a renewal certificate, reinstatement certificate, or reciprocal certificate. Those reporters obtaining certificates for any reason will see an increase in fees ranging from \$25 to \$75.

##### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no anticipated effect on competition or employment as a result of this rule change.

Judge John J. Lee, J.  
Chairman  
2008#017

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office



## NOTICE OF INTENT

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

Online Continuing Education (LAC 46:XXI.611)

The Louisiana Board of Examiners of Certified Shorthand Reporters, propose to adopt LAC 46:XXI.611 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.

Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt rule changes that allow certified shorthand reporters to obtain continuing education credit by live webinar

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 6. Continuing Education

#### §611. Activities Not Acceptable for Continuing Education Credits

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

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

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

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

#### 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. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments to Judge John J. Lee, Jr., Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. He is responsible for responding to inquiries regarding this proposed Rule.

#### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2020 at 9:30 a.m. in Suite 630, Benson Tower, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Judge John J. Lee, Jr.  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Online Continuing Education

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on the expenditures of the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) as a result of the proposed rule limiting acceptable online continued education (CE) activities and providing an exception for live webinars.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will affect certified shorthand reporters by allowing those persons to obtain continuing education credit by live webinar. The new exception will provide additional opportunities for reporters to earn CE credits. Certified shorthand reporters may realize a cost savings by attending live webinars rather than having to travel to attend an in-person seminar to obtain continuing education credit.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this rule change.

Judge John J. Lee, J.  
Chairman  
2008#046

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor

#### Board of Examiners of Certified Shorthand Reporters

##### Reciprocal Certification for Military Personnel and Spouses (LAC 46:XXI.513)

The Louisiana Board of Examiners of Certified Shorthand Reporters, propose to adopt LAC 46:XXI.901 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. Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to establish the requirements for military personnel and spouses to obtain reciprocal certification.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXI. Certified Shorthand Reporters

#### Chapter 5. Certificates

#### §513. Reciprocal Certification for Military Personnel and Spouses

A. The board may issue a license without examination to military personnel or their spouses who hold a current license, certification, or registration in another jurisdiction where requirements are substantially equivalent to the requirements for licensing in Louisiana, if the other jurisdiction grants reciprocity without more onerous requirements for military personnel and their spouses who apply from Louisiana. An applicant must comply with the following requirements.

1. An applicant who has completed a military program of training, been awarded a military occupational specialty, and performed satisfactorily in that specialty at a level that is substantially equivalent to the requirements for licensing in Louisiana is eligible for certification upon presenting the following:

a. verified documentary proof that the applicant has successfully completed a military program of training and been awarded a military occupational specialty in court reporting, identifying the methodology in which the applicant is certified to practice court reporting within the jurisdiction;

b. two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant has performed satisfactorily in providing court reporting services;

c. two copies of transcripts produced by the applicant within one year before the date on which an application is submitted; and

d. an affidavit from the licensing authority attesting that the applicant is in good standing and has not been disciplined for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

2. A military spouse who applies for certification must provide the following:

a. verified documentary proof of a current license, certification, or registration from another jurisdiction where requirements for licensing, certification, or registration are

substantially equivalent to the requirements for licensing, certification, or registration in Louisiana;

b. an affidavit from the licensing authority in the other jurisdiction attesting that:

i. the applicant is in good standing and has not been disciplined; and

ii. identifying the methodology in which the applicant is certified to provide court reporting services within the jurisdiction;

c. two affidavits from a lawyer or judge who has worked with the applicant, attesting that the applicant performed satisfactorily in providing court reporting services; and

d. an affidavit from the applicant attesting that the applicant is in good standing and has not been disciplined in any jurisdiction for an act that constitutes grounds for refusal, suspension, or revocation of a license to practice court reporting in Louisiana.

3. Paragraphs 1 and 2 of this Subsection do not apply to dishonorably discharged military personnel or the spouses of dishonorably discharged military personnel.

B. An applicant certified pursuant to the provisions of this section must obtain the mandatory hours of continuing education in ethics within not less than 12 months after obtaining a license.

C. An applicant who attains reciprocal admission as a certified digital reporter may only practice for a judge or court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554, 2555, 2556 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 20:997 (September 1994), LR 37:318 (January 2011), LR 46:

#### 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. This proposed Rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments to Judge John J. Lee, Jr., Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. He is responsible for responding to inquiries regarding this proposed Rule.

### Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, September 25, 2020, at 9:30 a.m. in Suite 630, Benson Tower, 1450 Poydras St., Ste. 630, New Orleans, LA 70112. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Judge John J. Lee, Jr.  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Reciprocal Certification for Military Personnel and Spouses

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on the expenditures to the Louisiana Board of Examiners of Certified Shorthand Reporters (CSR Board) as a result of the proposed rule. The proposed rule would allow the CSR Board to issue a license without examination to those military personnel or their spouse who hold a current license, certification, or registration in another jurisdiction where requirements are substantially equivalent to the requirements for licensing in Louisiana. The rule establishes the requirements for military personnel or their spouse to obtain reciprocal certification.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact on the revenue collections of the CSR Board is indeterminable. The number of applicants who may take advantage of the new rule granting military personnel and their spouse a reciprocal certificate is unknown at this time. The fee for the issuance of a reciprocal certificate of registration is \$175.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Certain military personnel and/or their spouse will benefit from the proposed rule. The proposed rule aids military personnel transitioning out of military service find employment within the state of Louisiana by applying their occupational training without sitting for an examination. The proposed rule also assists military spouses find employment if they are

transferred to Louisiana and currently hold a license from another state.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment is indeterminable. The number of applicants who may take advantage of the new rule granting certain military personnel and their spouse a reciprocal certificate is unknown at this time.

Judge John J. Lee, J.  
Chairman  
2008#047

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing and Office of Behavioral Health

Behavioral Health Services  
Substance Use Disorders Services  
(LAC 50:XXXIII.14501)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health proposes to amend LAC 50:XXXIII.14501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 and the Office of Behavioral Health proposes to amend the provisions governing substance use disorders services provider participation in order to align the responsibilities for providers of these services with provider requirements for behavioral health services and to repeal redundant or procedural language from the administrative Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXXIII. Behavioral Health Services

#### Subpart 15. Substance Use Disorders Services

#### Chapter 145. Provider Participation

#### §14501. Provider Responsibilities

A. Each provider of SUD services shall enter into a contract with one or more of the managed care organizations (MCOs) and with the Coordinated System of Care (CSoc) contractor for youth enrolled in the Coordinated System of Care program in order to receive reimbursement for Medicaid covered services.

B. Providers shall deliver all services in accordance with their license, scope of practice, federal and state laws and regulations, the provisions of this Rule, the provider manual, and other notices or directives issued by the department. The provider shall create and maintain documentation to substantiate that all requirements are met.

C. - E.9. Repealed.

F. - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and

Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2357 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 44:1891 (October 2018), LR 45:270 (February 2019), LR 46:

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

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson 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, 2020.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 24, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which

is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Behavioral Health Services Substance Use Disorders Services**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$324 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing substance use disorders services provider participation in order to align the responsibilities for providers of these services with provider requirements for behavioral health services and to repeal redundant or procedural language from the administrative Rule. This is a technical revision to the existing language in the Louisiana Administrative Code that will not impact recipients or small businesses. It is anticipated that implementation of this proposed Rule will not result in any costs to providers of substance use disorders services in FY 20-21, FY 21-22, and FY 22-23, but will be beneficial by ensuring that the requirements for these providers align with those of other behavioral health service providers.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Ruth Johnson  
Medicaid Executive Director  
2008#037

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Bureau of Health Services Financing**

Hospice Services—Pediatric Concurrent Care  
(LAC 50:XV.3503 and 4315)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.3503 and adopt §4315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security

Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospice services provided concurrently with life-prolonging treatments to individuals under age 21 in order to update existing terminology and reflect current practices, comply with federal requirements which allow for pediatric concurrent care, and promulgate these provisions clearly and accurately in the *Louisiana Administrative Code*.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

##### **Subpart 3. Hospice**

#### **Chapter 35. Recipient Eligibility**

##### **§3503. Waiver of Payment for Other Services**

A. Hospice providers must provide services to beneficiaries that are comparable to the Medicaid-covered services that could have been received prior to the election of hospice. This requirement refers to all Medicaid-covered services including, but not limited to, durable medical equipment, prescription drugs, and physician-administered drugs.

1. - 4. Repealed.

B. Beneficiaries who are age 21 and over may be eligible for additional personal care services as defined in the Medicaid State Plan. Services furnished under the personal care services benefit may be used to the extent that the hospice provider would otherwise need the services of the hospice beneficiary's family in implementing the plan of care.

1. - 3. Repealed.

C. Beneficiaries under age 21 who are approved for hospice may continue to receive life-prolonging treatments. Life-prolonging treatments are defined as Medicaid-covered services provided to a beneficiary with the purpose of treating, modifying, or curing a medical condition to allow the beneficiary to live as long as possible, even if that medical condition is also the hospice qualifying diagnosis. The hospice provider and other providers must coordinate life-prolonging treatments and these should be incorporated into the plan of care.

D. Beneficiaries under the age of 21 who are approved for hospice may also receive early and periodic screening, diagnostic and treatment personal care, extended home health, and pediatric day health care services concurrently. The hospice provider and the other service providers must coordinate services and develop the patient's plan of care as set forth in §3705.

E. For beneficiaries under the age of 21, the hospice provider is responsible for making a daily visit, unless specifically declined by the beneficiary or family, to coordinate care and ensure that there is no duplication of services. The daily visit is not required if the beneficiary is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:129 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **Chapter 43. Reimbursement**

##### **§4315. Life-Prolonging Treatments for Beneficiaries under the Age of 21**

A. Reimbursement for life-prolonging treatments is separate from hospice payments and is made to the providers furnishing the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

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

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 stability and autonomy as described in R.S. 49:972, but may improve family functioning by providing support for health supervision and relieving undue stress over life-prolonging care for children certified for hospice care.

##### **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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by ensuring that recommended and approved life-prolonging care will be provided separately from hospice services.

##### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

##### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

##### **Public Comments**

Interested persons may submit written comments to Ruth Johnson, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Johnson 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, 2020.

##### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office

Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 24, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Hospice Services  
Pediatric Concurrent Care**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$324 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospice services provided concurrently with life-prolonging treatments to individuals under age 21 in order to update existing terminology and reflect current practices, comply with federal requirements which allows for pediatric concurrent care, and promulgate these provisions clearly and accurately in the Louisiana Administrative Code (LAC). Implementation of this proposed Rule will be beneficial to recipients because it clarifies the existing LAC provisions regarding life-prolonging care children can receive concurrently with hospice services. This proposed Rule will have no impact on small businesses. It is anticipated that implementation of this proposed rule will not result in costs to hospice providers in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by reassuring providers that current practices are supported and in compliance with federal law.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Ruth Johnson  
Medicaid Executive Director  
2008#038

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Licensed Professional Counselors Board of Examiners**

Endorsement (LAC 46:LX.3701)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes to amend endorsement testing requirements. The LPCBE proposes to approve the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy or an examination that would be substantially equivalent, as determined by the Marriage and Family Therapy Advisory Committee.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend chapter 37 for publication in the August 20, 2020 edition of the Louisiana Register.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LX. Professional Counselors**

**Subpart 2. Professional Standards for Licensed  
Marriage and Family Therapists and Provisional  
Licensed Marriage and Family Therapists**

**§3701. Endorsement**

A. Upon recommendation of the board and Marriage and Family Therapy Advisory Committee, the board shall issue a license to any person who has been licensed as a marriage and family therapist and has actively practiced marriage and family therapy for at least five years in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 35, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

B. Upon recommendation of the board and marriage and family therapy advisory committee, the board shall issue a license to any person licensed as a licensed as a marriage

and family therapist for less than five years in another jurisdiction whose requirements for the license are substantially equivalent to or exceed the requirements of the state of Louisiana. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also provide proof of having passed the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy or an examination that would be substantially equivalent, as determined by the Marriage and Family Therapy Advisory Committee. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1101-1123.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), amended LR 39:1806 (July 2013), LR 41:752 (April 2015), LR 46:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B

**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 change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

**Public Comments**

Interested persons may submit written comments by September 10, 2020 at 5 p.m. to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North STE A, Baton Rouge, LA 70816.

Jamie S. Doming  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Endorsement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units.

The proposed rule changes add an alternative path to licensure for Licensed Marriage and Family Therapists (LMFTs) seeking to practice in LA by allowing for licensure tests other than the one conducted by the Association of Marital and Family Therapy Regulatory Board (AMFTRB) to be accepted by the Marriage and Family Advisory Committee of the LA Licensed Professional Counselors Board of Examiners (LPC Board), provided the committee deems such examinations to be equivalent.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes benefit persons seeking to practice in LA by allowing for licensure tests other than the one conducted by the AMFTRB to be accepted by the Marriage and Family Advisory Committee of the LPC Board, provided the committee deems such examinations to be equivalent. As a result, such potential licensees who have taken an equivalent exam may realize an immediate savings of \$365 associated with not having to take the AMFTRB exam. Furthermore, this process may expedite when such licensees may practice, which may advance timelines for when practitioners may receive revenues, as well as potentially increase their revenues over time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes may affect employment to the extent more persons from other states seek licensure by endorsement in Louisiana pursuant to the new requirement. However, the aggregate effect on competition and employment of the amended timelines cannot be determined because it is unknown if any additional persons will seek licensure as a result of the proposed rule changes.

Jamie S. Doming  
Executive Director  
2008#012

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Licensed Professional Counselors Board of Examiners**

**Teletherapy Guidelines (LAC 46:LX.503 and 505)**

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes to amend teletherapy regulatory rules.

The proposed rule changes benefit licensees, provisional licensees and their supervising practitioners. Provisional licensees will no longer be required to complete one year of practice before engaging in telehealth. In addition, the requirements for teletherapy continuing education hours decreases and allows for all supervision hours to be completed via HIPAA compliant online platforms.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to rescind Chapter 5 (503) definition for Internet Counseling and amend chapter

5 (505) for publication in the August 20, 2020 edition of the Louisiana Register.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LX. Professional Counselors**

**Subpart 1. Licensed Professional Counselors**

**§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors**

A. ...

\* \* \*

*Practice of Mental Health Counseling/Psychotherapy—...*

a. - g. ...

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019), LR 46:

**§505. Teletherapy Guidelines for Licensees (Formerly Diagnosing for Serious Mental Illnesses)**

A. - D. ...

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. Repealed.
4. The licensee must complete:
  - a. professional training with a minimum of three asynchronous or synchronous clock hours in teletherapy. The training shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:
    - i. appropriateness of teletherapy;
    - ii. teletherapy theory and practice;
    - iii. theory integration;
    - iv. modes of delivery;
    - v. risk management;
    - vi. managing emergencies;

- vii. legal/ethical issues;
- viii. HIPAA compliance.

E.5. - J. ...

K. *Telesupervision* is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S. 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. One hundred percent of total supervision hours may be used within a telesupervision format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019), amended LR 46:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B

**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 change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

**Public Comments**

Interested persons may submit written comments by September 10, 2020 at 5 p.m. to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North STE A, Baton Rouge, LA 70816.

Jamie S. Doming  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Teletherapy Guidelines**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rule revisions amend standards and requirements for persons licensed by the LA Licensed Professional Counselors Board of Examiners (LPC Board) to deliver teletherapy services, as well as make technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect 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 rule changes will benefit LPC Board licensees, as the requirements for continuing education (CE) hours for teletherapy decrease by 6 hours, from 9 hours annually to 3 hours annually. This revision will result in an indeterminable net savings for LPC Board licensees that is dependent upon the cost of the CE courses that they previously completed to comply with the 9-hour requirement. Furthermore, the proposed rule changes associated with the decrease in CE hours are expected to decrease revenues for CE providers by a like, but similarly indeterminable amount.

Furthermore, the proposed rule changes benefit LPC Board licensees seeking to practice via telehealth, as they will no longer be required to complete one year of in-person practice before engaging in telehealth. This may increase revenues for such practitioners, or advance timelines for when they may receive such revenues by up to a year.

The proposed rule changes will also benefit provisional licensees and their supervising practitioners, as they allow for all supervision hours to be completed via telesupervision. Currently provisional licensees may only complete 25% of their hours via telesupervision. As a result, expenses for provisional licensees and supervising practitioners associated with commuting for in-person supervision may decrease. The decrease associated with this rule change is indeterminable and dependent upon the number of practitioners who choose to utilize telesupervision in lieu of in-person supervision, as well as the number of hours involved. However, the proposed rule changes do not alter the overall number of supervision hours a provisional licensee must complete.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition and employment.

Jamie S. Doming  
Executive Director  
2008#011

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

Regulation 81—Automobile Liability Insurance Premium  
Discount and Insurer Premium Tax Credit  
(LAC 37:XIII.Chapter 95)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit. The purpose of the amendment to Regulation 81 is to clarify the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and to update statutory references that have changed due to recodification.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 95. Regulation Number 81—Automobile  
Liability Insurance Premium Discount  
and Insurer Premium Tax Credit**

**§9501. Authority**

A. This regulation is adopted pursuant to R.S. 22:11 and 22:1482.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 46:

**§9503. Purpose**

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:838 and R.S. 22:831 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for an insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006), LR 46:

**§9509. Definitions**

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Active Military Personnel*—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of:

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or
- iii. the Coast Guard.

b. *Active military personnel* who are deployed out-of-state or overseas whose spouse and dependents remain in this state shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

*AMP*—active military personnel.

*Authorized Insurer*—shall have the meaning found in R.S. 22:46(3), hereinafter “insurer.”

*Automobile Liability Insurance Policy*—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:1266(A)(1)(a)-(b), and motorcycles of the types described in R.S. 32:1252(30),

which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:1266(A)(2). Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:1266(A)(1)(a)-(b) and are not motorcycles for the purposes of R.S. 32:1252(30).

*Commissioner*—the Commissioner of Insurance for the state of Louisiana.

*Direct Written Premium*—the premium charged by an insurer as consideration for an automobile liability insurance policy.

*Insured*—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full-time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

*LDI*—the Louisiana Department of Insurance.

*Named Insured*—the person identified as such on the policy.

*State*—the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 46:

#### **§9511. Calculation of the Premium Discount; Proof of Eligibility**

A. All insurers shall grant a discount equal to 25 percent of the premium charged for an automobile liability insurance policy. The discount shall apply to new and renewal business if the named insured retains the status of active military personnel as defined in Regulation 81. For calculation purposes the discount shall only be applied to the premium charged for bodily injury and property damage liability, medical payments and uninsured motorists coverage as per R.S. 22:1266(A)(2) and shall include, but shall not be limited to, all fixed expenses, variable expenses, and policy fees. For interim policy changes, the discount mandated by this Subsection shall be applied on a pro-rata basis in the same manner as similar discount programs, such as good-student discounts, are applied by an insurer.

B. The initial obligation to demonstrate eligibility for the premium discount rests with the AMP. Thus, prior to an insurer applying the premium discount mandated by R.S. 22:1482(A), the AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the LDI.

C. An insurer who obtains from an AMP a properly executed Louisiana application for military discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:838 and 831.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the AMP provided false or fraudulent information on the Louisiana application for military discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the AMP to the LDI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the AMP and delivered to the insurer. The insurer is required to maintain

the original and all subsequent renewals on file for inspection, verification and audit by the LDI to ensure that the AMP is entitled to the premium discount mandated by R.S. 22:1482(A).

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

G. ...

H. Although it is the obligation of the AMP to demonstrate eligibility for the premium discount, an insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the AMP.

I. ...

J. The Louisiana Application for Military Discount that must be properly executed by the AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 33:1661 (August 2007), LR 46:

#### **§9513. Requests for Tax Credit; Documentation; Dispute Resolution**

A. The tax credit authorized by R.S. 22:1482(B), as amended, will be requested by an insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:838 and R.S. 22:831 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:838 and 831 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttable presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

D. - D.3. ...

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30-day period the insurer can demonstrate, in writing to the commissioner, good cause for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60-day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

1. ...

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005), amended LR 32:95 (January 2006), LR 46:

#### **§9515. Recordkeeping; Annual Report**

A. An insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation;

2. a copy of the declarations page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDI in either an electronic format as per R.S. 22:42 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

a. - d. ...

e. the net direct written premium for the liability coverages of the automobile liability insurance policy prior to application of the military discount; and

f. the dollar value of the applicable military discount as applied to the amount set forth in Section 9515.B.1.e above.

2. - 5. ...

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential pursuant to R.S. 22:1983 and R.S. 22:1984 and are exempt from the Public Records Act found at R.S. 44:4.

D. The tax credit filed by an insurer shall cover the calendar year ending December 31 and shall be filed on or before March 1 of each year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:

#### **§9517. Overpayments; Collection Proceedings; Fines and Hearings**

A. - B. ...

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:

#### **§9521. Effective Date; Implementation**

A. This regulation, as amended, shall take effect on January 1, 2021. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective January 1, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006), LR 46:

#### **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 children 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.

5. 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 Lisa Henson, 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 21, 2020.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will not result in additional costs or savings for state or local governmental units. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules will not affect revenue collections for 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 and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rules will not affect competition or employment.

Denise Gardner  
Chief of Staff  
2008#050

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

Pipeline Safety  
(LAC 43:XIII.Chapters 3-33 and LAC 33:V.Chapter 3)

The Department of Natural Resources, Office of Conservation proposes to amend 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 proposed 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.

**Title 43**

**NATURAL RESOURCES**

**Subpart 2. Transportation of Natural Gas and Other Gas by Pipeline**

**[49 CFR Part 191]**

**Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]**

**§301. Scope**

**[49 CFR 191.1]**

A. This Chapter prescribes requirements for the reporting of incidents, safety-related conditions, annual pipeline summary data, National Registry of Operators information, and other miscellaneous conditions by operators of underground natural gas storage facilities and natural gas pipeline facilities located in the United States or Puerto Rico, including underground natural gas storage facilities and pipelines within the limits of the Outer Continental Shelf, as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). [49 CFR 191.1(a)]

B. - B.4.b. ...

c. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 45:66 (January 2019), LR 46:

**§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 inpatient hospitalization;

ii. estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost;

iii. unintentional estimated gas loss of three million cubic feet or more;

b. an event that results in an emergency shutdown of an LNG facility or a UNGSF. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident;

c. an event that is significant in the judgment of the operator, even though it did not meet the criteria of Subparagraphs a or b of this definition.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 44:1032 (June 2018), LR 45:66 (January 2019), LR 46:

**§315. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities:**

**Incident Report**

**[49 CFR 191.15]**

A. - B. ...

C. Underground Natural Gas Storage Facility. Each operator of a UNGSF must submit DOT Form PHMSA F7100.2 as soon as practicable but not more than 30 days after the detection of an incident required to be reported under §505. [49 CFR 191.15(c)]

D. Supplemental Report. Where additional related information is obtained after an operator submits a report under Subsection A, B, or C of this Section, the operator must make a supplemental report as soon as practicable, with a clear reference by date to the original report. [49 CFR 191.15(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:

**§317. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities: Annual Report**

**[49 CFR 191.17]**

A. - B. ...

C. Underground Natural Gas Storage Facility. Each operator of a UNGSF must submit an annual report through DOT Form PHMSA 7100.4-1. This report must be submitted each year, no later than March 15, for the preceding calendar year. [49 CFR 191.17(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:256 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:

**§322. National Registry of Operators**

**[49 CFR 191.22]**

A. OPID Request. Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is

assigned to an operator for the pipeline, pipeline facility, or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must submit an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Operators in accordance with §307. For intrastate facilities subject to the jurisdiction of the Office of Conservation, the operator must concurrently file an online OR-1 Submission (Operator Registration) for Pipeline Safety with the same name as the OPID request at <http://www.sonris.com>. Each operator must validate the OR-1 annually by January 1 each year. [49 CFR 191.22(a)]

B. OPID Validation. An operator who has already been assigned one or more OPIDs by January 1, 2011, must validate the information associated with each OPID through the National Registry of Operators at <https://portal.phmsa.dot.gov>, and correct that information as necessary, no later than June 30, 2012. [49 CFR 191.22(b)]

C. Changes. Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov> of certain events. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to [PipelineInspectors@la.gov](mailto:PipelineInspectors@la.gov). Any change in an operator name, the operator must concurrently file an online OR-1 Submission for Pipeline Safety with the same name as the OPID operator name at <http://www.sonris.com/>. [49 CFR 191.22(c)]

1. - 1.a. ...

b. construction of 10 or more miles of a new pipeline [49 CFR 191.22(c)(1)(ii)]

c. construction of a new LNG plant, LNG facility, or UNGSF; or [49 CFR 191.22(c)(1)(iii)]

d. maintenance of a UNGSF that involves the plugging or abandonment of a well, or that requires a workover rig and costs \$200,000 or more for an individual well, including its wellhead. If 60-days' notice is not feasible due to an emergency, an operator must promptly respond to the emergency and notify PHMSA as soon as practicable; [49 CFR 191.22(c)(1)(iv)]

1.e. - 2.b. ...

c. a change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, pipeline facility, UNGSF, or LNG facility; [49 CFR 191.22(c)(2)(iii)]

d. ...

e. the acquisition or divestiture of 50 or more miles of a pipeline or pipeline system subject to Subpart 3 of this Part; or [49 CFR 191.22(c)(2)(v)]

f. the acquisition or divestiture of an existing UNGSF, or an LNG plant or LNG facility subject to Subpart 5 of this Part. [49 CFR 191.22(c)(2)(vi)]

D. Reporting. An operator must use the OPID issued by PHMSA for all reporting requirements covered under this Part and for submissions to the National Pipeline Mapping System. [49 CFR 191.22(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:112 (January 2012), amended LR 44:1032 (June 2018), LR 45:67 (January 2019), LR 46:

### **§323. Reporting Safety-Related Conditions [49 CFR 191.23]**

A. - A.1. ...

2. in the case of a UNGSF, general corrosion that has reduced the wall thickness of any metal component to less than that required for the well's maximum operating pressure, or localized corrosion pitting to a degree where leakage might result; [49 CFR 191.23(a)(2)]

3. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability of a pipeline or the structural integrity or reliability of a UNGSF or LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(3)]

4. any crack or other material defect that impairs the structural integrity or reliability of a UNGSF or an LNG facility that contains, controls, or processes gas or LNG; [49 CFR 191.23(a)(4)]

5. any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of 20 percent or more of its specified minimum yield strength, or the serviceability or the structural integrity of a UNGSF; [49 CFR 191.23(a)(5)]

6. any malfunction or operating error that causes the pressure, plus the margin (build-up) allowed for operation of pressure limiting or control devices, to exceed either the maximum allowable operating pressure of a distribution or gathering line, the maximum well allowable operating pressure of an underground natural gas storage facility, or the maximum allowable working pressure of an LNG facility that contains or processes gas or LNG; [49 CFR 191.23(a)(6)]

7. a leak in a pipeline, UNGSF, or LNG facility containing or processing gas or LNG that constitutes an emergency; [49 CFR 191.23(a)(7)]

8. ...

9. any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline, UNGSF, or an LNG facility that contains or processes gas or LNG. [49 CFR 191.23(a)(9)]

10. for transmission pipelines only, each exceedance of the maximum allowable operating pressure that exceeds the margin (build-up) allowed for operation of pressure-limiting or control devices as specified in the applicable requirements of §§1161, 2720.E, and 2939. The reporting requirement of this Paragraph A.10 is not applicable to gathering lines, distribution lines, LNG facilities, or underground natural gas storage facilities (See Paragraph A.6 of this Section); [49 CFR 191.23(a)(10)]

11. any malfunction or operating error that causes the pressure of a UNGSF using a salt cavern for natural gas storage to fall below its minimum allowable operating pressure, as defined by the facility's state or federal operating permit or certificate, whichever pressure is higher; [49 CFR 191.23(a)(11)]

B. - B.2. ...

3. exists on a pipeline (other than an UNGSF or an LNG facility) that is more than 220 yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street, or highway; or [49 CFR 191.23(b)(3)]

4. is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report. Notwithstanding this exception, a report must be filed for: [49 CFR 191.23(b)(4)]

a. conditions under Paragraph A.1 of this Section, unless the condition is localized corrosion pitting on an effectively coated and cathodically protected pipeline; and [49 CFR 191.23(b)(4)(i)]

b. any condition under Paragraph A.10 of this Section; [49 CFR 191.23(b)(4)(ii)]

5. exists on an UNGSF, where a well or wellhead is isolated, allowing the reservoir or cavern and all other components of the facility to continue to operate normally and without pressure restriction. [49 CFR 191.23(b)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 30:1223 (June 2004), LR 45:68 (January 2019), LR 46:

### **§325. Filing Safety-Related Condition Reports** **[49 CFR 191.25]**

A. Each report of a safety-related condition under §323.A.1-9 of this Part must be filed (received by the associate administrator/commissioner) in writing within five working days (not including Saturday, Sunday, or federal holidays) after the day a representative of an operator first determines that the condition exists, but not later than 10 working days after the day a representative of an operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reporting methods and report requirements are described in Subsection C of this Section. [49 CFR 192.25(a)]

B. Each report of a maximum allowable operating pressure exceedance meeting the requirements of criteria in §323.A.10 for a gas transmission pipeline must be filed (received by the associate administrator/commissioner) in writing within five calendar days of the exceedance using the reporting methods and report requirements described in Subsection C of this Section. [49 CFR 191.25(b)]

C. Reports shall be mailed to the Commissioner of Conservation, Office of Conservation, PO Box 94275, Baton Rouge, LA 70804-9275 or may be transmitted by electronic mail to PipelineInspectors@la.gov and concurrently to the Office of Pipeline Safety Administration, U.S. Department of Transportation at InformationResourcesManager@dot.gov or by facsimile at (202) 366-7128. For a report made pursuant to §323.A.1-9, the report must be headed "Safety-Related Condition Report." For a report made pursuant to §323.A.10, the report must be headed "Maximum Allowable Operating Pressure Exceedances." All reports must provide the following information: [49 CFR 191.25(c)]

1. name and principal address of operator; [49 CFR 191.25(c)(1)]

2. date of report; [49 CFR 191.25(c)(2)]

3. name, job title, and business telephone number of person submitting the report; [49 CFR 191.25(c)(3)]

4. name, job title, and business telephone number of person who determined that the condition exists; [49 CFR 191.25(c)(4)]

5. date condition was discovered and date condition was first determined to exist; [49 CFR 191.25(c)(5)]

6. location of condition, with reference to the state (and town, city, or parish) or offshore site, and as appropriate, nearest street address, offshore platform, survey station number, milepost, landmark, or name of pipeline; [49 CFR 191.25(c)(6)]

7. description of the condition, including circumstances leading to its discovery, any significant effects of the condition on safety, and the name of the commodity transported or stored; [49 CFR 191.25(c)(7)]

8. the corrective action taken (including reduction of pressure or shutdown) before the report is submitted and the planned follow-up or future corrective action, including the anticipated schedule for starting and concluding such action. [49 CFR 191.25(c)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1223 (June 2004), amended LR 35:2800 (December 2009), LR 44:1033 (June 2018), LR 46:

### **Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards** **[49 CFR Part 192]**

#### **Chapter 5. General [Subpart A]**

#### **§503. Definitions**

##### **[49 CFR 192.3]**

A. As used in this Part:

\* \* \*

*Engineering Critical Assessment (ECA)*—a documented analytical procedure based on fracture mechanics principles, relevant material properties (mechanical and fracture resistance properties), operating history, operational environment, in-service degradation, possible failure mechanisms, initial and final defect sizes, and usage of future operating and maintenance procedures to determine the maximum tolerable sizes for imperfections based upon the pipeline segment maximum allowable operating pressure.

\* \* \*

##### *Moderate Consequence Area*—

a. an onshore area that is within a potential impact circle, as defined in § 3303, containing either:

i. five or more buildings intended for human occupancy; or

ii. any portion of the paved surface, including shoulders, of a designated interstate, other freeway, or expressway, as well as any other principal arterial roadway with 4 or more lanes, as defined in the Federal Highway Administration's Highway Functional Classification Concepts, Criteria and Procedures, Section 3.1 of the 2013 Edition (see: [https://www.fhwa.dot.gov/planning/processes/statewide/related/highway\\_functional\\_classifications/fcauab.pdf](https://www.fhwa.dot.gov/planning/processes/statewide/related/highway_functional_classifications/fcauab.pdf)), and that does not meet the definition of high consequence area, as defined in §3303;

b. the length of the moderate consequence area extends axially along the length of the pipeline from the

outermost edge of the first potential impact circle containing either five or more buildings intended for human occupancy; or any portion of the paved surface, including shoulders, of any designated interstate, freeway, or expressway, as well as any other principal arterial roadway with 4 or more lanes, to the outermost edge of the last contiguous potential impact circle that contains either five or more buildings intended for human occupancy, or any portion of the paved surface, including shoulders, of any designated interstate, freeway, or expressway, as well as any other principal arterial roadway with four or more lanes.

\* \* \*

**Underground Natural Gas Storage Facility (UNGSF)**—a gas pipeline facility that stores natural gas underground incidental to the transportation of natural gas, including:

- a. a depleted hydrocarbon reservoir;
- b. an aquifer reservoir; or
- c. a solution-mined salt cavern
- d. In addition to the reservoir or cavern, a UNGSF

includes injection, withdrawal, monitoring, and observation wells; wellbores and downhole components; wellheads and associated wellhead piping; wing-valve assemblies that isolate the wellhead from connected piping beyond the wing-valve assemblies; and any other equipment, facility, right-of-way, or building used in the underground storage of natural gas.

\* \* \*

**Weak Link**—a device or method used when pulling polyethylene pipe, typically through methods such as horizontal directional drilling, to ensure that damage will not occur to the pipeline by exceeding the maximum tensile stresses allowed.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March 2007), LR 35:2800 (December 2009), LR 38:112 (January 2012), LR 44:1033 (June 2018), LR 45:68 (January 2019), LR 46:

**§505. Class Locations**  
**[49 CFR 192.5]**

A. - C.2. ...

D. An operator must have records that document the current class location of each gas transmission pipeline segment and that demonstrate how the operator determined each current class location in accordance with this Section. [49 CFR 192.5(d)]

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:501 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 24:1307 (July 1998), LR 27:1537 (September 2001), LR 30:1226 (June 2004), LR 46:

**§507. What Documents are Incorporated by Reference Partly or Wholly in this Part?**  
**[49 CFR 192.7]**

A. - A.1.a. ...

b. the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov) or

go to [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

A.1.c. - B.11. ...

Source and Name of Referenced Material	Approved for Title 43 Reference
B. - B.11. ...	
12. API STANDARD 1163, "In-Line Inspection Systems Qualification," Second edition, April 2013, Reaffirmed August 2018, (API STD 1163).	§2145
C. - C.1. ...	
2. ASME/ANSI B16.5 - 2003, "Pipe Flanges and Flanged Fittings," October 2004, (ASME/ANSI B16.5).	§§ 1107.A; 1509; 2707
3. ASME B16.40-2008, "Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems," March 18, 2008, approved by ANSI, (ASME B16.40-2008).	§5103, Item 1
3. ...	
4. ASME/ANSI B31G - 1991 (Reaffirmed 2004), "Manual for Determining the Remaining Strength of Corroded Pipelines," 2004, (ASME/ANSI B31G)., IBR approved for §§ 2137.C, 2732.A, 2912.B, and 3333.A.	§§ 2137.C; 2732.A; 2912; 3333
5. - 10. ...	
D. American Society for Nondestructive Testing (ASNT), P.O. Box 28518, 1711 Arlingate Lane, Columbus, OH 43228, phone: 800-222-2768, website: <a href="https://www.asnt.org/">https://www.asnt.org/</a> .	
1. ANSI/ASNT ILI - PQ - 2005(2010), "In-line Inspection Personnel Qualification and Certification," Reapproved October 11, 2010, (ANSI/ ASNT ILI - PQ)	§§913; 5103 Item I
2. [Reserved]	
3 - 15. Repealed.	
E. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, phone: (610) 832-9585, Web site: <a href="http://www.astm.org/">http://www.astm.org/</a> .	
1. ASTM A53/A53M-10, "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless," approved October 1, 2010, (ASTM A53/A53M)	§§913; 5103 Item I
2. ASTM A106/A106M-10, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service," approved October 1, 2010, (ASTM A106/A106M)	§§913; 5103 Item I
3. ASTM A333/A333M-11, "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service," approved April 1, 2011, (ASTM A333/A333M)	§§913; 5103 Item I
4. ASTM A372/A372M-10, "Standard Specification for Carbon and Alloy Steel Forgings for Thin-Walled Pressure Vessels," approved October 1, 2010, (ASTM A372/A372M)	§1137.B
5. ASTM A381-96 (reapproved 2005), "Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems," approved October 1, 2005, (ASTM A381)	§§ 913; 5103 Item I
6. ASTM A578/A578M-96 (reapproved 2001), "Standard Specification for Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Applications," (ASTM A578/A578M)	§ 912.C
7. ASTM A671/A671M-10, "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures," approved April 1, 2010, (ASTM A671/A671M)	§§ 913; 5103 Item I
8. ASTM A672/A672M-09, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures," approved October 1, 2009, (ASTM A672/672M)	§§ 913; 5103 Item I



Source and Name of Referenced Material	Approved for Title 43 Reference
9. ASTM A691/A691M-09, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures," approved October 1, 2009. (ASTM A691/A691M)	§§ 913; 5103 Item I
10. ASTM D638-03, "Standard Test Method for Tensile Properties of Plastics," 2003, (ASTM D638)	§§ 1513.A; 1513.B
11. ASTM D2513-12ae1, "Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings," April 1, 2012. (ASTM D2513-12ae1).	§ 5103, Item 1
12. ASTM D2517-00, "Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings," (ASTM D 2517).	§§ 1151.A; 1511.D; 1513.A; 5103 Item I
13. ASTM D2564-12, "Standard Specification for Solvent Cements for Poly (Vinyl Chloride) (PVC) Plastic Piping Systems," Aug. 1, 2012, (ASTM D2564-12).	§ 1511.B.2
14. ASTM F1055-98 (Reapproved 2006), "Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing," March 1, 2006, (ASTM F1055-98 (2006)).	§§ 1513.A; 5103 Item I
15. ASTM F1924-12, "Standard Specification for Plastic Mechanical Fittings for Use on Outside Diameter Controlled Polyethylene Gas Distribution Pipe and Tubing," April 1, 2012, (ASTM F1924-12).	§ 5103 Item I
16. ASTM F1948-12, "Standard Specification for Metallic Mechanical Fittings for Use on Outside Diameter Controlled Thermoplastic Gas Distribution Pipe and Tubing," April 1, 2012, (ASTM F1948-12).	§ 5103 Item I
17. ASTM F1973-13, "Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA11) and Polyamide 12 (PA12) Fuel Gas Distribution Systems," May 1, 2013, (ASTM F1973-13)	§§ 1164.B; 5103 Item I
18. ASTM F2145-13, "Standard Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing," May 1, 2013, (ASTM F2145-13)	§ 5103 Item I
19. ASTM F 2600-09, "Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing," April 1, 2009, (ASTM F 2600-09)	§ 5103 Item I
20. ASTM F2620-12, "Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings," Aug. 1, 2012, (ASTM F2620-12)	§§ 1511.C; 1515.B.2.a
21. ASTM F2767-12, "Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution," Oct. 15, 2012, (ASTM F2767-12)	§ 5103 Item I
22. ASTM F2785-12, "Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings," Aug. 1, 2012, (ASTM F2785-12)	§ 5103 Item I
23. ASTM F2817-10, "Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair," Feb. 1, 2010, (ASTM F2817-10)	§ 5103 Item I
24. ASTM F2945-12a "Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings," Nov. 27, 2012, (ASTM F2945-12a)	§ 5103 Item I
F. Gas Technology Institute (GTI), formerly the Gas Research Institute (GRI), 1700 S. Mount Prospect Road, Des Plaines, IL 60018, phone: 847-768-0500, Web site: www.gastechnology.org.	

Source and Name of Referenced Material	Approved for Title 43 Reference
1. GRI 02/0057 (2002) "Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology"	§ 3327.C
2. [Reserved]	
G. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna, VA 22180, phone: 703-281-6613, Web site: <a href="http://www.mss-hq.org/">http://www.mss-hq.org/</a> .	
1. MSS SP-44-2010, Standard Practice, "Steel Pipeline Flanges," 2010 edition, (including Errata (May 20, 2011)), (MSS SP-44).	§ 1107.A
2. [Reserved]	
H. NACE International (NACE), 1440 South Creek Drive, Houston, TX 77084: phone: 281-228-6223 or 800-797-6223, Web site: <a href="http://www.nace.org/Publications/">http://www.nace.org/Publications/</a> .	
1. ANSI/NACE SP0502-2010, Standard Practice, "Pipeline External Corrosion Direct Assessment Methodology," revised June 24, 2010, (NACE SP0502).	§§ 3323.B; 3325.B; 3331.D; 3335.B; 3339.A
2. NACE Standard Practice 0102 - 2010, "In-Line Inspection of Pipelines," Revised 2010 - 03 - 13, (NACE SP0102).	§§ 1110.A; 2145
I. National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169, phone: 1 617 984-7275, Web site: <a href="http://www.nfpa.org/">http://www.nfpa.org/</a> .	
1. NFPA-30 (2012), "Flammable and Combustible Liquids Code," 2012 edition, June 20, 2011, including Errata 30-12-1 (September 27, 2011) and Errata 30-12-2 (November 14, 2011), (NFPA-30).	§2935.B
2. NFPA-58 (2004), "Liquefied Petroleum Gas Code (LP-Gas Code)," (NFPA-58).	§§ 511.A; 511.B; 511.C
3. NFPA-59 (2004), "Utility LP-Gas Plant Code," (NFPA-59).	§§ 511.A; 511.B; 511.C
4. NFPA-70 (2011), "National Electrical Code," 2011 edition, issued August 5, 2010, (NFPA-70).	§§ 1123.E; 1149.C
J. Pipeline Research Council International, Inc. (PRCI), c/o Technical Toolboxes, 3801 Kirby Drive, Suite 520, P.O. Box 980550, Houston, TX 77098, phone: 713-630-0505, toll free: 866-866-6766, Web site: <a href="http://www.ttoolbox.com/">http://www.ttoolbox.com/</a> . (Contract number PR-3-805.)	
1. AGA, Pipeline Research Committee Project, PR-3-805, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe," (December 22, 1989), (PRCI PR-3-805 (R-STRENG)).	§§ 2732.A; 2912.B; 3333.A; 3333.D
2. [Reserved]	
K. Plastics Pipe Institute, Inc. (PPI), 105 Decker Court, Suite 825 Irving TX 75062, phone: 469-499-1044, <a href="http://www.plasticpipe.org/">http://www.plasticpipe.org/</a> .	
1. PPI TR-3/2012, HDB/HDS/PDB/SDB/MRS/CRS, Policies, "Policies and Procedures for Developing Hydrostatic Design Basis (HDB), Hydrostatic Design Stresses (HDS), Pressure Design Basis (PDB), Strength Design Basis (SDB), Minimum Required Strength (MRS) Ratings, and Categorized Required Strength (CRS) for Thermoplastic Piping Materials or Pipe," updated November 2012, (PPI TR-3/2012)	§ 921
2. PPI TR-4, HDB/HDS/SDB/MRS, Listed Materials, "PPI Listing of Hydrostatic Design Basis (HDB), Hydrostatic Design Stress (HDS), Strength Design Basis (SDB), Pressure Design Basis (PDB) and Minimum Required Strength (MRS) Rating For Thermoplastic Piping Materials or Pipe," updated March, 2011, (PPI TR-4/2012)	§ 921

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June

2004), amended LR 31:680 (March 2005), LR 33:474 (March 2007), LR 35:2801 (December 2009), LR 38:113 (January 2012), LR 44:1033 (June 2018), LR 46:

**§509. What Requirements Apply to Gathering Lines?**  
**[49 CFR 192.9]**

A. ...

B. Offshore Lines. An operator of an offshore gathering line must comply with requirements of this part applicable to transmission lines, except the requirements in §§ 1110, 1515.E, 2145, 2306, 2707, 2719.E, 2724, 2910, 2912, and Chapter 33 of this Subpart. [49 CFR 192.9(b)].

C. Type A Lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this part applicable to transmission lines, except the requirements in §§1110, 1515.E, 2145, 2306, 2707, 2719.E, 2724, 2910 2912, and in Chapter 33 of this Subpart. However, operators of Type A regulated onshore gathering lines in a Class 2 location may demonstrate compliance with Chapter 31 by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks. [49 CFR 192.9(c)].

D. ...

1. if a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of this part applicable to transmission lines except the requirements in §§717, 927, 1165, 1307.C, 1515.E, and 2305; [49 CFR 192.9(d)(1)];

2. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this part applicable to transmission lines except the requirements in §2145; [49 CFR 192.9(d)(2)];

3. if the pipeline contains plastic pipe or components, the operator must comply with all applicable requirements of this part for plastic pipe components; [49 CFR 192.9(d)(3)];

4. carry out a damage prevention program under §2714; [49 CFR 192.9(d)(4)];

5. establish a public education program under §2716; [49 CFR 192.9(d)(5)];

6. establish the MAOP of the line under §2719.A,B and C. [49 CFR 192.9(d)(6)];

7. install and maintain line markers according to the requirements for transmission lines in §2907; and [49 CFR 192.9(d)(7)];

8. conduct leakage surveys in accordance with the requirements for transmission lines in §2906 using leak detection equipment and promptly repair hazardous leaks in accordance with §2903(c). [49 CFR 192.9(d)(8)]

E. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004), LR 31:681 (March 2005), LR 33:477 (March 2007), LR 44:1033 (June 2018), LR 46:

**§512. Underground Natural Gas Storage Facilities**  
**[49 CFR 192.12]**

A. Underground natural gas storage facilities (UNGSFs), as defined in §503, are not subject to any requirements of this Part aside from this Section.

1. Salt Cavern UNGSFs [49 CFR 192.12(a)]

a. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed after March 13, 2020, must meet all the provisions of API RP 1170 (incorporated by reference, see §507), the provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraphs A.3 and A.4 of this Section prior to commencing operations. [49 CFR 192.12(a)(1)]

b. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed between July 18, 2017, and March 13, 2020, must meet all the provisions of API RP 1170 (incorporated by reference, see §507) and Paragraph A.3 of this Section prior to commencing operations, and must meet all the provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraph A.4 of this Section, by March 13, 2021. [49 CFR 192.12(a)(2)]

c. Each UNGSF that uses a solution-mined salt cavern for natural gas storage and was constructed on or before July 18, 2017, must meet the provisions of API RP 1170 (incorporated by reference, see §507), sections 9, 10, and 11, and Paragraph A.3 of this Section, by January 18, 2018, and must meet all provisions of section 8 of API RP 1171 (incorporated by reference, see §507) that are applicable to the physical characteristics and operations of a solution-mined salt cavern UNGSF, and Paragraph A.4 of this Section, by March 13, 2021. [49 CFR 192.12(a)(3)]

2. Depleted Hydrocarbon and Aquifer Reservoir UNGSFs [49 CFR 192.12(b)]

a. Each UNGSF that uses a depleted hydrocarbon reservoir or an aquifer reservoir for natural gas storage and was constructed after July 18, 2017, must meet all provisions of API RP 1171 (incorporated by reference, see §507), and Paragraphs A.3 and A.4 of this Section, prior to commencing operations. [49 CFR 192.12(b)(1)]

b. Each UNGSF that uses a depleted hydrocarbon reservoir or an aquifer reservoir for natural gas storage and was constructed on or before July 18, 2017, must meet the provisions of API RP 1171 (incorporated by reference, see §507), sections 8, 9, 10, and 11, and Paragraph A.3 of this Section, by January 18, 2018, and must meet all provisions of Paragraph A.4 of this Section by March 13, 2021. [49 CFR 192.12(b)(2)]

3. Procedural Manuals. Each operator of a UNGSF must prepare and follow for each facility one or more manuals of written procedures for conducting operations, maintenance, and emergency preparedness and response activities under Paragraphs A.1 and A.2 of this Section. Each operator must keep records necessary to administer such procedures and review and update these manuals at intervals not exceeding 15 months, but at least once each calendar year. Each operator must keep the appropriate parts of these manuals accessible at locations where UNGSF work is being performed. Each operator must have written procedures in place before commencing operations or beginning an activity not yet implemented. [49 CFR 192.12(c)]

4. Integrity Management Program [49 CFR 192.12(d)]

a. Integrity Management Program Elements. The integrity management program for each UNGSF under this Paragraph A.4 must consist, at a minimum, of a framework developed under API RP 1171 (incorporated by reference, see §507), section 8 ("Risk Management for Gas Storage Operations"), and that also describes how relevant decisions will be made and by whom. An operator must make continual improvements to the program and its execution. The integrity management program must include the following elements: [49 CFR 192.12(d)(1)]

i. a plan for developing and implementing each program element to meet the requirements of this Section; [49 CFR 192.12(d)(1)(i)]

ii. an outline of the procedures to be developed; [49 CFR 192.12(d)(1)(ii)]

iii. the roles and responsibilities of UNGSF staff assigned to develop and implement the procedures required by this Paragraph A.4; [49 CFR 192.12(d)(1)(iii)]

iv. a plan for how staff will be trained in awareness and application of the procedures required by this Paragraph A.4; [49 CFR 192.12(d)(1)(iv)]

v. timelines for implementing each program element, including the risk analysis and baseline risk assessments; and [49 CFR 192.12(d)(1)(v)]

vi. a plan for how to incorporate information gained from experience into the integrity management program on a continuous basis. [49 CFR 192.12(d)(1)(vi)]

b. Integrity Management Baseline Risk-Assessment Intervals. No later than March 13, 2024, each UNGSF operator must complete the baseline risk assessments of all reservoirs and caverns, and at least 40 percent of the baseline risk assessments for each of its UNGSF wells (including wellhead assemblies), beginning with the highest-risk wells, as identified by the risk analysis process. No later than March 13, 2027, an operator must complete baseline risk assessments on all its wells (including wellhead assemblies). Operators may use prior risk assessments for a well as a baseline (or part of the baseline) risk assessment in implementing its initial integrity management program, so long as the prior assessments meet the requirements of API RP 1171 (incorporated by reference, see §507), section 8, and continue to be relevant and valid for the current operating and environmental conditions. When evaluating prior risk-assessment results, operators must account for the growth and effects of indicated defects since the time the assessment was performed. [49 CFR 192.12(d)(2)]

c. Integrity Management Re-Assessment Intervals. The operator must determine the appropriate interval for risk assessments under API RP 1171 (incorporated by reference, see §507), subsection 8.7.1, and this Paragraph A.4 for each reservoir, cavern, and well, using the results from earlier assessments and updated risk analyses. The re-assessment interval for each reservoir, cavern, and well must not exceed seven years from the date of the baseline assessment for each reservoir, cavern, and well. [49 CFR 192.12(d)(3)]

d. Integrity Management Procedures and Recordkeeping. Each UNGSF operator must establish and follow written procedures to carry out its integrity management program under API RP 1171 (incorporated by reference, see §507), section 8 ("Risk Management for Gas Storage Operations"), and this Paragraph A.4. The operator must also maintain, for the useful life of the UNGSF, records

that demonstrate compliance with the requirements of this Paragraph A.4. This includes records developed and used in support of any identification, calculation, amendment, modification, justification, deviation, and determination made, and any action taken to implement and evaluate any integrity management program element. [49 CFR 192.12(d)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 45:69 (January 2019), amended LR 46:

#### **§518. How to Notify PHMSA [49 CFR 192.18]**

A. An operator must provide any notification required by this Section by: [49 CFR 192.18(a)]

1. sending the notification by electronic mail to InformationResourcesManager@dot.gov; or [49 CFR 192.18(a)(1)]

2. sending the notification by mail to ATTN: Information Resources Manager, DOT/PHMSA/OPS, East Building, 2nd Floor, E22 - 321, 1200 New Jersey Ave. SE, Washington, DC 20590. [49 CFR 192.18(a)(2)]

B. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to PipelineInspectors@la.gov. [49 CFR 192.18(b)]

C. Unless otherwise specified, if the notification is made pursuant to §2305.B, §2707.E.4, §2707.E.5, §2724.C.2.c, §2724.C.6, §2732.B.3, §2910.C.7, §2912.D.3.d, §2912.E.2.i.e, §3321.A.7, or §3337.C.7 to use a different integrity assessment method, analytical method, sampling approach, or technique (i.e., "other technology") that differs from that prescribed in those Sections, the operator must notify PHMSA at least 90 days in advance of using the other technology. An operator may proceed to use the other technology 91 days after submittal of the notification unless it receives a letter from the Associate Administrator for Pipeline Safety informing the operator that PHMSA objects to the proposed use of other technology or that PHMSA requires additional time to conduct its review. [49 CFR 192.18(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

#### **Chapter 7. Materials [49 CFR Part 192 Subpart B]**

#### **§709. Plastic Pipe [49 CFR 192.59]**

A. ...

1. it is manufactured in accordance with a listed specification; [49 CFR 192.59(a)(1)]

2. it is resistant to chemicals with which contact may be anticipated; and [49 CFR 192.59(a)(2)]

3. it is free of visible defects. [49 CFR 192.59(a)(3)]

B. - B.2. ...

3. it has been used only in gas service; [49 CFR 192.59(b)(3)]

B.4. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 30:1229 (June 2004), LR 44:1035 (June 2018), LR 46:

**§713. Marking of Materials**  
**[49 CFR 192.63]**

A. Except as provided in Subsection D and E of this Section each valve, fitting, length of pipe, and other component must be marked as prescribed in the specification or standard to which it was manufactured. [49 CFR 192.63(a)]

B. - D.2. ...

E. All plastic pipe and components must also meet the following requirements. [49 CFR 192.63(e)]

1. All markings on plastic pipe prescribed in the listed specification and the requirements of Paragraph E.2 of this Section must be repeated at intervals not exceeding two feet. [49 CFR 192.63(e)(1)]

2. Plastic pipe and components manufactured after December 31, 2019 must be marked in accordance with the listed specification. [49 CFR 192.63(e)(2)]

3. All physical markings on plastic pipelines prescribed in the listed specification and Paragraph E.2 of this Section must be legible until the time of installation. [49 CFR 192.63(e)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:221 (April 1983), amended LR 10:512 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:1308 (July 1998), LR 30:1229 (June 2004), LR 38:114 (January 2012), LR 44:1036 (June 2018), LR 46:

**§717. Records: Material Properties**  
**[49 CFR 192.67]**

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records that document the physical characteristics of the pipeline, including diameter, yield strength, ultimate tensile strength, wall thickness, seam type, and chemical composition of materials for pipe in accordance with §§703 and 705. Records must include tests, inspections, and attributes required by the manufacturing specifications applicable at the time the pipe was manufactured or installed. [49 CFR 192.67(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records that document tests, inspections, and attributes required by the manufacturing specifications applicable at the time the pipe was manufactured or installed, including diameter, yield strength, ultimate tensile strength, wall thickness, seam type, and chemical composition in accordance with §§703 and 705, operators must retain such records for the life of the pipeline. [49 CFR 192.67(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.67(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§719. Storage and Handling of Plastic Pipe and Associated Components**  
**[49 CFR 192.69]**

A. Each operator must have and follow written procedures for the storage and handling of plastic pipe and associated components that meet the applicable listed specifications. [49 CFR 192.69(a)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**Chapter 9. Pipe Design [49 CFR Part 192 Subpart C]**  
**§921. Design of Plastic Pipe [49 CFR 192.121]**

A. Design Formula. Design formulas for plastic pipe are determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{D - t} (DF)$$

$$P = \frac{2S}{(SDR - 1)} (DF)$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73 °F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2012, HDB/PDB/SDB/MRS Policies”, (incorporated by reference, see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in. (mm)

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = Design Factor, a maximum of 0.32 unless otherwise specified for a particular material in this section. [49 CFR 192.121(a)]

B. General Requirements for Plastic Pipe and Components [49 CFR 192.121(b)]

1. Except as provided in Subsections C through F of this Section, the design pressure for plastic pipe may not exceed a gauge pressure of 100 psig (689 kPa) for pipe used in: [49 CFR 192.121(b)(1)]

a. distribution systems; or [49 CFR 192.121(b)(1)(i)]

b. transmission lines in Class 3 and 4 locations [49 CFR 192.121(b)(1)(ii)]

2. Plastic pipe may not be used where operating temperatures of the pipe will be: [49 CFR 192.121(b)(2)]

a. below -20°F (-29°C), or -40°F (-40°C) if all pipe and pipeline components whose operating temperature will be below -20°F (-29°C) have a temperature rating by the manufacturer consistent with that operating temperature; or [49 CFR 192.121(b)(2)(i)]

b. above the temperature at which HBD used in the design formula under this Section is determined. [49 CFR 192.121(b)(2)(ii)]

3. Unless specified for a particular material in this Section, the wall thickness for thermoplastic pipe may not be less than 0.062 in. (1.57 millimeters). [49 CFR 192.121(b)(3)]

4. All plastic pipe must have a listed HDB in accordance with PPI TR-4(2012). (incorporated by reference, see §507) [49 CFR 192.121(b)(4)]

C. Polyethylene (PE) Pipe Requirements [49 CFR 192.121(c)]

1. For PE pipe produced after July 14, 2004, but before January 22, 2019, a design pressure of up to 125 psig may be used, provided: [49 CFR 192.121(c)(1)]

a. The material designation code is PE2406 or PE3408. [49 CFR 192.121(c)(1)(i)]

b. The pipe has a nominal size (Iron Pipe Size (IPS) or Copper Tubing Size (CTS)) of 12 inches or less (above nominal pipe size of 12 inches, the design pressure is limited to 100 psig); and [49 CFR 192.121(c)(1)(ii)]

c. The wall thickness is not less than 0.062 inches (1.57 millimeters). [49 CFR 192.121(c)(1)(iii)]

2. For PE pipe produced after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(c)(2)]

a. the design pressure does not exceed 125 psig; [49 CFR 192.121(c)(2)(i)]

b. the material designation code is PE2708 or PE4710; [49 CFR 192.121(c)(2)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 12 inches or less; and [49 CFR 192.121(c)(2)(iii)]

d. the wall thickness for a given outside diameter is not less than that listed in the following table: [49 CFR 192.121(c)(2)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2"	0.216	11
3"	0.259	13.5
4"	0.265	17
6"	0.315	21
8"	0.411	21
10"	0.512	21
12"	0.607	21

D. Polyamide (PA-11) Pipe Requirements [49 CFR 192.121(d)]

1. For PA-11 pipe produced after January 23, 2009, but before January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(d)(1)]

a. the design pressure does not exceed 200 psig; [49 CFR 192.121(d)(1)(i)]

b. the material designation code is PA32312 or PA32316; [49 CFR 192.121(d)(1)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 4 inches or less; and [49 CFR 192.121(d)(1)(iii)]

d. the pipe has a standard dimension ratio of SDR-11 or less (i.e., thicker wall pipe). [49 CFR 192.121(d)(1)(iv)]

2. For PA-11 pipe produced on or after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(d)(2)]

a. the design pressure does not exceed 250 psig; [49 CFR 192.121(d)(2)(i)]

b. the material designation code is PA32316; [49 CFR 192.121(d)(2)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 6 inches or less; and [49 CFR 192.121(d)(2)(iii)]

d. the minimum wall thickness for a given outside diameter is not less than that listed in the following table. [49 CFR 192.121(d)(2)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7.0
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

E. Polyamide (PA-12) Pipe Requirements [49 CFR 192.121(e)]

1. For PA-12 pipe produced after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(e)(1)]

a. the design pressure does not exceed 250 psig; [49 CFR 192.121(e)(1)(i)]

b. the material designation code is PA42316; [49 CFR 192.121(e)(1)(ii)]

c. the pipe has a nominal size (IPS or CTS) of 6 inches or less; and [49 CFR 192.121(e)(1)(iii)]

d. the minimum wall thickness for a given outside diameter is not less than that listed in the following table. [49 CFR 192.121(e)(1)(iv)]

PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
3/4" CTS	0.090	9.7
1/2" IPS	0.090	9.3
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

F. Reinforced Thermosetting Plastic Pipe Requirements [49 CFR 192.121(f)]

1. Reinforced thermosetting plastic pipe may not be used at operating temperatures above 150 °F (66 °C). [49 CFR 192.121(f)(1)]

2. The wall thickness for reinforced thermosetting plastic pipe may not be less than that listed in the following table. [49 CFR 192.121(f)(2)]

Nominal Size in Inches (Millimeters)	Minimum Wall Thickness Inches (Millimeters)
2 (51)	0.060 (1.52)
3 (76)	0.060 (1.52)
4 (102)	0.070 (1.78)
6 (152)	0.100 (2.54)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), LR 46:

**§923. Design Limitations for Plastic Pipe**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), repromulgated LR 38:828 (March 2012), amended LR 44:1037 (June 2018), repealed LR 46:

**§927. Records: Pipe Design**

[49 CFR 192.127]

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records documenting that the pipe is designed to withstand anticipated external pressures and loads in accordance with §903 and documenting that the determination of design pressure for the pipe is made in accordance with §905 [49 CFR 192.127(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records documenting pipe design and the determination of design pressure in accordance with §§903 and 905, operators must retain such records for the life of the pipeline. [49 CFR 192.127(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.127(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**Chapter 11. Design of Pipeline Components**  
**[49 CFR Part 192 Subpart D]**

**§1103. General Requirements**

[49 CFR 192.143]

A. - B. ...

C. Except for excess flow valves, each plastic pipeline component installed after January 22, 2019 must be able to withstand operating pressures and other anticipated loads in accordance with a listed specification. [49 CFR 192.143(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1232 (June 2004), LR 35:2805 (December 2009), LR 46:

**§1105. Valves**

[49 CFR 192.145]

A. - E. ...

F. Except for excess flow valves, plastic valves installed after January 22, 2019, must meet the minimum requirements of a listed specification. A valve may not be used under operating conditions that exceed the applicable pressure and temperature ratings contained in the listed specification. [49 CFR 192.145(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 18:855 (August 1992), LR 27:1539 (September 2001), LR 30:1232 (June 2004), LR 31:682 (March 2005), LR 33:479 (March 2007), LR 38:115 (January 2012), LR 44:1037 (June 2018), LR 46:

**§1109. Standard Fittings**

[49 CFR 192.149]

A. - B. ...

C. Plastic fittings installed after January 22, 2019, must meet a listed specification. [49 CFR 192.149(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:515 (July 1984), LR 30:1233 (June 2004), LR 46:

**§1110. Passage of Internal Inspection Devices**

[49 CFR 192.150]

A. Except as provided in Subsections B and C of this Section, each new transmission line and each replacement of line pipe, valve, fitting, or other line component in a transmission line, must be designed and constructed to accommodate the passage of instrumented internal inspection devices in accordance with NACE SP0102, section 7 (incorporated by reference, see §507). [49 CFR 192.150(a)].

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August 1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004), LR 31:682 (March 2005), LR 33:479 (March 2007), LR 46:

### **§1151. Design Pressure of Plastic Fittings**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:226 (April 1983), amended LR 10:518 (July 1984), LR 30:1238 (June 2004), LR 38:115 (January 2012), LR 44:1038 (June 2018), repealed LR 46:

### **§1164. Instrument, Control, and Sampling Pipe and Components**

#### **[49 CFR 192.204]**

A. Riser designs must be tested to ensure safe performance under anticipated external and internal loads acting on the assembly. [49 CFR 192.204(a)]

B. Factory assembled anodeless risers must be designed and tested in accordance with ASTM F1973-13 (incorporated by reference, see § 507). [49 CFR 192.204(b)]

C. All risers used to connect regulator stations to plastic mains must be rigid and designed to provide adequate support and resist lateral movement. Anodeless risers used in accordance with this Section must have a rigid riser casing. [49 CFR 192.204(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

### **§1165. Records: Pipeline components.**

#### **[49 CFR 192.205]**

A. For steel transmission pipelines installed after July 1, 2020, an operator must collect or make, and retain for the life of the pipeline, records documenting the manufacturing standard and pressure rating to which each valve was manufactured and tested in accordance with this Subpart. Flanges, fittings, branch connections, extruded outlets, anchor forgings, and other components with material yield strength grades of 42,000 psi (X42) or greater and with nominal diameters of greater than 2 inches must have records documenting the manufacturing specification in effect at the time of manufacture, including yield strength, ultimate tensile strength, and chemical composition of materials. [49 CFR 192.205(a)]

B. For steel transmission pipelines installed on or before July 1, 2020, if operators have records documenting the manufacturing standard and pressure rating for valves, flanges, fittings, branch connections, extruded outlets, anchor forgings, and other components with material yield strength grades of 42,000 psi (X42) or greater and with nominal diameters of greater than 2 inches, operators must retain such records for the life of the pipeline. [49 CFR 192.205(b)]

C. For steel transmission pipeline segments installed on or before July 1, 2020, if an operator does not have records necessary to establish the MAOP of a pipeline segment, the operator may be subject to the requirements of §2724 according to the terms of that Section. [49 CFR 192.205(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

### **Chapter 13. Welding of Steel in Pipelines [49 CFR Part 192 Subpart E]**

### **§1307. Qualification of Welders [49 CFR 192.227]**

A. - B. ...

C. For steel transmission pipe installed after July 1, 2021, records demonstrating each individual welder qualification at the time of construction in accordance with this Section must be retained for a minimum of five years following construction. [49 CFR 192.227(c)].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 30:1241 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 44:1038 (June 2018), LR 46:

### **Chapter 15. Joining of Materials Other Than by Welding [49 CFR Part 192 Subpart F]**

### **§1511. Plastic Pipe [49 CFR 192.281]**

A. - B.1. ...

2. The solvent cement must conform to ASTM D 2620-12 for PVC (incorporated by reference, see §507) [49 CFR 192.281(b)(2)]

3. The joint may not be heated or cooled to accelerate the setting of the cement. [49 CFR 192.281(b)(3)]

C. Heat-Fusion Joints. Each heat-fusion joint on a PE pipe or component, except for electrofusion joints, must comply with ASTM F2620-12 (incorporated by reference in §507) and the following. [49 CFR 192.281(c)]

1. A butt heat-fusion joint must be joined by a device that holds the heater element square to the ends of the piping or component, compresses the heated ends together, and holds the pipe in proper alignment in accordance with the appropriate procedure qualified under §1513. [49 CFR 192.281(c)(1)]

2. A socket heat-fusion joint must be joined by a device that heats the mating surfaces of the pipe or component, uniformly and simultaneously to establish the same temperature. The device used must be the same device specified in the operator's joining procedure for socket fusion. [49 CFR 192.281(c)(2)]

3. An electrofusion joint must be made using the equipment and techniques prescribed by the fitting manufacturer, or using equipment and techniques shown, by testing joints to the requirements of §1513.A.1.c, to be at least equivalent to or better than the requirements of the fitting manufacturer. [49 CFR 192.281(c)(3)]

C.4. - E.2. ...

3. All mechanical fittings must meet a listed specification based upon the applicable material. [49 CFR 192.281(e)(3)]

4. All mechanical joints or fittings installed after January 22, 2019, must be Category 1 as defined by a listed specification for the applicable material, providing a seal plus resistance to a force on the pipe joint equal to or greater than that which will cause no less than 25 percent elongation

of pipe, or the pipe fails outside the joint area if tested in accordance with the applicable standard. [49 CFR 192.281(e)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 30:1243 (June 2004), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:

**§1513. Plastic Pipe: Qualifying Joining Procedures**  
**[49 CFR 192.283]**

A. Heat Fusion, Solvent Cement, and Adhesive Joints. Before any written procedure established under §1503.B is used for making plastic pipe joints by a heat fusion, solvent cement, or adhesive method, the procedure must be qualified by subjecting specimen joints made according to the procedure to the following tests, as applicable: [49 CFR 192.283(a)]

1. the test requirements of: [49 CFR 192.283(a)(1)]

a. in the case of thermoplastic pipe, based on the pipe material, the Sustained Pressure Test or the Minimum Hydrostatic Burst Test per the listed specification requirements. Additionally, for electrofusion joints, based on the pipe material, the Tensile Strength Test or the Joint Integrity Test per the listed specification; [49 CFR 192.283(a)(1)(i)]

b. in the case of thermosetting plastic pipe, paragraph 8.5 (minimum hydrostatic burst pressure) or paragraph 8.9 (sustained static pressure test) of ASTM D2517-00 (incorporated by reference, see §507); or [49 CFR 192.283(a)(1)(ii)]

c. in the case of electrofusion fittings for polyethylene pipe (PE) and tubing, paragraph 9.1 (minimum hydraulic burst pressure test), paragraph 9.2 (sustained pressure test), paragraph 9.3 (tensile strength test), or paragraph 9.4 (joint integrity tests) of ASTM Designation F1055-98(2006) (incorporated by reference, see §507) [49 CFR 192.283(a)(1)(iii)]

2. for procedures intended for lateral pipe connections, subject a specimen joint made from pipe sections joined at right angles according to the procedure to a force on the lateral pipe until failure occurs in the specimen. If failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(2)]

3. for procedures intended for non-lateral pipe connections, perform testing in accordance with a listed specification. If the test specimen elongates no more than 25 percent or failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(3)].

B. Mechanical Joints. Before any written procedure established under §1503.B is used for making mechanical plastic pipe joints, the procedure must be qualified in accordance with a listed specification based upon the pipe material. [49 CFR 192.283(b)]

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244

(June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:

**§1515. Plastic Pipe: Qualifying Persons to Make Joints**  
**[49 CFR 192.285]**

A. - B.2. ...

a. tested under any one of the test methods listed under §1513.A or for PE heat fusion joints (except for electrofusion joints) visually inspected and tested in accordance with ASTM F2620-12 (incorporated by reference, see §507) applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - D. ...

E. For transmission pipe installed after July 1, 2021, records demonstrating each person's plastic pipe joining qualifications at the time of construction in accordance with this Section must be retained for a minimum of five years following construction. [49 CFR 192.285(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007), LR 44:1039 (June 2018), LR 46:

**Chapter 17. General Construction Requirements for Transmission Lines and Mains**  
**[49 CFR Part 192 Subpart G]**

**§1713. Bends and Elbows**  
**[49 CFR 192.313]**

A. - C. ...

D. An operator may not install plastic pipe with a bend radius that is less than the minimum bend radius specified by the manufacturer for the diameter of the pipe being installed. [49 CFR 192.313(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 27:1542 (September 2001), LR 30:1246 (June 2004), LR 46:

**§1721. Installation of Plastic Pipe**  
**[49 CFR 192.321]**

A. Plastic pipe must be installed below ground level except as provided by Subsections G, H, and I of this Section. [49 CFR 192.321(a)]

B. - C. ...

D. Plastic pipe must have a minimum wall thickness in accordance with §921. [49 CFR 192.321(d)]

E. ...

F. Plastic pipe that is being encased must be inserted into the casing pipe in a manner that will protect the plastic. Plastic pipe that is being encased must be protected from damage at all entrance and all exit points of the casing. The leading end of the plastic must be closed before insertion. [49 CFR 192.321(f)]

G. - H.3. ...

I. Plastic mains may terminate above ground level provided they comply with the following. [49 CFR 192.321(i)]

1. The above-ground level part of the plastic main is protected against deterioration and external damage. [49 CFR 192.367(i)(1)]



2. The plastic main is not used to support external loads. [49 CFR 192.367(i)(2)]

3. Installations of risers at regulator stations must meet the design requirements of §1164. [49 CFR 192.367(i)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR 31:684 (March 2005), LR 46:

**§1725. Installation of Plastic Pipelines By Trenchless Excavation**  
**[49 CFR 192.329]**

A. Plastic pipelines installed by trenchless excavation must comply with the following. [49 CFR 192.329]

1. Each operator must take practicable steps to provide sufficient clearance for installation and maintenance activities from other underground utilities and/or structures at the time of installation. [49 CFR 192.329(a)]

2. For each pipeline section, plastic pipe and components that are pulled through the ground must use a weak link, as defined by § 503, to ensure the pipeline will not be damaged by any excessive forces during the pulling process. [49 CFR 192.329(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**Chapter 19. Customer Meters, Service Regulators, and Service Lines**  
**[49 CFR Part 192 Subpart H]**

**§1917. Service Lines: General Requirements for Connections to Main Piping**  
**[49 CFR 192.367]**

A. - B. ....

1. be designed and installed to effectively sustain the longitudinal pullout or thrust forces caused by contraction or expansion of the piping, or by anticipated external or internal loading; [49 CFR 192.367(b)(1)]

2. if gaskets are used in connecting the service line to the main connection fitting, have gaskets that are compatible with the kind of gas in the system; and [49 CFR 192.367(b)(2)]

3. if used on pipelines comprised of plastic, be a Category 1 connection as defined by a listed specification for the applicable material, providing a seal plus resistance to a force on the pipe joint equal to or greater than that which will cause no less than 25 percent elongation of pipe, or the pipe fails outside the joint area if tested in accordance with the applicable standard. [49 CFR 192.367(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:526 (July 1984), LR 30:1249 (June 2004), LR 46:

**§1925. Service Lines: Plastic**  
**[49 CFR 192.375]**

A. - A.2. ...

a. the above ground level part of the plastic service line is protected against deterioration and external damage; [49 CFR 192.375(a)(2)(i)]

b. the plastic service line is not used to support external loads; and [49 CFR 192.375(a)(2)(ii)]

c. the riser portion of the service line meets the design requirements of §1164. [49 CFR 192.375(a)(2)(iii)]

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:234 (April 1983), amended LR 10:527 (July 1984), amended LR 24:1310 (July 1998), LR 30:1250 (June 2004), LR 46:

**§1926. Installation of Plastic Service Lines by Trenchless Excavation**  
**[49 CFR 192.376]**

A. Plastic service lines installed by trenchless excavation must comply with the following. [49 CFR 192.376]

1. Each operator shall take practicable steps to provide sufficient clearance for installation and maintenance activities from other underground utilities and structures at the time of installation. [49 CFR 192.376(a)]

2. For each pipeline section, plastic pipe and components that are pulled through the ground must use a weak link, as defined by §503, to ensure the pipeline will not be damaged by any excessive forces during the pulling process. [49 CFR 192.376(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§1933. Excess Flow Valve Customer Installation**  
**[49 CFR 192.383]**

A. ...

\* \* \*

B. Installation Required. An EFV installation must comply with the performance standards in §1931. After April 14, 2017, each operator must install an EFV on any new or replaced service line serving the following types of services before the line is activated: [49 CFR 192.383(b)]

B.1. - D. ...

E. Operator notification of customers concerning EFV installation. Operators must notify customers of their right to request an EFV in the following manner: [49 CFR 192.383(e)]

E.1 - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1544 (September 2001), amended LR 30:1251 (June 2004), LR 38:116 (January 2012), LR 44:1040 (June 2018), LR 46:

**Chapter 21. Requirements for Corrosion Control**  
**[49 CFR Part 192 Subpart I]**

**§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971**  
**[49 CFR 192.455]**

A. Except as provided in Subsections B, C, F, and G of this Section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following. [49 CFR 192.455(a)]

A.1. - F.2. ...

G. Electrically isolated metal alloy fittings installed after January 22, 2019, that do not meet the requirements of

Subsection F must be cathodically protected, and must be maintained in accordance with the operator's integrity management plan. [49 CFR 192.455(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:235 (April 1983), amended LR 10:527 (July 1984), LR 24:1311 (July 1998), LR 27:1544 (September 2001), LR 30:1252 (June 2004), LR 46:

### **§2145. In-Line Inspection of Pipelines** **[49 CFR 192.493]**

A. When conducting in-line inspections of pipelines required by this part, an operator must comply with API STD 1163, ANSI/ASNT ILI-PQ, and NACE SP0102, (incorporated by reference, see §507). Assessments may be conducted using tethered or remotely controlled tools, not explicitly discussed in NACE SP0102, provided they comply with those sections of NACE SP0102 that are applicable. [49 CFR 192.493]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

## **Chapter 23. Test Requirements**

### **[49 CFR Part 192 Subpart J]**

### **§2306. Transmission Lines: Spike Hydrostatic Pressure Test [49 CFR 192.506]**

A. Spike Test Requirements. Whenever a segment of steel transmission pipeline that is operated at a hoop stress level of 30 percent or more of SMYS is spike tested under this part, the spike hydrostatic pressure test must be conducted in accordance with this Section. [49 CFR 192.506(a)]

1. The test must use water as the test medium. [49 CFR 192.506(a)(1)]

2. The baseline test pressure must be as specified in the applicable Paragraphs of §2719.A.2 or §2720.A.2, whichever applies. [49 CFR 192.506(a)(2)]

3. The test must be conducted by maintaining a pressure at or above the baseline test pressure for at least eight hours as specified in §2305. [49 CFR 192.506(a)(3)]

4. After the test pressure stabilizes at the baseline pressure and within the first two hours of the eight-hour test interval, the hydrostatic pressure must be raised (spiked) to a minimum of the lesser of 1.5 times MAOP or 100 percent SMYS. This spike hydrostatic pressure test must be held for at least 15 minutes after the spike test pressure stabilizes. [49 CFR 192.506(a)(4)]

B. Other Technology or Other Technical Evaluation Process. Operators may use other technology or another process supported by a documented engineering analysis for establishing a spike hydrostatic pressure test or equivalent. Operators must notify PHMSA 90 days in advance of the assessment or reassessment requirements of this subchapter. The notification must be made in accordance with §518 and must include the following information: [49 CFR 192.506(b)]

1. descriptions of the technology or technologies to be used for all tests, examinations, and assessments; [49 CFR 192.506(b)(1)]

2. procedures and processes to conduct tests, examinations, assessments, perform evaluations, analyze

defects, and remediate defects discovered; [49 CFR 192.506(b)(2)]

3. data requirements, including original design, maintenance and operating history, anomaly or flaw characterization; [49 CFR 192.506(b)(3)]

4. assessment techniques and acceptance criteria; [49 CFR 192.506(b)(4)]

5. remediation methods for assessment findings; [49 CFR 192.506(b)(5)]

6. spike hydrostatic pressure test monitoring and acceptance procedures, if used; [49 CFR 192.506(b)(6)]

7. procedures for remaining crack growth analysis and pipeline segment life analysis for the time interval for additional assessments, as required; and [49 CFR 192.506(b)(7)]

8. evidence of a review of all procedures and assessments by a qualified technical subject matter expert. [49 CFR 192.506(b)(8)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

### **§2313. Test Requirements for Plastic Pipelines** **[49 CFR 192.513]**

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psi (345 kPa) gage, whichever is greater. However, the maximum test pressure may not be more than 2.5 times the pressure determined under §921, at a temperature not less than the pipe temperature during the test. [49 CFR 192.513(c)]

D. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 24:1312 (July 1998), LR 27:1546 (September 2001), LR 30:1257 (June 2004), LR 46:

### **§2317. Records**

#### **[49 CFR 192.517]**

A. An operator must make, and retain for the useful life of the pipeline, a record of each test performed under §§2305, 2306 and 2307. The record must contain at least the following information: [49 CFR 192.517(a)]

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:531 (July 1984), LR 30:1258 (June 2004), LR 46:

## **Chapter 27. Operations**

### **[49 CFR Part 192 Subpart L]**

### **§2707. Verification of Pipeline Material Properties and Attributes: Onshore Steel Transmission Pipelines.**

#### **[49 CFR 192.607]**

A. Applicability. Wherever required by this part, operators of onshore steel transmission pipelines must document and verify material properties and attributes in accordance with this Section. [49 CFR 192.607(a)]

B. Documentation of Material Properties and Attributes. Records established under this Section documenting

physical pipeline characteristics and attributes, including diameter, wall thickness, seam type, and grade (e.g., yield strength, ultimate tensile strength, or pressure rating for valves and flanges, etc.), must be maintained for the life of the pipeline and be traceable, verifiable, and complete. Charpy v-notch toughness values established under this Section needed to meet the requirements of the ECA method at §2724.C.3 or the fracture mechanics requirements at §2912 must be maintained for the life of the pipeline. [49 CFR 192.607(b)]

C. Verification of Material Properties and Attributes. If an operator does not have traceable, verifiable, and complete records required by Subsection B of this Section, the operator must develop and implement procedures for conducting nondestructive or destructive tests, examinations, and assessments in order to verify the material properties of aboveground line pipe and components, and of buried line pipe and components when excavations occur at the following opportunities: Anomaly direct examinations, in situ evaluations, repairs, remediations, maintenance, and excavations that are associated with replacements or relocations of pipeline segments that are removed from service. The procedures must also provide for the following. [49 CFR 192.607(c)]

1. For nondestructive tests, at each test location, material properties for minimum yield strength and ultimate tensile strength must be determined at a minimum of 5 places in at least 2 circumferential quadrants of the pipe for a minimum total of 10 test readings at each pipe cylinder location. [49 CFR 192.607(c)(1)]

2. For destructive tests, at each test location, a set of material properties tests for minimum yield strength and ultimate tensile strength must be conducted on each test pipe cylinder removed from each location, in accordance with API Specification 5L. [49 CFR 192.607(c)(2)]

3. Tests, examinations, and assessments must be appropriate for verifying the necessary material properties and attributes. [49 CFR 192.607(c)(3)]

4. If toughness properties are not documented, the procedures must include accepted industry methods for verifying pipe material toughness. [49 CFR 192.607(c)(4)]

5. Verification of material properties and attributes for non-line pipe components must comply with Subsection F of this Section. [49 CFR 192.607(c)(5)]

D. Special requirements for nondestructive Methods. Procedures developed in accordance with Subsection C of this Section for verification of material properties and attributes using nondestructive methods must: [49 CFR 192.607(d)]

1. use methods, tools, procedures, and techniques that have been validated by a subject matter expert based on comparison with destructive test results on material of comparable grade and vintage; [49 CFR 192.607(d)(1)]

2. conservatively account for measurement inaccuracy and uncertainty using reliable engineering tests and analyses; and [49 CFR 192.607(d)(2)]

3. use test equipment that has been properly calibrated for comparable test materials prior to usage. [49 CFR 192.607(d)(3)]

E. Sampling Multiple Segments of Pipe. To verify material properties and attributes for a population of multiple, comparable segments of pipe without traceable, verifiable, and complete records, an operator may use a sampling program in accordance with the following requirements. [49 CFR 192.607(e)]

1. The operator must define separate populations of similar segments of pipe for each combination of the following material properties and attributes: nominal wall thicknesses, grade, manufacturing process, pipe manufacturing dates, and construction dates. If the dates between the manufacture or construction of the pipeline segments exceeds two years, those segments cannot be considered as the same vintage for the purpose of defining a population under this Section. The total population mileage is the cumulative mileage of pipeline segments in the population. The pipeline segments need not be continuous. [49 CFR 192.607(e)(1)]

2. For each population defined according to Paragraph E.1 of this Section, the operator must determine material properties at all excavations that expose the pipe associated with anomaly direct examinations, in situ evaluations, repairs, remediations, or maintenance, except for pipeline segments exposed during excavation activities pursuant to §2714, until completion of the lesser of the following: [49 CFR 192.607(e)(2)]

a. one excavation per mile rounded up to the nearest whole number; or [49 CFR 192.607(e)(2)(i)]

b. 150 excavations if the population is more than 150 miles. [49 CFR 192.607(e)(2)(ii)]

3. Prior tests conducted for a single excavation according to the requirements of Subsection C of this Section may be counted as one sample under the sampling requirements of this Subsection E. [49 CFR 192.607(e)(3)]

4. If the test results identify line pipe with properties that are not consistent with available information or existing expectations or assumed properties used for operations and maintenance in the past, the operator must establish an expanded sampling program. The expanded sampling program must use valid statistical bases designed to achieve at least a 95 percent confidence level that material properties used in the operation and maintenance of the pipeline are valid. The approach must address how the sampling plan will be expanded to address findings that reveal material properties that are not consistent with all available information or existing expectations or assumed material properties used for pipeline operations and maintenance in the past. Operators must notify PHMSA in advance of using an expanded sampling approach in accordance with §518. [49 CFR 192.607(e)(4)]

5. An operator may use an alternative statistical sampling approach that differs from the requirements specified in Paragraph E.2 of this Section. The alternative sampling program must use valid statistical bases designed to achieve at least a 95 percent confidence level that material properties used in the operation and maintenance of the pipeline are valid. The approach must address how the sampling plan will be expanded to address findings that reveal material properties that are not consistent with all

available information or existing expectations or assumed material properties used for pipeline operations and maintenance in the past. Operators must notify PHMSA in advance of using an alternative sampling approach in accordance with §518. [49 CFR 192.607(e)(5)]

F. Components. For mainline pipeline components other than line pipe, an operator must develop and implement procedures in accordance with Subsection C of this Section for establishing and documenting the ANSI rating or pressure rating [in accordance with ASME/ANSI B16.5 (incorporated by reference, see §507)]. [49 CFR 192.607(f)]

1. Operators are not required to test for the chemical and mechanical properties of components in compressor stations, meter stations, regulator stations, separators, river crossing headers, mainline valve assemblies, valve operator piping, or cross-connections with isolation valves from the mainline pipeline. [49 CFR 192.607(f)(1)]

2. Verification of material properties is required for non-line pipe components, including valves, flanges, fittings, fabricated assemblies, and other pressure retaining components and appurtenances that are: [49 CFR 192.607(f)(2)]

a. larger than 2 inches in nominal outside diameter, [49 CFR 192.607(f)(2)(i)]

b. material grades of 42,000 psi (Grade X - 42) or greater, or [49 CFR 192.607(f)(2)(ii)]

c. appurtenances of any size that are directly installed on the pipeline and cannot be isolated from mainline pipeline pressures. [49 CFR 192.607(f)(2)(iii)]

3. Procedures for establishing material properties of non-line pipe components must be based on the documented manufacturing specification for the components. If specifications are not known, usage of manufacturer's stamped, marked, or tagged material pressure ratings and material type may be used to establish pressure rating. Operators must document the method used to determine the pressure rating and the findings of that determination. [49 CFR 192.607(f)(3)]

G. Upgrading. The material properties determined from the destructive or nondestructive tests required by this Section cannot be used to raise the grade or specification of the material, unless the original grade or specification is unknown and MAOP is based on an assumed yield strength of 24,000 psi in accordance with §907.B.2. [49 CFR 192.607(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§2719. What is the Maximum Allowable Operating Pressure for Steel or Plastic Pipelines?**  
[49 CFR 192.619]

A. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under Subsection C, D, or E of this Section, or the lowest of the following: [49 CFR 192.619(a)]

1. - 1.b....

2. the pressure obtained by dividing the pressure to which the pipeline segment was tested after construction as follows: [49 CFR 192.619(a)(2)]

a. for plastic pipe in all locations, the test pressure is divided by a factor of 1.5; [49 CFR 192.619(a)(2)(i)]

b. for steel pipe operated at 100 psi (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table to Subparagraph A.2.b. [49 CFR 192.619(a)(2)(ii)]

Factors <sup>1</sup> , Segment				
Class Location	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970) and before July 1, 2020	Installed on or after July 1, 2020	Converted under CFR §192.14
1	1.1	1.1	1.25	1.25
2	1.25	1.25	1.25	1.25
3	1.4	1.5	1.5	1.5
4	1.4	1.5	1.5	1.5

<sup>1</sup>For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

3. ...

4. the pressure determined by the operator to be the maximum safe pressure after considering and accounting for records of material properties, including material properties verified in accordance with §2707, if applicable, and the history of the segment, particularly known corrosion and the actual operating pressure. [49 CFR 192.619(a)(4)]

B. - D. ...

E. Notwithstanding the requirements in Subsections A through D of this Section, operators of onshore steel transmission pipelines that meet the criteria specified in §2724.A must establish and document the maximum allowable operating pressure in accordance with §2724. [49 CFR 192.619(e)]

F. Operators of onshore steel transmission pipelines must make and retain records necessary to establish and document the MAOP of each pipeline segment in accordance with Subsections A through E of this Section as follows: [49 CFR 192.619(f)]

1. operators of pipelines in operation as of [July 1, 2020 must retain any existing records establishing MAOP for the life of the pipeline; [49 CFR 192.607(f)(1)]

2. operators of pipelines in operation as of July 1, 2020 that do not have records establishing MAOP and are required to reconfirm MAOP in accordance with §2724, must retain the records reconfirming MAOP for the life of the pipeline; and [49 CFR 192.607(f)(2)]

3. operators of pipelines placed in operation after July 1, 2020 must make and retain records establishing MAOP for the life of the pipeline. [49 CFR 192.607(f)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:2807 (December 2009), LR 46:

**§2724. Maximum Allowable Operating Pressure  
Reconfirmation: Onshore Steel Transmission  
Pipelines  
[49 CFR 192.624]**

A. Applicability. Operators of onshore steel transmission pipeline segments must reconfirm the maximum allowable operating pressure (MAOP) of all pipeline segments in accordance with the requirements of this Section if either of the following conditions are met: [49 CFR 192.624(a)]

1. Records necessary to establish the MAOP in accordance with §2719.A.2, including records required by §2317.A, are not traceable, verifiable, and complete and the pipeline is located in one of the following locations: [49 CFR 192.624(a)(1)]

a. a high consequence area as defined in § 3303; or [49 CFR 192.624(a)(1)(i)]

b. a Class 3 or Class 4 location. [49 CFR 192.624(a)(1)(ii)]

2. The pipeline segment's MAOP was established in accordance with §2719.C, the pipeline segment's MAOP is greater than or equal to 30 percent of the specified minimum yield strength, and the pipeline segment is located in one of the following areas: [49 CFR 192.624(a)(2)]

a. a high consequence area as defined in §3303; [49 CFR 192.624(a)(2)(i)]

b. a Class 3 or Class 4 location; or [49 CFR 192.607(a)(2)(ii)]

c. a moderate consequence area as defined in §503, if the pipeline segment can accommodate inspection by means of instrumented inline inspection tools. [49 CFR 192.624(a)(2)(iii)]

B. Procedures and Completion Dates. Operators of a pipeline subject to this Section must develop and document procedures for completing all actions required by this Section by July 1, 2021. These procedures must include a process for reconfirming MAOP for any pipelines that meet a condition of §2724.A, and for performing a spike test or material verification in accordance with §§2306 and 2707, if applicable. All actions required by this Section must be completed according to the following schedule. [49 CFR 192.624(b)]

1. Operators must complete all actions required by this Section on at least 50 percent of the pipeline mileage by July 3, 2028. [49 CFR 192.624(b)(1)]

2. Operators must complete all actions required by this Section on 100 percent of the pipeline mileage by July 2, 2035 or as soon as practicable, but not to exceed four years after the pipeline segment first meets a condition of §2724.A (e.g., due to a location becoming a high consequence area), whichever is later. [49 CFR 192.624(b)(2)]

3. If operational and environmental constraints limit an operator from meeting the deadlines in §2724, the operator may petition for an extension of the completion deadlines by up to 1 year, upon submittal of a notification in accordance with §518. The notification must include an up-to-date plan for completing all actions in accordance with this Section, the reason for the requested extension, current status, proposed completion date, outstanding remediation activities, and any needed temporary measures needed to mitigate the impact on safety. [49 CFR 192.624(b)(3)]

C. Maximum allowable operating pressure determination. Operators of a pipeline segment meeting a condition in Subsection A of this Section must reconfirm its MAOP using one of the following methods. [49 CFR 192.624(c)]

1. Method 1: Pressure test. Perform a pressure test and verify material properties records in accordance with §2707 and the following requirements. [49 CFR 192.624(c)(1)]

a. Pressure Test. Perform a pressure test in accordance with Chapter 23 of this Subpart. The MAOP must be equal to the test pressure divided by the greater of either 1.25 or the applicable class location factor in §2719.A.2.b. [49 CFR 192.624(c)(1)(i)]

b. Material Properties Records. Determine if the following material properties records are documented in traceable, verifiable, and complete records: Diameter, wall thickness, seam type, and grade (minimum yield strength, ultimate tensile strength). [49 CFR 192.624(c)(1)(ii)]

c. Material Properties Verification. If any of the records required by Subparagraph C.1.b of this Section are not documented in traceable, verifiable, and complete records, the operator must obtain the missing records in accordance with §2707. An operator must test the pipe materials cut out from the test manifold sites at the time the pressure test is conducted. If there is a failure during the pressure test, the operator must test any removed pipe from the pressure test failure in accordance with §2707. [49 CFR 192.624(c)(1)(iii)]

2. Method 2: Pressure Reduction. Reduce pressure, as necessary, and limit MAOP to no greater than the highest actual operating pressure sustained by the pipeline during the five years preceding October 1, 2019, divided by the greater of 1.25 or the applicable class location factor in §2719.A.2.b. The highest actual sustained pressure must have been reached for a minimum cumulative duration of 8 hours during a continuous 30-day period. The value used as the highest actual sustained operating pressure must account for differences between upstream and downstream pressure on the pipeline by use of either the lowest maximum pressure value for the entire pipeline segment or using the operating pressure gradient along the entire pipeline segment (i.e., the location-specific operating pressure at each location). [49 CFR 192.624(c)(2)]

a. Where the pipeline segment has had a class location change in accordance with §2711, and records documenting diameter, wall thickness, seam type, grade (minimum yield strength and ultimate tensile strength), and pressure tests are not documented in traceable, verifiable, and complete records, the operator must reduce the pipeline segment MAOP as follows. [49 CFR 192.624(c)(2)(i)]

i. For pipeline segments where a class location changed from Class 1 to Class 2, from Class 2 to Class 3, or from Class 3 to Class 4, reduce the pipeline MAOP to no greater than the highest actual operating pressure sustained by the pipeline during the five years preceding October 1, 2019, divided by 1.39 for Class 1 to Class 2, 1.67 for Class 2 to Class 3, and 2.00 for Class 3 to Class 4. [49 CFR 192.624(c)(2)(i)(A)]

ii. For pipeline segments where a class location changed from Class 1 to Class 3, reduce the pipeline MAOP to no greater than the highest actual operating pressure

sustained by the pipeline during the five years preceding October 1, 2019, divided by 2.00. [49 CFR 192.624(c)(2)(i)(B)]

b. Future uprating of the pipeline segment in accordance with Chapter 25 is allowed if the MAOP is established using Method 2. [49 CFR 192.624(c)(2)(ii)]

c. If an operator elects to use Method 2, but desires to use a less conservative pressure reduction factor or longer look-back period, the operator must notify PHMSA in accordance with §518 no later than seven calendar days after establishing the reduced MAOP. The notification must include the following details: [49 CFR 192.624(c)(2)(iii)]

i. descriptions of the operational constraints, special circumstances, or other factors that preclude, or make it impractical, to use the pressure reduction factor specified in § 2724.C.2; [49 CFR 192.624(c)(2)(iii)(A)]

ii. the fracture mechanics modeling for failure stress pressures and cyclic fatigue crack growth analysis that complies with § 2912; [49 CFR 192.624(c)(2)(iii)(B)]

iii. justification that establishing MAOP by another method allowed by this Section is impractical; [49 CFR 192.624(c)(2)(iii)(C)]

iv. justification that the reduced MAOP determined by the operator is safe based on analysis of the condition of the pipeline segment, including material properties records, material properties verified in accordance § 2707, and the history of the pipeline segment, particularly known corrosion and leakage, and the actual operating pressure, and additional compensatory preventive and mitigative measures taken or planned; and [49 CFR 192.624(c)(2)(iii)(D)]

v. planned duration for operating at the requested MAOP, long-term remediation measures and justification of this operating time interval, including fracture mechanics modeling for failure stress pressures and cyclic fatigue growth analysis and other validated forms of engineering analysis that have been reviewed and confirmed by subject matter experts. [49 CFR 192.624(c)(2)(iii)(E)]

3. Engineering Critical Assessment (ECA). Conduct an ECA in accordance with §2732. [49 CFR 192.624(c)(3)]

4. Method 4: Pipe Replacement. Replace the pipeline segment in accordance with this Part. [49 CFR 192.624(c)(4)]

5. Method 5: Pressure reduction for pipeline segments with small potential impact radius. pipelines with a potential impact radius (PIR) less than or equal to 150 feet may establish the MAOP as follows: [49 CFR 192.624(c)(5)]

a. reduce the MAOP to no greater than the highest actual operating pressure sustained by the pipeline during 5 years preceding October 1, 2019, divided by 1.1. The highest actual sustained pressure must have been reached for a minimum cumulative duration of 8 hours during one continuous 30-day period. The reduced MAOP must account for differences between discharge and upstream pressure on the pipeline by use of either the lowest value for the entire pipeline segment or the operating pressure gradient (i.e., the location specific operating pressure at each location); [49 CFR 192.624(c)(5)(i)]

b. Conduct patrols in accordance with §2905.A and C and conduct instrumented leakage surveys in accordance with §2906 at intervals not to exceed those in the following table 1 to §2724.C.5.b: [49 CFR 192.624(c)(5)(ii)]

Table 1 to § 2724.C.5.b		
Class Locations	Patrols	Leakage Surveys
Class 1 and Class 2	3 1/2 months, but at least four times each calendar year	3 1/2 months, but at least four times each calendar year.
Class 3 and Class 4	3 months, but at least six times each calendar year .	3 months, but at least six times each calendar year.

c. Under Method 5, future uprating of the pipeline segment in accordance with Chapter 25 is allowed. [49 CFR 192.624(c)(5)(iii)]

6. Method 6: Alternative Technology. Operators may use an alternative technical evaluation process that provides a documented engineering analysis for establishing MAOP. If an operator elects to use alternative technology, the operator must notify PHMSA in advance in accordance with §518. The notification must include descriptions of the following details: [49 CFR 192.624(c)(6)]

a. the technology or technologies to be used for tests, examinations, and assessments; the method for establishing material properties; and analytical techniques with similar analysis from prior tool runs done to ensure the results are consistent with the required corresponding hydrostatic test pressure for the pipeline segment being evaluated; [49 CFR 192.624(c)(6)(i)]

b. procedures and processes to conduct tests, examinations, assessments and evaluations, analyze defects and flaws, and remediate defects discovered; [49 CFR 192.624(c)(6)(ii)]

c. pipeline segment data, including original design, maintenance and operating history, anomaly or flaw characterization; [49 CFR 192.624(c)(6)(iii)]

d. assessment techniques and acceptance criteria, including anomaly detection confidence level, probability of detection, and uncertainty of the predicted failure pressure quantified as a fraction of specified minimum yield strength; [49 CFR 192.624(c)(6)(iv)]

e. if any pipeline segment contains cracking or may be susceptible to cracking or crack-like defects found through or identified by assessments, leaks, failures, manufacturing vintage histories, or any other available information about the pipeline, the operator must estimate the remaining life of the pipeline in accordance with Section § 2912; [49 CFR 192.624(c)(6)(v)]

f. operational monitoring procedures; [49 CFR 192.624(c)(6)(vi)]

g. methodology and criteria used to justify and establish the MAOP; and [49 CFR 192.624(c)(6)(vii)]

h. documentation of the operator's process and procedures used to implement the use of the alternative technology, including any records generated through its use. [49 CFR 192.624(c)(6)(viii)]

D. Records. An operator must retain records of investigations, tests, analyses, assessments, repairs, replacements, alterations, and other actions taken in accordance with the requirements of this Section for the life of the pipeline. [49 CFR 192.624(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§2725. Odorization of Gas**  
**[49 CFR 192.625]**

A. - H.6. ...

I. Sampling Requirements

1. To assure the proper concentration of odorant in accordance with this Section, each operator (excluding farm taps) must conduct quarterly sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. Farm taps must be sampled twice a calendar year, at least 6 months apart not to exceed 7.5 months. Operators of master meter systems and farm taps may comply with this requirement by: [49 CFR 192.625(f)]

a. receiving written verification from their gas source that the gas has the proper concentration of odorant (excluding farm taps); and [49 CFR 192.625(f)(1)]

1.b. - 2. ...

a. the kind or kinds of malodorant agents introduced into such gas during the sampling period;

I.2.b. - J. ...

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:243 (April 1983), amended LR 10:535 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:1312 (July 1998), LR 27:1548 (September 2001), LR 30:1265 (June 2004), LR 46:

**§2732. Engineering Critical Assessment for Maximum Allowable Operating Pressure Reconfirmation: Onshore Steel Transmission Pipelines**  
**[49 CFR 192.632]**

A. When an operator conducts an MAOP reconfirmation in accordance with §2724.C.3 "Method 3" using an ECA to establish the material strength and MAOP of the pipeline segment, the ECA must comply with the requirements of this Section. The ECA must assess: threats; loadings and operational circumstances relevant to those threats, including along the pipeline right-of way; outcomes of the threat assessment; relevant mechanical and fracture properties; in-service degradation or failure processes; and initial and final defect size relevance. The ECA must quantify the interacting effects of threats on any defect in the pipeline. [49 CFR 192.632]

B. ECA Analysis [49 CFR 192.632(a)]

1. The material properties required to perform an ECA analysis in accordance with this Section are as follows: diameter, wall thickness, seam type, grade (minimum yield strength and ultimate tensile strength), and Charpy v-notch toughness values based upon the lowest operational temperatures, if applicable. If any material properties required to perform an ECA for any pipeline segment in accordance with this Section are not documented in traceable, verifiable and complete records, an operator must use conservative assumptions and include the pipeline segment in its program to verify the undocumented information in accordance with §2707. The ECA must integrate, analyze, and account for the material properties, the results of all tests, direct examinations, destructive tests, and assessments performed in accordance with this Section, along with other pertinent information related to pipeline integrity, including close interval surveys, coating surveys, interference surveys required by Chapter 21 of this Subpart, cause analyses of prior incidents, prior pressure test leaks

and failures, other leaks, pipe inspections, and prior integrity assessments, including those required by §§2717, 2910, and Chapter 33 of this Subpart. [49 CFR 192.632(a)(1)]

2. The ECA must analyze and determine the predicted failure pressure for the defect being assessed using procedures that implement the appropriate failure criteria and justification as follows. [49 CFR 192.632(a)(2)]

a. The ECA must analyze any cracks or crack-like defects remaining in the pipe, or that could remain in the pipe, to determine the predicted failure pressure of each defect in accordance with § 2912. [49 CFR 192.632(a)(2)(i)]

b. The ECA must analyze any metal loss defects not associated with a dent, including corrosion, gouges, scrapes or other metal loss defects that could remain in the pipe, to determine the predicted failure pressure. ASME/ANSI B31G (incorporated by reference, see §507) or R-STRENG (incorporated by reference, see §507) must be used for corrosion defects. Both procedures and their analysis apply to corroded regions that do not penetrate the pipe wall over 80 percent of the wall thickness and are subject to the limitations prescribed in the equations' procedures. The ECA must use conservative assumptions for metal loss dimensions (length, width, and depth). [49 CFR 192.632(a)(2)(ii)]

c. When determining the predicted failure pressure for gouges, scrapes, selective seam weld corrosion, crack-related defects, or any defect within a dent, appropriate failure criteria and justification of the criteria must be used and documented. [49 CFR 192.632(a)(2)(iii)]

d. If SMYS or actual material yield and ultimate tensile strength is not known or not documented by traceable, verifiable, and complete records, then the operator must assume 30,000 p.s.i. or determine the material properties using §2707. [49 CFR 192.632(a)(2)(iv)]

3. The ECA must analyze the interaction of defects to conservatively determine the most limiting predicted failure pressure. Examples include, but are not limited to, cracks in or near locations with corrosion metal loss, dents with gouges or other metal loss, or cracks in or near dents or other deformation damage. The ECA must document all evaluations and any assumptions used in the ECA process. [49 CFR 192.632(a)(3)]

4. The MAOP must be established at the lowest predicted failure pressure for any known or postulated defect, or interacting defects, remaining in the pipe divided by the greater of 1.25 or the applicable factor listed in §2719.A.2.b. [49 CFR 192.632(a)(4)]

C. Assessment to determine defects remaining in the pipe. An operator must utilize previous pressure tests or develop and implement an assessment program to determine the size of defects remaining in the pipe to be analyzed in accordance with Subsection A of this Section. [49 CFR 192.632(b)]

1. An operator may use a previous pressure test that complied with Chapter 23 to determine the defects remaining in the pipe if records for a pressure test meeting the requirements of Chapter 23 of this part exist for the pipeline segment. The operator must calculate the largest defect that could have survived the pressure test. The operator must predict how much the defects have grown since the date of the pressure test in accordance with §2912. The ECA must analyze the predicted size of the largest

defect that could have survived the pressure test that could remain in the pipe at the time the ECA is performed. The operator must calculate the remaining life of the most severe defects that could have survived the pressure test and establish a re-assessment interval in accordance with the methodology in §2912. [49 CFR 192.632(b)(1)]

2. Operators may use an inline inspection program in accordance with Subsection C of this Section. [49 CFR 192.632(b)(2)]

3. Operators may use "other technology" if it is validated by a subject matter expert to produce an equivalent understanding of the condition of the pipe equal to or greater than pressure testing or an inline inspection program. If an operator elects to use "other technology" in the ECA, it must notify PHMSA in advance of using the other technology in accordance with §518. The "other technology" notification must have: [49 CFR 192.632(b)(3)]

a. descriptions of the technology or technologies to be used for all tests, examinations, and assessments, including characterization of defect size used in the crack assessments (length, depth, and volumetric); and [49 CFR 192.632(b)(3)(i)]

b. procedures and processes to conduct tests, examinations, assessments and evaluations, analyze defects, and remediate defects discovered. [49 CFR 192.632(b)(3)(ii)]

D. In-line Inspection. An inline inspection (ILI) program to determine the defects remaining the pipe for the ECA analysis must be performed using tools that can detect wall loss, deformation from dents, wrinkle bends, ovalities, expansion, seam defects, including cracking and selective seam weld corrosion, longitudinal, circumferential and girth weld cracks, hard spot cracking, and stress corrosion cracking. [49 CFR 192.632(c)]

a. If a pipeline has segments that might be susceptible to hard spots based on assessment, leak, failure, manufacturing vintage history, or other information, then the ILI program must include a tool that can detect hard spots. [49 CFR 192.632(c)(1)]

b. If the pipeline has had a reportable incident, as defined in §303, attributed to a girth weld failure since its most recent pressure test, then the ILI program must include a tool that can detect girth weld defects unless the ECA analysis performed in accordance with this Section includes an engineering evaluation program to analyze and account for the susceptibility of girth weld failure due to lateral stresses. [49 CFR 192.632(c)(2)]

c. Inline inspection must be performed in accordance with §2145. [49 CFR 192.632(c)(3)]

d. An operator must use unity plots or equivalent methodologies to validate the performance of the ILI tools in identifying and sizing actionable manufacturing and construction related anomalies. Enough data points must be used to validate tool performance at the same or better statistical confidence level provided in the tool specifications. The operator must have a process for identifying defects outside the tool performance specifications and following up with the ILI vendor to conduct additional in-field examinations, reanalyze ILI data, or both. [49 CFR 192.632(c)(4)]

e. Interpretation and evaluation of assessment results must meet the requirements of §§2910, 2913, and Chapter 33 of this Subpart, and must conservatively account for the accuracy and reliability of ILI, in-the-ditch examination methods and tools, and any other assessment and examination results used to determine the actual sizes of cracks, metal loss, deformation and other defect dimensions by applying the most conservative limit of the tool tolerance specification. ILI and in-the-ditch examination tools and procedures for crack assessments (length and depth) must have performance and evaluation standards confirmed for accuracy through confirmation tests for the defect types and pipe material vintage being evaluated. Inaccuracies must be accounted for in the procedures for evaluations and fracture mechanics models for predicted failure pressure determinations. [49 CFR 192.632(c)(5)]

f. Anomalies detected by ILI assessments must be remediated in accordance with applicable criteria in §§2913 and 3333. [49 CFR 192.632(c)(6)]

E. Defect remaining life. If any pipeline segment contains cracking or may be susceptible to cracking or crack-like defects found through or identified by assessments, leaks, failures, manufacturing vintage histories, or any other available information about the pipeline, the operator must estimate the remaining life of the pipeline in accordance with §2912. [49 CFR 192.632(d)]

F. Records. An operator must retain records of investigations, tests, analyses, assessments, repairs, replacements, alterations, and other actions taken in accordance with the requirements of this Section for the life of the pipeline. [49 CFR 192.632(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

## **Chapter 29. Maintenance**

### **[49 CFR Part 192 Subpart M]**

#### **§2910. Transmission Lines: Assessments Outside of High Consequence Areas** **[49 CFR 192.710]**

##### **A. Applicability**

1. This Section applies to onshore steel transmission pipeline segments with a maximum allowable operating pressure of greater than or equal to 30 percent of the specified minimum yield strength and are located in: [49 CFR 192.710(a)]

a. a Class 3 or Class 4 location; or [49 CFR 192.710(a)(1)]

b. a moderate consequence area as defined in §503, if the pipeline segment can accommodate inspection by means of an instrumented inline inspection tool (i.e., "smart pig"). [49 CFR 192.710(a)(2)]

2. This Section does not apply to a pipeline segment located in a high consequence area as defined in §3303. [49 CFR 192.710(a)(3)]

##### **B. General [49 CFR 192.710(b)]**

1. Initial Assessment. An operator must perform initial assessments in accordance with this Section based on a risk-based prioritization schedule and complete initial assessment for all applicable pipeline segments no later than July 3,



2034, or as soon as practicable but not to exceed 10 years after the pipeline segment first meets the conditions of §2910.A (e.g., due to a change in class location or the area becomes a moderate consequence area), whichever is later. [49 CFR 192.710(b)(1)]

2. Periodic Reassessment. An operator must perform periodic reassessments at least once every 10 years, with intervals not to exceed 126 months, or a shorter reassessment interval based upon the type of anomaly, operational, material, and environmental conditions found on the pipeline segment, or as necessary to ensure public safety. [49 CFR 192.710(b)(2)]

3. Prior Assessment. An operator may use a prior assessment conducted before July 1, 2020 as an initial assessment for the pipeline segment, if the assessment met the Chapter 33 requirements of Part VIII for in-line inspection at the time of the assessment. If an operator uses this prior assessment as its initial assessment, the operator must reassess the pipeline segment according to the reassessment interval specified in Paragraph B.2 of this Section calculated from the date of the prior assessment. [49 CFR 192.710(b)(3)]

4. MAOP Verification. An integrity assessment conducted in accordance with the requirements of §2724.C for establishing MAOP may be used as an initial assessment or reassessment under this Section. [49 CFR 192.710(b)(4)]

C. Assessment Method. The initial assessments and the reassessments required by Subsection B of this Section must be capable of identifying anomalies and defects associated with each of the threats to which the pipeline segment is susceptible and must be performed using one or more of the following methods. [49 CFR 192.710(c)]

1. internal inspection. Internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible, such as corrosion, deformation and mechanical damage (e.g., dents, gouges and grooves), material cracking and crack- like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with §2145; [49 CFR 192.710(c)(1)]

2. pressure test. Pressure test conducted in accordance with Chapter 23 of this Subpart. The use of Chapter 23 pressure testing is appropriate for threats such as internal corrosion, external corrosion, and other environmentally assisted corrosion mechanisms; manufacturing and related defect threats, including defective pipe and pipe seams; and stress corrosion cracking, selective seam weld corrosion, dents and other forms of mechanical damage; [49 CFR 192.710(c)(2)]

3. spike hydrostatic pressure test. A spike hydrostatic pressure test conducted in accordance with §2306. A spike hydrostatic pressure test is appropriate for time-dependent threats such as stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.710(c)(3)]

4. direct examination. Excavation and in situ direct examination by means of visual examination, direct

measurement, and recorded non- destructive examination results and data needed to assess all applicable threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing (PAUT), Inverse Wave Field Extrapolation (IWEX), radiography, and magnetic particle inspection (MPI); [49 CFR 192.710(c)(4)]

5. guided wave ultrasonic testing. guided wave ultrasonic testing (GWUT) as described in Appendix F; [49 CFR 192.710(c)(5)]

6. direct assessment. Direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in § 3323 and with the applicable requirements specified in §§ 3325, 3327 and 3329; or [49 CFR 192.710(c)(6)]

7. other technology. Other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518. [49 CFR 192.710(c)(7)]

D. Data Analysis. An operator must analyze and account for the data obtained from an assessment performed under Subsection C of this Section to determine if a condition could adversely affect the safe operation of the pipeline using personnel qualified by knowledge, training, and experience. In addition, when analyzing inline inspection data, an operator must account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies. [49 CFR 192.710(d)]

E. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that 180 days is impracticable. [49 CFR 192.710(e)]

F. Remediation. An operator must comply with the requirements in §§2137, 2911, and 2913, where applicable, if a condition that could adversely affect the safe operation of a pipeline is discovered. [49 CFR 192.710(f)]

G. Analysis of Information. An operator must analyze and account for all available relevant information about a pipeline in complying with the requirements in Subsections A through F of this Section. [49 CFR 192.710(g)]

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HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§2912. Analysis of Predicted Failure Pressure**  
**[49 CFR 192.712]**

A. Applicability. Whenever required by this part, operators of onshore steel transmission pipelines must analyze anomalies or defects to determine the predicted failure pressure at the location of the anomaly or defect, and the remaining life of the pipeline segment at the location of the anomaly or defect, in accordance with this Section. [49 CFR 192.712(a)]

B. Corrosion Metal Loss. When analyzing corrosion metal loss under this Section, an operator must use a suitable remaining strength calculation method including, ASME/ANSI B31G (incorporated by reference, see §507); R-STRENG (incorporated by reference, see §507); or an alternative equivalent method of remaining strength calculation that will provide an equally conservative result. [49 CFR 192.712(b)]

C. Reserved [49 CFR 192.712(c)]

D. Cracks and Crack-Like Defects [49 CFR 192.712(d)]

1. Crack Analysis Models. When analyzing cracks and crack-like defects under this Section, an operator must determine predicted failure pressure, failure stress pressure, and crack growth using a technically proven fracture mechanics model appropriate to the failure mode (ductile, brittle or both), material properties (pipe and weld properties), and boundary condition used (pressure test, ILI, or other). [49 CFR 192.712(d)(1)]

2. Analysis for Crack Growth and Remaining Life. If the pipeline segment is susceptible to cyclic fatigue or other loading conditions that could lead to fatigue crack growth, fatigue analysis must be performed using an applicable fatigue crack growth law (for example, Paris Law) or other technically appropriate engineering methodology. For other degradation processes that can cause crack growth, appropriate engineering analysis must be used. The above methodologies must be validated by a subject matter expert to determine conservative predictions of flaw growth and remaining life at the maximum allowable operating pressure. The operator must calculate the remaining life of the pipeline by determining the amount of time required for the crack to grow to a size that would fail at maximum allowable operating pressure. [49 CFR 192.712(d)(2)]

a. When calculating crack size that would fail at MAOP, and the material toughness is not documented in traceable, verifiable, and complete records, the same Charpy v-notch toughness value established in Paragraph E.2 of this Section must be used. [49 CFR 192.712(d)(2)(i)]

b. Initial and final flaw size must be determined using a fracture mechanics model appropriate to the failure mode (ductile, brittle or both) and boundary condition used (pressure test, ILI, or other). [49 CFR 192.712(d)(2)(ii)]

c. An operator must re-evaluate the remaining life of the pipeline before 50 percent of the remaining life calculated by this analysis has expired. The operator must determine and document if further pressure tests or use of other assessment methods are required at that time. The operator must continue to re-evaluate the remaining life of the pipeline before 50 percent of the remaining life calculated in the most recent evaluation has expired. [49 CFR 192.712(d)(2)(iii)]

3. Cracks that Survive Pressure Testing. For cases in which the operator does not have in-line inspection crack

anomaly data and is analyzing potential crack defects that could have survived a pressure test, the operator must calculate the largest potential crack defect sizes using the methods in Paragraph D.1 of this Section. If pipe material toughness is not documented in traceable, verifiable, and complete records, the operator must use one of the following for Charpy v-notch toughness values based upon minimum operational temperature and equivalent to a full-size specimen value: [49 CFR 192.712(d)(3)]

a. Charpy v-notch toughness values from comparable pipe with known properties of the same vintage and from the same steel and pipe manufacturer; [49 CFR 192.712(d)(3)(i)]

b. a conservative Charpy v-notch toughness value to determine the toughness based upon the material properties verification process specified in §2707; [49 CFR 192.712(d)(3)(ii)]

c. a full size equivalent Charpy v-notch upper-shelf toughness level of 120 ft.-lbs.; or [49 CFR 192.712(d)(3)(iii)]

d. other appropriate values that an operator demonstrates can provide conservative Charpy v-notch toughness values of the crack-related conditions of the pipeline segment. Operators using an assumed Charpy v-notch toughness value must notify PHMSA in accordance with §518. [49 CFR 192.712(d)(3)(iv)]

E. Data. In performing the analyses of predicted or assumed anomalies or defects in accordance with this Section, an operator must use data as follows. [49 CFR 192.712(e)]

1. An operator must explicitly analyze and account for uncertainties in reported assessment results (including tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying tool performance) in identifying and characterizing the type and dimensions of anomalies or defects used in the analyses, unless the defect dimensions have been verified using in situ direct measurements. [49 CFR 192.712(e)(1)]

2. The analyses performed in accordance with this Section must utilize pipe and material properties that are documented in traceable, verifiable, and complete records. If documented data required for any analysis is not available, an operator must obtain the undocumented data through §2707. Until documented material properties are available, the operator shall use conservative assumptions as follows. [49 CFR 192.712(e)(2)]

i. Material Toughness. An operator must use one of the following for material toughness: [49 CFR 192.712(e)(2)(i)]

(a). Charpy v-notch toughness values from comparable pipe with known properties of the same vintage and from the same steel and pipe manufacturer; [49 CFR 192.712(e)(2)(i)(A)]

(b). a conservative Charpy v-notch toughness value to determine the toughness based upon the ongoing material properties verification process specified in §2707; [49 CFR 192.712(e)(2)(i)(B)]

(c). if the pipeline segment does not have a history of reportable incidents caused by cracking or crack-

like defects, maximum Charpy v-notch toughness values of 13.0 ft.-lbs. for body cracks and 4.0 ft.-lbs. for cold weld, lack of fusion, and selective seam weld corrosion defects; [49 CFR 192.712(e)(2)(i)(C)]

(d). if the pipeline segment has a history of reportable incidents caused by cracking or crack-like defects, maximum Charpy v-notch toughness values of 5.0 ft.-lbs. for body cracks and 1.0 ft.-lbs. for cold weld, lack of fusion, and selective seam weld corrosion; or [49 CFR 192.712(d)(2)(i)(D)]

(e). other appropriate values that an operator demonstrates can provide conservative Charpy v-notch toughness values of crack-related conditions of the pipeline segment. Operators using an assumed Charpy v-notch toughness value must notify PHMSA in advance in accordance with § 518 and include in the notification the bases for demonstrating that the Charpy v-notch toughness values proposed are appropriate and conservative for use in analysis of crack-related conditions. [49 CFR 192.712(d)(2)(i)(E)]

ii. Material Strength. An operator must assume one of the following for material strength: [49 CFR 192.712(e)(2)(ii)]

(a). Grade A pipe (30,000 psi), or [49 CFR 192.712(e)(2)(ii)(A)]

(b). The specified minimum yield strength that is the basis for the current maximum allowable operating pressure. [49 CFR 192.712(e)(2)(ii)(B)]

iii. Pipe Dimensions and Other Data. Until pipe wall thickness, diameter, or other data are determined and documented in accordance with § 2707, the operator must use values upon which the current MAOP is based. [49 CFR 192.712(e)(2)(iii)]

F. Review. Analyses conducted in accordance with this Section must be reviewed and confirmed by a subject matter expert. [49 CFR 192.712(f)]

G. Records. An operator must keep for the life of the pipeline records of the investigations, analyses, and other actions taken in accordance with the requirements of this Section. Records must document justifications, deviations, and determinations made for the following, as applicable: [49 CFR 192.712(g)]

1. the technical approach used for the analysis; [49 CFR 192.712(g)(1)]

2. all data used and analyzed; [49 CFR 192.712(g)(2)]

3. pipe and weld properties; [49 CFR 192.712(g)(3)]

4. procedures used; [49 CFR 192.712(g)(4)]

5. evaluation methodology used; [49 CFR 192.712(g)(5)]

6. models used; [49 CFR 192.712(g)(6)]

7. direct in situ examination data; [49 CFR 192.712(g)(7)]

8. in-line inspection tool run information evaluated, including any multiple in-line inspection tool runs; [49 CFR 192.712(g)(8)]

9. pressure test data and results; [49 CFR 192.712(g)(9)]

10. in-the-ditch assessments; [49 CFR 192.712(g)(10)]

11. all measurement tool, assessment, and evaluation accuracy specifications and tolerances used in technical and operational results; [49 CFR 192.712(g)(11)]

12. all finite element analysis results; [49 CFR 192.712(g)(12)]

13. the number of pressure cycles to failure, the equivalent number of annual pressure cycles, and the pressure cycle counting method; [49 CFR 192.712(g)(13)]

14. the predicted fatigue life and predicted failure pressure from the required fatigue life models and fracture mechanics evaluation methods; [49 CFR 192.712(g)(14)]

15. safety factors used for fatigue life and/or predicted failure pressure calculations; [49 CFR 192.712(g)(15)]

16. reassessment time interval and safety factors; [49 CFR 192.712(g)(16)]

17. the date of the review; [49 CFR 192.712(g)(17)]

18. confirmation of the results by qualified technical subject matter experts; and [49 CFR 192.712(g)(18)]

19. approval by responsible operator management personnel. [49 CFR 192.712(g)(19)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

#### **§2920. Distribution Systems: Leak Repair [49 CFR 192.720]**

A. Mechanical leak repair clamps installed after January 22, 2019 may not be used as a permanent repair method for plastic pipe. [49 CFR 192.720]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

#### **§2940 Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Production, Gathering, or Transmission Pipelines [49 CFR 192.740]**

A. - B.4. ...

C. This Section does not apply to equipment installed on service lines that only serve engines that power irrigation pumps. [49 CFR 192.740(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 44:1042 (June 2018), LR 46:

#### **§2950. Launcher and Receiver Safety [49 CFR 192.750]**

A. Any launcher or receiver used after July 1, 2021, must be equipped with a device capable of safely relieving pressure in the barrel before removal or opening of the launcher or receiver barrel closure or flange and insertion or removal of in-line inspection tools, scrapers, or spheres. An operator must use a device to either: Indicate that pressure has been relieved in the barrel; or alternatively prevent opening of the barrel closure or flange when pressurized, or insertion or removal of in-line devices (e.g. inspection tools, scrapers, or spheres), if pressure has not been relieved. [49 CFR 192.750]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**§2956. Joining Plastic Pipe by Heat Fusion; Equipment Maintenance and Calibration. [49 CFR 192.756]**

A. Each operator must maintain equipment used in joining plastic pipe in accordance with the manufacturer's recommended practices or with written procedures that have been proven by test and experience to produce acceptable joints. [49 CFR 192.756]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**Chapter 31. Operator Qualification [49 CFR Part 192 Subpart N]**

**§3105. Qualification Program [49 CFR 192.805]**

A. - A.8. ...

9. After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if an operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section. Notifications to PHMSA must be submitted in accordance with §518. [49 CFR 192.805(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1550 (September 2001), amended LR 30:1272 (June 2004), LR 31:685 (March 2005), LR 33:482 (March 2007), LR 35:2811 (December 2009), LR 44:1042 (June 2018), LR 46:

**Chapter 33. Gas Transmission Pipeline Integrity Management [49 CFR Part 192 Subpart O]**

**§3309. How Can an Operator Change Its Integrity Management Program? [49 CFR 192.909]**

A. ...

B. Notification. An operator must notify OPS, in accordance with §518, of any change to the program that may substantially affect the program's implementation or may significantly modify the program or schedule for carrying out the program elements. An operator must provide notification within 30 days after adopting this type of change into its program. [49 CFR 192.909(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1274 (June 2004), amended LR 31:686 (March 2005), LR 46:

**§3311. What are the Elements of an Integrity Management Program? [49 CFR 192.911]**

A. - A.13.b. ...

c. Office of Conservation—Pipeline Division for intrastate jurisdictional facilities.

14. - 14.b. ...

c. Office of Conservation—Pipeline Division for intrastate jurisdictional facilities.

15. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004), amended LR 31:686 (March 2005), LR 46:

**§3317. How Does an Operator Identify Potential Threats to Pipeline Integrity and Use the Threat Identification in Its Integrity Program? [49 CFR 192.917]**

A. - A.2. ...

3. time independent threats such as third party damage, mechanical damage, incorrect operational procedure, weather related and outside force damage to include consideration of seismicity, geology, and soil stability of the area; and [49 CFR 192.917(a)(3)]

A.4. - E.1. ...

2. Cyclic Fatigue. An operator must analyze and account for whether cyclic fatigue or other loading conditions (including ground movement, and suspension bridge condition) could lead to a failure of a deformation, including a dent or gouge, crack, or other defect in the covered segment. The analysis must assume the presence of threats in the covered segment that could be exacerbated by cyclic fatigue. An operator must use the results from the analysis together with the criteria used to determine the significance of the threat(s) to the covered segment to prioritize the integrity baseline assessment or reassessment. Failure stress pressure and crack growth analysis of cracks and crack-like defects must be conducted in accordance with §2912. An operator must monitor operating pressure cycles and periodically, but at least every seven calendar years, with intervals not to exceed 90 months, determine if the cyclic fatigue analysis remains valid or if the cyclic fatigue analysis must be revised based on changes to operating pressure cycles or other loading conditions. [49 CFR 192.917(e)(2)]

3. Manufacturing and construction defects. An operator must analyze the covered segment to determine and account for the risk of failure from manufacturing and construction defects (including seam defects) in the covered segment. The analysis must account for the results of prior assessments on the covered segment. An operator may consider manufacturing and construction related defects to be stable defects only if the covered segment has been subjected to hydrostatic pressure testing satisfying the criteria of Chapter 23 of at least 1.25 times MAOP, and the covered segment has not experienced a reportable incident attributed to a manufacturing or construction defect since the date of the most recent Chapter 23 pressure test. If any of the following changes occur in the covered segment, an operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment: [49 CFR 192.917(e)(3)]

a. the pipeline segment has experienced a reportable incident, as defined in §303, since its most recent successful Chapter 23 pressure test, due to an original manufacturing-related defect, or a construction-, installation-, or fabrication-related defect; [49 CFR 192.917(e)(3)(i)]

b. MAOP increases; or [49 CFR 192.917(e)(3)(ii)]

c. the stresses leading to cyclic fatigue increase. [49 CFR 192.917(e)(3)(iii)]

4. Electric Resistance Welded (ERW) Pipe. If a covered pipeline segment contains low frequency ERW pipe, lap welded pipe, pipe with longitudinal joint factor less than 1.0 as defined in §913, or other pipe that satisfies the conditions specified in ASME/ANSI B31.8S, Appendices A4.3 and A4.4, and any covered or non-covered segment in

the pipeline system with such pipe has experienced seam failure (including seam cracking and selective seam weld corrosion), or operating pressure on the covered segment has increased over the maximum operating pressure experienced during the preceding five years (including abnormal operation as defined in §2705.C, or MAOP has been increased, an operator must select an assessment technology or technologies with a proven application capable of assessing seam integrity and seam corrosion anomalies. The operator must prioritize the covered segment as a high-risk segment for the baseline assessment or a subsequent reassessment. Pipe with seam cracks must be evaluated using fracture mechanics modeling for failure stress pressures and cyclic fatigue crack growth analysis to estimate the remaining life of the pipe in accordance with § 2912. [49 CFR 192.917(e)(4)]

5. ...

6. Cracks. If an operator identifies any crack or crack-like defect (e.g., stress corrosion cracking or other environmentally assisted cracking, seam defects, selective seam weld corrosion, girth weld cracks, hook cracks, and fatigue cracks) on a covered pipeline segment that could adversely affect the integrity of the pipeline, the operator must evaluate, and remediate, as necessary, all pipeline segments (both covered and non-covered) with similar characteristics associated with the crack or crack-like defect. Similar characteristics may include operating and maintenance histories, material properties, and environmental characteristics. An operator must establish a schedule for evaluating, and remediating, as necessary, the similar pipeline segments that is consistent with the operator's established operating and maintenance procedures under this part for testing and repair. [49 CFR 192.917(e)(6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1276 (June 2004), amended LR 31:686 (March 2005), LR 33:483 (March 2007), LR 46:

### **§3321. How Is the Baseline Assessment to be Conducted [49 CFR 192.921]**

A. Assessment Methods. An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (See § 3317): [49 CFR 192.921(a)]

1. internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible. The use of internal inspection tools is appropriate for threats such as corrosion, deformation and mechanical damage (including dents, gouges and grooves), material cracking and crack-like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with §2145. In addition, an operator must analyze and account for uncertainties in reported

results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies; [49 CFR 192.921(a)(1)];

2. pressure test conducted in accordance with Chapter 23 of this Subpart. The use of Chapter 23 pressure testing is appropriate for threats such as internal corrosion; external corrosion and other environmentally assisted corrosion mechanisms; manufacturing and related defects threats, including defective pipe and pipe seams; stress corrosion cracking; selective seam weld corrosion; dents; and other forms of mechanical damage. An operator must use the test pressures specified in Table 3 of section 5 of ASME/ANSI B31.8S (incorporated by reference, see §507) to justify an extended reassessment interval in accordance with § 3339. [49 CFR 192.921(a)(2)].

3. spike hydrostatic pressure test conducted in accordance with §2306. The use of spike hydrostatic pressure testing is appropriate for time- dependent threats such as stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.921(a)(3)]

4. excavation and in situ direct examination by means of visual examination, direct measurement, and recorded non-destructive examination results and data needed to assess all threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing (PAUT), inverse wave field extrapolation (IWEX), radiography, and magnetic particle inspection (MPI); [49 CFR 192.921(a)(4)]

5. guided wave ultrasonic testing (GWUT) as described in Appendix F. The use of GWUT is appropriate for internal and external pipe wall loss; [49 CFR 192.921(a)(5)]

6. direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and the pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in § 3323 and with the applicable requirements specified in §§ 3325, 3327 and 3329; or [49 CFR 192.921(a)(6)]

7. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518. [49 CFR 192.921(a)(7)]

B. - H. ...

I. Baseline assessments for pipeline segments with a reconfirmed MAOP. An integrity assessment conducted in

accordance with the requirements of § 2724.C may be used as a baseline assessment under this Section. [49 CFR 192.921(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1277 (June 2004), amended LR 31:686 (March 2005), LR 33:484 (March 2007), LR 46:

### **§3323. How Is Direct Assessment Used and for What Threats?**

#### **[49 CFR 192.923]**

A. - B.3. ...

C. Supplemental Method. An operator using direct assessment as a supplemental assessment method for any applicable threat must have a plan that follows the requirements for confirmatory direct assessment in §3331. [49 CFR 192.923(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1278 (June 2004), amended LR 38:121 (January 2012), LR 44:1043 (June 2018), LR 46:

### **§3333. What Actions Must Be Taken to Address Integrity Issues?**

#### **[49 CFR 192.933]**

A. ...

1. Temporary Pressure Reduction. If an operator is unable to respond within the time limits for certain conditions specified in this Section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must determine any temporary reduction in operating pressure required by this Section using ASME/ANSI B31G (incorporated by reference, see §507); R - STRENG (incorporated by reference, see §507); or by reducing the operating pressure to a level not exceeding 80 percent of the level at the time the condition was discovered. An operator must notify PHMSA in accordance with §518 if it cannot meet the schedule for evaluation and remediation required under Subsection C of this Section and cannot provide safety through a temporary reduction in operating pressure or through another action. [49 CFR 192.933(a)(1)]

2. Long-term pressure reduction. When a pressure reduction exceeds 365 days, an operator must notify PHMSA under §518 and explain the reasons for the remediation delay. This notice must include a technical justification that the continued pressure reduction will not jeopardize the integrity of the pipeline. [49 CFR 192.933(a)(2)]

B. - D.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), LR 35:2812 (December 2009), LR 44:1044 (June 2018), LR 46:

### **§3335. What Additional Preventive and Mitigative Measures Must an Operator Take?**

#### **[49 CFR 192.935]**

A. - B.1.d. ...

2. Outside Force Damage. If an operator determines that outside force (e.g., earth movement, loading, longitudinal, or lateral forces, seismicity of the area, floods, unstable suspension bridge) is a threat to the integrity of a covered segment, the operator must take measures to minimize the consequences to the covered segment from outside force damage. These measures include increasing the frequency of aerial, foot or other methods of patrols; adding external protection; reducing external stress; relocating the line; or inline inspections with geospatial and deformation tools. [49 CFR 192.935(b)(2)]

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1282 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), amended by the Department of Natural Resources, Office of Conservation, LR 38:122 (January 2012), LR 44:1044 (June 2018), LR 46:

### **§3337. What Is a Continual Process of Evaluation and Assessment to Maintain a Pipeline's Integrity?**

#### **[49 CFR 192.937]**

A. - B. ...

C. Assessment Methods. In conducting the integrity reassessment, an operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified on the covered segment (see § 3317). [49 CFR 192.937(c)]:

1. internal inspection tools. When performing an assessment using an in-line inspection tool, an operator must comply with the following requirements: [49 CFR 192.937(c)(1)]

a. perform the in-line inspection in accordance with §2145; [49 CFR 192.937(c)(1)(i)]

b. select a tool or combination of tools capable of detecting the threats to which the pipeline segment is susceptible such as corrosion, deformation and mechanical damage (e.g. dents, gouges and grooves), material cracking and crack-like defects (e.g. stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible; and [49 CFR 192.937(c)(1)(ii)]

c. analyze and account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies; [49 CFR 192.937(c)(1)(iii)]

2. pressure test conducted in accordance with Chapter 23 of this Subpart. The use of pressure testing is appropriate for threats such as: Internal corrosion; external corrosion and other environmentally assisted corrosion mechanisms; manufacturing and related defects threats, including defective pipe and pipe seams; stress corrosion cracking; selective seam weld corrosion; dents; and other forms of mechanical damage. An operator must use the test pressures

specified in table 3 of section 5 of ASME/ANSI B31.8S (incorporated by reference, see §507) to justify an extended reassessment interval in accordance with § 3339; [49 CFR 192.937(c)(2)]

3. spike hydrostatic pressure test in accordance with §2306. The use of spike hydrostatic pressure testing is appropriate for time-dependent threats such as: Stress corrosion cracking; selective seam weld corrosion; manufacturing and related defects, including defective pipe and pipe seams; and other forms of defect or damage involving cracks or crack-like defects; [49 CFR 192.937(c)(3)]

4. excavation and in situ direct examination by means of visual examination, direct measurement, and recorded non-destructive examination results and data needed to assess all threats. Based upon the threat assessed, examples of appropriate non-destructive examination methods include ultrasonic testing (UT), phased array ultrasonic testing (PAUT), inverse wave field extrapolation (IWEX), radiography, or magnetic particle inspection (MPI); [49 CFR 192.937(c)(4)]

5. guided wave ultrasonic testing (GWUT) as described in Appendix F. The use of GWUT is appropriate for internal and external pipe wall loss; [49 CFR 192.937(c)(5)].

6. direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking. The use of direct assessment to address threats of external corrosion, internal corrosion, and stress corrosion cracking is allowed only if appropriate for the threat and pipeline segment being assessed. Use of direct assessment for threats other than the threat for which the direct assessment method is suitable is not allowed. An operator must conduct the direct assessment in accordance with the requirements listed in §3323 and with the applicable requirements specified in §§3325, 3327, and 3329; [49 CFR 192.937(c)(6)].

7. other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe for each of the threats to which the pipeline is susceptible. An operator must notify PHMSA in advance of using the other technology in accordance with §518; or [49 CFR 192.937(c)(7)]

8. confirmatory direct assessment when used on a covered segment that is scheduled for reassessment at a period longer than 7 calendar years. An operator using this reassessment method must comply with §3331. [49 CFR 192.937(c)(8)].

D. MAOP reconfirmation assessments. An integrity assessment conducted in accordance with the requirements of §2724.C may be used as a reassessment under this Section (see §3317). [49 CFR 192.937(d)]

### **§3339. What Are the Required Reassessment Intervals?** **[49 CFR 192.939]**

A. ...

1. Pipelines operating at or above 30 percent SMYS. An operator must establish a reassessment interval for each covered segment operating at or above 30 percent SMYS in accordance with the requirements of this Section. The maximum reassessment interval by an allowable reassessment method is 7 calendar years. Operators may request a 6-month extension of the seven-calendar-year

reassessment interval if the operator submits written notice to OPS, in accordance with §518, with sufficient justification of the need for the extension. If an operator establishes a reassessment interval that is greater than seven calendar years, the operator must, within the seven-calendar-year period, conduct a confirmatory direct assessment on the covered segment, and then conduct the follow-up reassessment at the interval the operator has established. A reassessment carried out using confirmatory direct assessment must be done in accordance with §3331. The table that follows this Section sets forth the maximum allowed reassessment intervals. [49 CFR 192.939(a)]

a. - c.iii. ...

2. Pipelines operating below 30 percent SMYS. An operator must establish a reassessment interval for each covered segment operating below 30 percent SMYS in accordance with the requirements of this Section. The maximum reassessment interval by an allowable reassessment method is seven calendar years. Operators may request a 6-month extension of the 7-calendar-year reassessment interval if the operator submits written notice to OPS in accordance with §518. The notice must include sufficient justification of the need for the extension. An operator must establish reassessment by at least one of the following: [49 CFR 192.939(b)]

a. reassessment by pressure test, internal inspection or other equivalent technology following the requirements in Paragraph A.1 of this Section except that the stress level referenced in Subparagraph A.1.b of this Section would be adjusted to reflect the lower operating stress level. If an established interval is more than seven calendar years, an operator must conduct by the seventh calendar year of the interval either a confirmatory direct assessment in accordance with §3331, or a low stress reassessment in accordance with §3341; [49 CFR 192.939(b)(1)]

b. - f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1283 (June 2004), amended LR 31:688 (March 2005), LR 33:486 (March 2007), LR 38:122 (January 2012), LR 44:1044 (June 2018), LR 46:

### **§3349. How Does an Operator Notify PHMSA and the Louisiana Commissioner of Conservation?**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:2812 (December 2009), LR 44:1044 (June 2018), LR 46:

## **Chapter 51. Appendices**

### **§5103. Appendix B—Qualification of Pipe**

#### **I. List of Specifications**

##### **A. Listed Pipe Specifications**

API Spec 5L—Steel pipe, “API Specification for Line Pipe” (incorporated by reference, see § 507).

ASTM A53/A53M—Steel pipe, “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (incorporated by reference, see § 507).

ASTM A106/A-106M—Steel pipe, “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (incorporated by reference, see § 507).

ASTM A333/A333M—Steel pipe, “Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service” (incorporated by reference, see § 507).

ASTM A381—Steel pipe, “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (incorporated by reference, see § 507).

ASTM A671/A671M—Steel pipe, “Standard Specification for Electric-Fusion- Welded Pipe for Atmospheric and Lower Temperatures” (incorporated by reference, see § 507).

ASTM A672/A672M-09—Steel pipe, “Standard Specification for Electric-Fusion- Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (incorporated by reference, see § 507).

ASTM A691/A691M-09—Steel pipe, “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures” (incorporated by reference, see § 507).

ASTM D2513-12ae1 “Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see § 507).

ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

#### B. Other Listed Specifications for Components

ASME B16.40-2008 “Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems” (incorporated by reference, see § 507).

ASTM D2513-12ae1 “Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

ASTM F1055-98 (2006) “Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1924-12 “Standard Specification for Plastic Mechanical Fittings for Use on Outside Diameter Controlled Polyethylene Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1948-12 “Standard Specification for Metallic Mechanical Fittings for Use on Outside Diameter Controlled Thermoplastic Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F1973-13 “Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA 11) and Polyamide 12 (PA 12) Fuel Gas Distribution Systems” (incorporated by reference, see § 507).

ASTM F 2600-09 “Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F2145-13 “Standard Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing” (incorporated by reference, see § 507).

ASTM F2767-12 “Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution” (incorporated by reference, see § 507).

ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see § 507).

II. - III.C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007), LR 35:2813 (December 2009), amended by the Department of Natural Resources, Office of Conservation, LR 38:125 (January 2012), LR 44:1045 (June 2018), LR 46:

### §5111. Appendix F—Criteria for Conducting Integrity Assessments Using Guided Wave Ultrasonic Testing (GWUT)

This appendix defines criteria which must be properly implemented for use of guided wave ultrasonic testing (GWUT) as an integrity assessment method. Any application of GWUT that does not conform to these criteria is considered "other technology" as described by §§ 2910 .C.7, 3321.A.7, and 3337.C.7, for which OPS must be notified 90 days prior to use in accordance with §§ 3321.A.7 or 3337.C.7. GWUT in the "Go-No Go" mode means that all indications (wall loss anomalies) above the testing threshold (a maximum of 5% of cross sectional area (CSA) sensitivity) be directly examined, in-line tool inspected, pressure tested, or replaced prior to completing the integrity assessment on the carrier pipe.

I. Equipment and Software: Generation. The equipment and the computer software used are critical to the success of the inspection. Computer software for the inspection equipment must be reviewed and updated, as required, on an annual basis, with intervals not to exceed 15 months, to support sensors, enhance functionality, and resolve any technical or operational issues identified.

II. Inspection Range. The inspection range and sensitivity are set by the signal to noise (S/N) ratio but must still keep the maximum threshold sensitivity at 5% cross sectional area (CSA). A signal that has an amplitude that is at least twice the noise level can be reliably interpreted. The greater the S/N ratio the easier it is to identify and interpret signals from small changes. The signal to noise ratio is dependent on several variables such as surface roughness, coating, coating condition, associated pipe fittings (T's, elbows, flanges), soil compaction, and environment. Each of these affects the propagation of sound waves and influences the range of the test. It may be necessary to inspect from both ends of the pipeline segment to achieve a full inspection. In general, the inspection range can approach 60 to 100 feet for a 5% CSA, depending on field conditions.

III. Complete Pipe Inspection. To ensure that the entire pipeline segment is assessed there should be at least a 2 to 1 signal to noise ratio across the entire pipeline segment that is inspected. This may require multiple GWUT shots. Double-ended inspections are expected. These two inspections are to be overlaid to show the minimum 2 to 1 S/N ratio is met in the middle. If possible, show the same near or midpoint feature from both sides and show an approximate 5% distance overlap.

IV. Sensitivity. The detection sensitivity threshold determines the ability to identify a cross sectional change. The maximum threshold sensitivity cannot be greater than 5% of the cross sectional area (CSA).

The locations and estimated CSA of all metal loss features in excess of the detection threshold must be determined and documented.

All defect indications in the "Go-No Go" mode above the 5% testing threshold must be directly examined, in-line inspected, pressure tested, or replaced prior to completing the integrity assessment.

V. Wave Frequency. Because a single wave frequency may not detect certain defects, a minimum of three frequencies must be run for each inspection to determine the best frequency for characterizing indications. The frequencies used for the inspections must be documented and must be in the range specified by the manufacturer of the equipment.

VI. Signal or Wave Type: Torsional and Longitudinal. Both torsional and longitudinal waves must be used and use must be documented.



VII. Distance Amplitude Correction (DAC) Curve and Weld Calibration. The distance amplitude correction curve accounts for coating, pipe diameter, pipe wall and environmental conditions at the assessment location. The DAC curve must be set for each inspection as part of establishing the effective range of a GWUT inspection. DAC curves provide a means for evaluating the cross-sectional area change of reflections at various distances in the test range by assessing signal to noise ratio. A DAC curve is a means of taking apparent attenuation into account along the time base of a test signal. It is a line of equal sensitivity along the trace which allows the amplitudes of signals at different axial distances from the collar to be compared.

VIII. Dead Zone. The dead zone is the area adjacent to the collar in which the transmitted signal blinds the received signal, making it impossible to obtain reliable results. Because the entire line must be inspected, inspection procedures must account for the dead zone by requiring the movement of the collar for additional inspections. An alternate method of obtaining valid readings in the dead zone is to use B-scan ultrasonic equipment and visual examination of the external surface. The length of the dead zone and the near field for each inspection must be documented.

IX. Near Field Effects. The near field is the region beyond the dead zone where the receiving amplifiers are increasing in power, before the wave is properly established. Because the entire line must be inspected, inspection procedures must account for the near field by requiring the movement of the collar for additional inspections. An alternate method of obtaining valid readings in the near field is to use B-scan ultrasonic equipment and visual examination of the external surface. The length of the dead zone and the near field for each inspection must be documented.

X. Coating Type. Coatings can have the effect of attenuating the signal. Their thickness and condition are the primary factors that affect the rate of signal attenuation. Due to their variability, coatings make it difficult to predict the effective inspection distance. Several coating types may affect the GWUT results to the point that they may reduce the expected inspection distance. For example, concrete coated pipe may be problematic when well bonded due to the attenuation effects. If an inspection is done and the required sensitivity is not achieved for the entire length of the pipe, then another type of assessment method must be utilized.

XI. End Seal. When assessing cased carrier pipe with GWUT, operators must remove the end seal from the casing at each GWUT test location to facilitate visual inspection. Operators must remove debris and water from the casing at the end seals. Any corrosion material observed must be removed, collected and reviewed by the operator's corrosion technician. The end seal does not interfere with the accuracy of the GWUT inspection but may have a dampening effect on the range.

XII. Weld Calibration to set DAC Curve. Accessible welds, along or outside the pipeline segment to be inspected, must be used to set the DAC curve. A weld or welds in the access hole (secondary area) may be used if welds along the pipeline segment are not accessible. In order to use these welds in the secondary area, sufficient distance must be allowed to account for the dead zone and near field. There must not be a weld between the transducer collar and the calibration weld. A conservative estimate of the predicted amplitude for the weld is 25% CSA (cross sectional area) and can be used if welds are not accessible.

Calibrations (setting of the DAC curve) should be on pipe with similar properties such as wall thickness and coating. If the actual weld cap height is different from the assumed weld cap height, the estimated CSA may be inaccurate and adjustments to the DAC curve may be required. Alternative means of calibration can be used if justified by a documented engineering analysis and evaluation.

XIII. Validation of Operator Training. Pipeline operators must require all guided wave service providers to have equipment-specific training and experience for all GWUT Equipment Operators which includes training for:

- A. Equipment operation,
- B. field data collection, and
- C. data interpretation on cased and buried pipe.

Only individuals who have been qualified by the manufacturer or an independently assessed evaluation procedure similar to ISO 9712 (Sections: 5 Responsibilities; 6 Levels of Qualification; 7 Eligibility; and 10 Certification), as specified above, may operate the equipment. A senior-level GWUT equipment operator with pipeline specific experience must provide onsite oversight of the inspection and approve the final reports. A senior-level GWUT equipment operator must have additional training and experience, including training specific to cased and buried pipe, with a quality control program which that conforms to Section 12 of ASME B31.8S (for availability, see § 507).

XIV. Training and Experience Minimums for Senior Level GWUT Equipment Operators:

Equipment Manufacturer's minimum qualification for equipment operation and data collection with specific endorsements for casings and buried pipe

Training, qualification and experience in testing procedures and frequency determination

Training, qualification and experience in conversion of guided wave data into pipe features and estimated metal loss (estimated cross-sectional area loss and circumferential extent)

Equipment Manufacturer's minimum qualification with specific endorsements for data interpretation of anomaly features for pipe within casings and buried pipe.

XV. Equipment: Traceable from vendor to inspection company. An operator must maintain documentation of the version of the GWUT software used and the serial number of the other equipment such as collars, cables, etc., in the report.

XVI. Calibration Onsite. The GWUT equipment must be calibrated for performance in accordance with the manufacturer's requirements and specifications, including the frequency of calibrations. A diagnostic check and system check must be performed on-site each time the equipment is relocated to a different casing or pipeline segment. If on-site diagnostics show a discrepancy with the manufacturer's requirements and specifications, testing must cease until the equipment can be restored to manufacturer's specifications.

XVII. Use on Shorted Casings (direct or electrolytic). GWUT may not be used to assess shorted casings. GWUT operators must have operations and maintenance procedures (see § 192.605) to address the effect of shorted casings on the GWUT signal. The equipment operator must clear any evidence of interference, other than some slight dampening of the GWUT signal from the shorted casing, according to their operating and maintenance procedures. All shorted casings found while conducting GWUT inspections must be addressed by the operator's standard operating procedures.

XVIII. Direct examination of all indications above the detection sensitivity threshold. The use of GWUT in the "Go-No Go" mode requires that all indications (wall loss anomalies) above the testing threshold (5 percent of CSA sensitivity) be directly examined (or replaced) prior to completing the integrity assessment on the cased carrier pipe or other GWUT application. If this cannot be accomplished, then alternative methods of assessment (such as hydrostatic pressure tests or ILI) must be utilized.

XIX. Timing of direct examination of all indications above the detection sensitivity threshold. Operators must either replace or conduct direct examinations of all indications identified above the detection sensitivity threshold according to the table below. Operators must conduct leak surveys and reduce operating pressure as specified until the pipe is replaced or direct examinations are completed.

Required Response to GWUT Indications			
GWUT criterion	Operating pressure less than or equal to 30% SMYS	Operating pressure over 30 and less than or equal to 50% SMYS	Operating pressure over 50% SMYS
Over the detection sensitivity threshold (maximum of 5% CSA).	Replace or direct examination within 12 months, and instrumented leak survey once every 30 calendar days.	Replace or direct examination within 6 months, instrumented leak survey once every 30 calendar days, and maintain MAOP below the operating pressure at time of discovery.	Replace or direct examination within 6 months, instrumented leak survey once every 30 calendar days, and reduce MAOP to 80% of operating pressure at time of discovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

**Subpart 4. Drug and Alcohol Testing**

**Chapter 63. Drug Testing**

**[49 CFR Part 192 Subpart B]**

**§6300. Purpose**

**[49 CFR 199.100]**

A. The purpose of this Chapter is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to LAC 43:XIII, and LAC 33:V Subpart 3 [49 CFR Part 192, 193, or 195]. [49 CFR 199.100]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 18:852 (August 1992), amended LR 21:828 (August 1995), LR 30:1293 (June 2004), LR 44:1045 (June 2018), LR 46:

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Wastes and Hazardous Materials**

**Subpart 3. Natural Resources**

**Chapter 301. Transportation of Hazardous Liquids by Pipeline**

**[49 CFR Part 195]**

**Subchapter A. General [49 CFR Part 195 Subpart A]**

**§30103. Which Pipelines are Covered by this Subpart? [49 CFR 195.1]**

A. - A.4.c. ...

5. for purposes of the reporting requirements in Subchapter B of this Subpart, any gathering line not already covered under Paragraphs A.1, 2, 3 or 4 of this Section. [49 CFR 195.1(a)(5)]

B. Excepted. This Subpart does not apply to any of the following: [49 CFR 195.1(b)]

1. transportation of a hazardous liquid transported in a gaseous state; [49 CFR 195.1(b)(1)]

2. except for the reporting requirements of Subchapter B of this Subpart see §30199, transportation of a hazardous liquid through a pipeline by gravity; [49 CFR 195.1(b)(2)]

3. - 3.b....

4. except for the reporting requirements of Subchapter B of this Subpart, see §30121, transportation of petroleum through an onshore rural gathering line that does not meet the definition of a *regulated rural gathering line* as provided in §30117. This exception does not apply to gathering lines in the inlets of the Gulf of Mexico subject to §30413. [49 CFR 195.1(b)(4)]

B.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 27:1523 (September 2001), LR 29:2804 (December 2003), LR 33:466 (March 2007), LR 35:2791 (December 2009), LR 38:99 (January 2012), LR 46:

**§30105. Definitions**

**[49 CFR 195.2]**

A. As used in this Subpart:

\* \* \*

*Hazardous Liquid*—petroleum, petroleum products, anhydrous ammonia, and ethanol or other non-petroleum fuel, including biofuel, which is flammable, toxic, or would be harmful to the environment if released in significant quantities.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:1523 (September 2001), LR 28:83 (January 2002), LR 29:2805 (December 2003), LR 31:675 (March 2005), LR 33:467 (March 2007), LR 38:99 (January 2012), LR 44:1021 (June 2018), LR 46:

**§30107. Matter Incorporated by Reference in Whole or in Part [49 CFR 195.3]**

A. - G.2. ...

Source and Name of Referenced Material	Approved for Title 33 Reference
3. ACE SP0102-2010, "Standard Practice, Inline Inspection of Pipelines" revised March 13, 2010, (NACE SP0102).	§§30177; 30591

G.4. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:1313 (1998), LR 27:1523 (September 2001), LR 29:2806 (December 2003), LR 31:676 (March 2005), LR 33:467 (March 2007), LR 35:2792 (December 2009), LR 38:100 (January 2012), LR 44:1021 (June 2018), LR 46:

**§30119. What Requirements Apply to Pipelines Transporting Hazardous Liquids by Gravity?**  
**[49 CFR 195.13]**

A. Scope. Pipelines transporting hazardous liquids by gravity must comply with the reporting requirements of Subchapter B of this Subpart. [49 CFR 195.13(a)]

B. Implementation Period [49 CFR 195.13(b)]

1. Annual Reporting. Comply with the annual reporting requirements in Subchapter B of this Subpart by March 31, 2021. [49 CFR 195.13(b)(1)]

2. Accident and Safety-Related Reporting. Comply with the accident and safety-related condition reporting requirements in Subchapter B of this Subpart by January 1, 2021. [49 CFR 195.13(b)(2)]

C. Exceptions [49 CFR 195.13(c)]

1. This Section does not apply to the transportation of a hazardous liquid in a gravity line that meets the definition of a low-stress pipeline, travels no farther than one mile from a facility boundary, and does not cross any waterways used for commercial navigation. [49 CFR 195.13(c)(1)]

2. The reporting requirements in §§30127, 30143, and 30147 do not apply to the transportation of a hazardous liquid in a gravity line. [49 CFR 195.13(c)(2)]

3. The drug and alcohol testing requirements in Title 43:XIII.6101-6545 do not apply to the transportation of a hazardous liquid in a gravity line. [49 CFR 195.13(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

**§30121. What Requirements Apply to Reporting-Regulated-Only Gathering Lines?**  
**[49 CFR 195.15]**

A. Scope. Gathering lines that do not otherwise meet the definition of a regulated rural gathering line in §30117 and any gathering line not already covered under §30103.A.1, 2, 3 or 4 must comply with the reporting requirements of Subchapter B of this Chapter. [49 CFR 195.15(a)]

B. Implementation Period [49 CFR 195.15(b)].

1. Annual Reporting. Operators must comply with the annual reporting requirements in subpart B of this part by March 31, 2021. [49 CFR 195.15(b)(1)]

2. Accident and Safety-Related Reporting. Operators must comply with the accident and safety-related condition reporting requirements in Subchapter B of this Subpart by January 1, 2021. [49 CFR 195.15(b)(2)]

C. Exceptions [49 CFR 195.15(c)]

1. This Section does not apply to those gathering lines that are otherwise excepted under §30103.B.3, 7, 8, 9, or 10. [49 CFR 195.15(c)(1)]

2. The reporting requirements in §§30127, 30143, and 30147 do not apply to the transportation of a hazardous liquid in a gathering line that is specified in Subsection A of this Section. [49 CFR 195.15(c)(2)]

3. The drug and alcohol testing requirements in Title 43:XIII.6101-6545 do not apply to the transportation of a hazardous liquid in a gathering line that is specified in Subsection A of this Section. [49 CFR 195.15(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

**§30146. National Registry of Operators**  
**[49 CFR 195.64]**

A. OPID Request. Effective January 1, 2012, each operator of a hazardous liquid pipeline or pipeline facility must obtain from PHMSA an operator identification number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID or a change to an OPID, an operator must complete an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Pipeline and LNG Operators in accordance with §30140. For intrastate facilities subject to the jurisdiction of the Office of Conservation, the operator must concurrently file an online OR-1 Submission (Operator Registration) for Pipeline Safety with the same name as the OPID request at <http://www.sonris.com>. Each operator must validate the OR-1 annually by January 1 each year. [49 CFR 195.64(a)]

B. ...

C. Changes. Each operator must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://opsweb.phmsa.dot.gov>, of certain events. For intrastate facilities subject to the jurisdiction of the Office of Conservation, a copy must also be submitted to Office of Conservation, P.O. Box 94275, Baton Rouge, LA 70804-9275 or by electronic mail to [PipelineInspectors@la.gov](mailto:PipelineInspectors@la.gov). Any change in an operator name, the operator must concurrently file an online OR-1 Submission for Pipeline Safety with the same name as the OPID operator name at <http://www.sonris.com> [49 CFR 195.64(c)]

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 38:104 (January 2012), amended LR 44:1024 (June 2018), LR 46:

**§30147. Safety Data Sheets [49 CFR 195.65]**

A. Each owner or operator of a hazardous liquid pipeline facility, following an accident involving a pipeline facility that results in a hazardous liquid spill, must provide safety data sheets on any spilled hazardous liquid to the designated Federal On-Scene Coordinator and appropriate State and local emergency responders within 6 hours of a telephonic or electronic notice of the accident to the National Response Center. [49 CFR 195.65(a)].

B. Definitions. In this section: [49 CFR 195.65(b)].

1. Federal On-Scene Coordinator. The term *federal on-scene coordinator* has the meaning given such term in section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)). [49 CFR 195.65(b)(1)]

2. National Response Center. The term *national response center* means the center described under 40 CFR 300.125(a). [49 CFR 195.65(b)(2)]

3. Safety Data Sheet. The term *safety data sheet* means a safety data sheet required under 29 CFR 1910.1200. [49 CFR 195.65(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

**Subchapter C. Design Requirements**  
**[49 CFR Part 195 Subpart C]**

**§30177. Passage of Internal Inspection Devices**  
**[49 CFR 195.120]**

A. General. Except as provided in Subsection B and C of this Section, each new pipeline and each main line section of a pipeline where the line pipe, valve, fitting or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices in accordance with NACE SP0102 (incorporated by reference, see §30107. [49 CFR 195.120(a)]

B. Exceptions. This Section does not apply to: [49 CFR 195.120(b)]

1. - 4. ...

5. pipe for which an instrumented internal inspection device is not commercially available; and [49 CFR 195.120(b)(5)]

6. offshore pipelines, other than main lines 10 inches (254 mm) or greater in nominal diameter, that transport liquids to onshore facilities. [49 CFR 195.120(b)(6)]

C. Impracticability. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that the requirements in Subsection A of this Section should not be applied to a pipeline for reasons of impracticability. [49 CFR 195.120(c)]

D. Emergencies. An operator need not comply with Subsection A of this Section in constructing a new or replacement segment of a pipeline in an emergency. Within 30 days after discovering the emergency, the operator must file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that requiring the design and construction of the new or replacement pipeline segment to accommodate passage of instrumented internal inspection devices would be impracticable as a result of the emergency. If PHMSA denies the petition, within 1 year after the date of the notice of the denial, the operator must modify the new or replacement pipeline segment to allow passage of instrumented internal inspection devices. [49 CFR 195.120(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 21:817 (August 1995), LR 27:1526 (September 2001), LR 29:2816 (December 2003), LR 44:1025 (June 2018), LR 46:

**§30191. Leak Detection**  
**[49 CFR 195.134]**

A. Scope. This section applies to each hazardous liquid pipeline transporting liquid in single phase (without gas in the liquid). [49 CFR 195.134(a)]

B. General [49 CFR 195.134(b)]

1. For each pipeline constructed prior to October 1, 2019. Each pipeline must have a system for detecting leaks

that complies with the requirements in §30444 by October 1, 2024. [49 CFR 195.134(b)(1)]

2. For each pipeline constructed on or after October 1, 2019. Each pipeline must have a system for detecting leaks that complies with the requirements in §30444 by October 1, 2020. [49 CFR 195.134(b)(2)]

C. CPM Leak Detection Systems. A new computational pipeline monitoring (CPM) leak detection system or replaced component of an existing CPM system must be designed in accordance with the requirements in section 4.2 of API RP 1130 (incorporated by reference, see §30107) and any other applicable design criteria in that standard. [49 CFR 195.134(c)]

D. Exception. The requirements of Subsection B of this Section do not apply to offshore gathering or regulated rural gathering lines. [49 CFR 195.134(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 27:1526 (September 2001), amended LR 29:2817 (December 2003), LR 44:1025 (June 2018), LR 46:

**Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction**  
**[49 CFR Part 195 Subpart D]**

**§30214. Welding Procedures [49 CFR 195.214]**

A. Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §30107), or Section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, see §30107). The quality of the test welds used to qualify the welding procedures must be determined by destructive testing. [49 CFR 195.214(a)].

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007), LR 44:1026 (June 2018), LR 46:

**§30222. Welders—Qualification of Welders**  
**[49 CFR 195.222]**

A. Each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §30107), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC), (incorporated by reference, see §30107) except that a welder or welding operator qualified under an earlier edition than listed in §30107, may weld but may not requalify under that earlier edition. [49 CFR 195.222(a)].

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2818 (December 2003), amended LR 31:677 (March 2005), LR 33:469 (March 2007), LR 44:1026 (June 2018), LR 46:

**Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]**

**§30401. General Requirements [49 CFR 195.401]**

A. - B.2. ...

3. Prioritizing Repairs. An operator must consider the risk to people, property, and the environment in prioritizing the correction of any conditions referenced in Paragraphs B.1 and 2 of this Section. [49 CFR 195.401(b)(3)]

C. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2824 (December 2003), amended LR 38:105 (January 2012), LR 46:

**§30414. Inspections of Pipelines in Areas Affected by Extreme Weather and Natural Disasters [49 CFR 195.414]**

A. General. Following an extreme weather event or natural disaster that has the likelihood of damage to infrastructure by the scouring or movement of the soil surrounding the pipeline, such as a named tropical storm or hurricane; a flood that exceeds the river, shoreline, or creek high-water banks in the area of the pipeline; a landslide in the area of the pipeline; or an earthquake in the area of the pipeline, an operator must inspect all potentially affected pipeline facilities to detect conditions that could adversely affect the safe operation of that pipeline.. [49 CFR 195.414(a)]

B. Inspection Method. An operator must consider the nature of the event and the physical characteristics, operating conditions, location, and prior history of the affected pipeline in determining the appropriate method for performing the initial inspection to determine the extent of any damage and the need for the additional assessments required under Subsection A of this Section. [49 CFR 195.414(b)]

C. Time Period. The inspection required under Subsection A of this Section must commence within 72 hours after the cessation of the event, defined as the point in time when the affected area can be safely accessed by the personnel and equipment required to perform the inspection as determined under Subsection B of this Section. In the event that the operator is unable to commence the inspection due to the unavailability of personnel or equipment, the operator must notify the appropriate PHMSA Region Director and Office of Conservation Pipeline Division for intrastate facilities as soon as practicable. [49 CFR 195.414(c)]

D. Remedial Action. An operator must take prompt and appropriate remedial action to ensure the safe operation of a pipeline based on the information obtained as a result of performing the inspection required under Subsection A of this Section. Such actions might include, but are not limited to: [49 CFR 195.414(d)]

1. reducing the operating pressure or shutting down the pipeline; [49 CFR 195.414(d)(1)]

2. for each pipeline constructed on Modifying, repairing, or replacing any damaged pipeline facilities; [49 CFR 195.414(d)(2)]

3. preventing, mitigating, or eliminating any unsafe conditions in the pipeline right-of-way; [49 CFR 195.414(d)(3)]

4. performing additional patrols, surveys, tests, or inspections; [49 CFR 195.414(d)(4)]

5. implementing emergency response activities with federal, state, or local personnel; and [49 CFR 195.414(d)(5)]

6. notifying affected communities of the steps that can be taken to ensure public safety. [49 CFR 195.414(d)(6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

**§30416. Inspections of Pipelines in Areas Affected by Extreme Weather and Natural Disasters [49 CFR 195.416]**

A. Scope. This section applies to onshore line pipe that can accommodate inspection by means of in-line inspection tools and is not subject to the integrity management requirements in § 30452. [49 CFR 195.416(a)]

B. General. An operator must perform an initial assessment of each of its pipeline segments by October 1, 2029, and perform periodic assessments of its pipeline segments at least once every 10 calendar years from the year of the prior assessment or as otherwise necessary to ensure public safety or the protection of the environment. [49 CFR 195.416(b)]

C. Method. Except as specified in Subsection D of this Section, an operator must perform the integrity assessment for the range of relevant threats to the pipeline segment by the use of an appropriate in-line inspection tool(s). When performing an assessment using an in-line inspection tool, an operator must comply with §30591. An operator must explicitly consider uncertainties in reported results (including tool tolerance, anomaly findings, and unity chart plots or other equivalent methods for determining uncertainties) in identifying anomalies. If this is impracticable based on operational limits, including operating pressure, low flow, and pipeline length or availability of in-line inspection tool technology for the pipe diameter, then the operator must perform the assessment using the appropriate method(s) in Paragraphs C.1, C.2, or C.3 of this Section for the range of relevant threats being assessed. The methods an operator selects to assess low-frequency electric resistance welded pipe, pipe with a seam factor less than 1.0 as defined in § 30161.E or lap-welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity, cracking, and of detecting corrosion and deformation anomalies. The following alternative assessment methods may be used as specified in this Subsection: [49 CFR 195.416(c)]

1. a pressure test conducted in accordance with Chapter 303 of this Part; [49 CFR 195.416(c)(1)]

2. external corrosion direct assessment in accordance with §30588; or [49 CFR 195.416(c)(2)]

3. other technology in accordance with Subsection D. [49 CFR 195.416(c)(3)]

D. Other Technology

1. Operators may elect to use other technologies if the operator can demonstrate the technology can provide an

equivalent understanding of the condition of the line pipe for threat being assessed. An operator choosing this option must notify the Office of Pipeline Safety (OPS) and the Office of Conservation for intrastate jurisdictional facilities 90 days before conducting the assessment by: [49 CFR 195.416(d)]

a. sending the notification, along with the information required to demonstrate compliance with this Paragraph, to the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 and Office of Conservation – Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or [49 CFR 195.416(d)(1)]

b. sending the notification, along with the information required to demonstrate compliance with this Paragraph, to the Information Resources Manager by facsimile to (202) 366-7128 and pipelineinspectors@la.gov. [49 CFR 195.416(d)(2)]

2. Prior to conducting the "other technology" assessments, the operator must receive a notice of "no objection" from the PHMSA Information Services Manager or Designee and the Office of Conservation. [49 CFR 195.416(d)(3)]

E. Data Analysis. A person qualified by knowledge, training, and experience must analyze the data obtained from an assessment performed under Subsection B of this Section to determine if a condition could adversely affect the safe operation of the pipeline. Operators must consider uncertainties in any reported results (including tool tolerance) as part of that analysis. [49 CFR 195.416(e)]

F. Discovery of Condition. For purposes of §30401.B.1, discovery of a condition occurs when an operator has adequate information to determine that a condition presenting a potential threat to the integrity of the pipeline exists. An operator must promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition to make that determination required under Subsection E of this Section, unless the operator can demonstrate the 180-day interval is impracticable. If the operator believes that 180 days are impracticable to make a determination about a condition found during an assessment, the pipeline operator must notify PHMSA and provide an expected date when adequate information will become available. This notification must be made in accordance with §30452.M. [49 CFR 195.416(f)]

G. Remediation. An operator must comply with the requirements in §30401 if a condition that could adversely affect the safe operation of a pipeline is discovered in complying with Subsection E and F of this Section. [49 CFR 195.416(g)]

H. Consideration of Information. An operator must consider all relevant information about a pipeline in complying with the requirements in Subsection A through G of this Section. [49 CFR 195.416(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

**§30444. Leak Detection**

**[49 CFR 195.444]**

A. Scope. Except for offshore gathering and regulated rural gathering pipelines, this section applies to all hazardous liquid pipelines transporting liquid in single phase (without gas in the liquid). [49 CFR 195.444(a)]

B. General. A pipeline must have an effective system for detecting leaks in accordance with §§30134 or 30452, as appropriate. An operator must evaluate the capability of its leak detection system to protect the public, property, and the environment and modify it as necessary to do so. At a minimum, an operator's evaluation must consider the following factors - length and size of the pipeline, type of product carried, the swiftness of leak detection, location of nearest response personnel, and leak history. [49 CFR 195.444(b)]

C. CPM Leak Detection Systems. Each computational pipeline monitoring (CPM) leak detection system installed on a hazardous liquid pipeline must comply with API RP 1130 (incorporated by reference, see §30107) in operating, maintaining, testing, record keeping, and dispatcher training of the system. [49 CFR 195.444(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 44:1028 (June 2018), LR 46:

**§30452. Pipeline Integrity Management in High Consequence Areas**

**[49 CFR 195.452]**

A. - A.2. ...

3. Category 3 includes pipelines constructed or converted after May 29, 2001, and low-stress pipelines in rural areas under §30118. [49 CFR 195.452(a)(3)]

A.4. - B. ...

1. Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table no later than the date in the second column: [49 CFR 195.452(b)(1)]

Pipeline	Date
Category 1	March 31, 2002
Category 2	February 18, 2003
Category 3	. Date the pipeline begins operation or as provided in § 30118 for low stress pipelines in rural areas.

B.2. - C.1. ...

a. The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by in-line inspection tool(s) described in Subclause C.1.a.i this Section for the range of relevant threats to the pipeline segment. If it is impracticable based upon the construction of the pipeline (e.g., diameter changes, sharp bends, and elbows) or operational limits including operating pressure, low flow, pipeline length, or availability of in-line inspection tool technology for the pipe diameter, then the operator must use the appropriate method(s) in Subclause C.1.a.ii, iii, or iv of this Section for the range of relevant threats to the pipeline segment. The methods an operator

selects to assess low-frequency electric resistance welded pipe, pipe with a seam factor less than 1.0 as defined in §30161.E or lap-welded pipe susceptible to longitudinal seam failure, must be capable of assessing seam integrity, cracking, and of detecting corrosion and deformation anomalies. [49 CFR 195.452(c)(1)(i)]

i. In-line inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges, and grooves. For pipeline segments with an identified or probable risk or threat related to cracks (such as at pipe body or weld seams) based on the risk factors specified in Subsection E, an operator must use an in-line inspection tool or tools capable of detecting crack anomalies. When performing an assessment using an in-line inspection tool, an operator must comply with §30591. An operator using this method must explicitly consider uncertainties in reported results (including tool tolerance, anomaly findings, and unity chart plots or equivalent for determining uncertainties) in identifying anomalies; [49 CFR 195.452(c)(1)(i)(A)]

1.a.ii. - 2. ...

D. When must operators complete baseline assessments? [49 CFR 195.452(d)]

1. All Pipelines. An operator must complete the baseline assessment before a new or conversion-to-service pipeline begins operation through the development of procedures, identification of high consequence areas, and pressure testing of could- affect high consequence areas in accordance with §30304. [49 CFR 195.452(d)(1)]

2. Newly Identified Areas. If an operator obtains information (whether from the information analysis required under Subsection G of this section, Census Bureau maps, or any other source) demonstrating that the area around a pipeline segment has changed to meet the definition of a high consequence area (see §30450), that area must be incorporated into the operator's baseline assessment plan within one year from the date that the information is obtained. An operator must complete the baseline assessment of any pipeline segment that could affect a newly identified high consequence area within 5 years from the date an operator identifies the area. [49 CFR 195.452(d)(2)]

Pipeline	Date
Category 1	January 1, 1996
Category 2	February 15, 1997

E. - E.1.f. ...

g. local environmental factors that could affect the pipeline (e.g., seismicity, corrosivity of soil, subsidence, climatic); [49 CFR 195.452(e)(1)(vii)]

E.1.h. - F.8. ...

9. procedures for providing (when requested), by electronic or other means, a copy of the operator's risk analysis or integrity management program to Office of Conservation, Pipeline Division for intrastate jurisdictional facilities.

G. What is an information analysis? In periodically evaluating the integrity of each pipeline segment (see Subsection J of this Section), an operator must analyze all available information about the integrity of its entire pipeline and the consequences of a possible failure along the pipeline. Operators must continue to comply with the data

integration elements specified in §30452.G that were in effect on October 1, 2018, until October 1, 2022. Operators must begin to integrate all the data elements specified in this section starting October 1, 2020, with all attributes integrated by October 1, 2022. This analysis must: [49 CFR 195.452(g)]

1. integrate information and attributes about the pipeline that include, but are not limited to: [49 CFR 195.452(g)(1)]

a. pipe diameter, wall thickness, grade, and seam type; [49 CFR 195.452(g)(1)(i)]

b. pipe coating, including girth weld coating; [49 CFR 195.452(g)(1)(ii)]

c. maximum operating pressure (MOP) and temperature; [49 CFR 195.452(g)(1)(iii)]

d. endpoints of segments that could affect high consequence areas (HCAs); [49 CFR 195.452(g)(1)(iv)]

e. hydrostatic test pressure including any test failures or leaks, if known; [49 CFR 195.452(g)(1)(v)]

f. location of casings and if shorted; [49 CFR 195.452(g)(1)(vi)]

g. any in-service ruptures or leaks, including identified causes; [49 CFR 195.452(g)(1)(vii)]

h. data gathered through integrity assessments required under this Section; [49 CFR 195.452(g)(1)(viii)]

i. close interval survey (CIS) survey results; [49 CFR 195.452(g)(1)(ix)]

j. depth of cover surveys; [49 CFR 195.452(g)(1)(x)]

k. corrosion protection (CP) rectifier readings; [49 CFR 195.452(g)(1)(xi)]

l. CP test point survey readings and locations; [49 CFR 195.452(g)(1)(xii)]

m. AC/DC and foreign structure interference surveys; [49 CFR 195.452(g)(1)(xiii)]

n. pipe coating surveys and cathodic protection surveys. [49 CFR 195.452(g)(1)(xiv)]

o. results of examinations of exposed portions of buried pipelines (i.e., pipe and pipe coating condition, see §30569; [49 CFR 195.452(g)(1)(xv)]

p. stress corrosion cracking (SCC) and other cracking (pipe body or weld) excavations and findings, including in-situ non-destructive examinations and analysis results for failure stress pressures and cyclic fatigue crack growth analysis to estimate the remaining life of the pipeline; [49 CFR 195.452(g)(1)(xvi)]

q. aerial photography; [49 CFR 195.452(g)(1)(xvii)]

r. location of foreign line crossings; [49 CFR 195.452(g)(1)(xviii)]

s. pipe exposures resulting from repairs and encroachments; [49 CFR 195.452(g)(1)(xix)]

t. seismicity of the area; and [49 CFR 195.452(g)(1)(xx)]

u. other pertinent information derived from operations and maintenance activities and any additional tests, inspections, surveys, patrols, or monitoring required under this Part; [49 CFR 195.452(g)(1)(xxi)]

2. consider information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline; [49 CFR 195.452(g)(2)]

3. consider how a potential failure would affect high consequence areas, such as location of a water intake; [49 CFR 195.452(g)(3)]

4. identify spatial relationships among anomalous information (e.g., corrosion coincident with foreign line crossings; evidence of pipeline damage where aerial photography shows evidence of encroachment). Storing the information in a geographic information system (GIS), alone, is not sufficient. An operator must analyze for interrelationships among the data. [49 CFR 195.452(g)(4)]

H. ...

1. General Requirements. An operator must take prompt action to address all anomalous conditions in the pipeline that the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity, as required by this part. An operator must be able to demonstrate that the remediation of the condition will ensure that the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with all other applicable requirements in this part in remediating a condition. Each operator must, in repairing its pipeline systems, ensure that the repairs are made in a safe and timely manner and are made so as to prevent damage to persons, property, or the environment. The calculation method(s) used for anomaly evaluation must be applicable for the range of relevant threats. [49 CFR 195.452(h)(1)]

a. - b. ...

2. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information to determine that a condition presenting a potential threat to the integrity of the pipeline exists. An operator must promptly, but no later than 180 days after an assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate the 180-day interval is impracticable. If the operator believes that 180 days are impracticable to make a determination about a condition found during an assessment, the pipeline operator must notify PHMSA in accordance with Subsection M of this Section and provide an expected date when adequate information will become available. [49 CFR 195.452(h)(2)]

H.3. - I.2.h. ...

i. seismicity of the area. [49 CFR 195.452(i)(2)(ix)]

I.3. - J.1. ...

2. Verifying Covered Segments. An operator must verify the risk factors used in identifying pipeline segments that could affect a high consequence area on at least an annual basis not to exceed 15 months (Appendix C of this part provides additional guidance on factors that can influence whether a pipeline segment could affect a high consequence area). If a change in circumstance indicates that the prior consideration of a risk factor is no longer valid or that an operator should consider new risk factors, an operator must perform a new integrity analysis and evaluation to establish the endpoints of any previously identified covered segments. The integrity analysis and evaluation must include consideration of the results of any baseline and periodic integrity assessments (see Subsections B, C, D, and E of this Section), information analyses (see Subsection G of this Section), and decisions about remediation and preventive and mitigative actions (see

Subsection H and I of this Section). An operator must complete the first annual verification under this Subsection no later than July 1, 2021. [49 CFR 195.452(j)(2)]

J.3. - M.2. ...

N. Accommodation of Instrumented Internal Inspection Devices [49 CFR 195.452(n)]

1. Scope. This Subsection does not apply to any pipeline facilities listed in §30177.B. [49 CFR 195.452(n)(1)]

2. General. An operator must ensure that each pipeline is modified to accommodate the passage of an instrumented internal inspection device by July 2, 2040. [49 CFR 195.452(n)(2)]

3. Newly Identified Areas. If a pipeline could affect a newly identified high consequence area (see Paragraph D.2 of this Section) after July 2, 2035, an operator must modify the pipeline to accommodate the passage of an instrumented internal inspection device within five years of the date of identification or before performing the baseline assessment, whichever is sooner. [49 CFR 195.452(n)(3)]

4. Lack of Accommodation. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that the basic construction (i.e., length, diameter, operating pressure, or location) of a pipeline cannot be modified to accommodate the passage of an instrumented internal inspection device or that the operator determines it would abandon or shut-down a pipeline as a result of the cost to comply with the requirement of this section. [49 CFR 195.452(n)(4)]

5. Emergencies. An operator may file a petition under §190.9 of 49 CFR and Chapter 313 of this Subpart for a finding that a pipeline cannot be modified to accommodate the passage of an instrumented internal inspection device as a result of an emergency. An operator must file such a petition within 30 days after discovering the emergency. If the petition is denied, the operator must modify the pipeline to allow the passage of an instrumented internal inspection device within 1 year after the date of the notice of the denial. [49 CFR 195.452(n)(5)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007), LR 35:2797 (December 2009), LR 38:108 (January 2012), LR 44:1029 (June 2018), LR 46:

**§30454. Integrity assessments for certain underwater hazardous liquid pipeline facilities located in high consequence areas. [49 CFR 195.454]**

A. Notwithstanding any pipeline integrity management program or integrity assessment schedule otherwise required under § 30452, each operator of any underwater hazardous liquid pipeline facility located in a high consequence area that is not an offshore pipeline facility and any portion of which is located at depths greater than 150 feet under the surface of the water must ensure that: [49 CFR 195.454]

1. Pipeline integrity assessments using internal inspection technology appropriate for the integrity threats to the pipeline are completed not less often than once every 12 months, and; [49 CFR 195.454(a)]

2. Pipeline integrity assessments using pipeline route surveys, depth of cover surveys, pressure tests, external corrosion direct assessment, or other technology that the



operator demonstrates can further the understanding of the condition of the pipeline facility, are completed on a schedule based on the risk that the pipeline facility poses to the high consequence area in which the pipeline facility is located. [49 CFR 195.454 (b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:

#### **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 p.m., September 21, 2020 at Office of Conservation, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Pipeline Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. PRA 2020-02. All inquiries should be directed to Michael Peikert at the above addresses or by phone to (225) 219-3799.

Richard P. Ieyoub  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pipeline Safety**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no impact on the expenditures of the Department of Natural Resources (DNR), Office of Conservation (OC), or local governmental units associated with the proposed rule changes, which are required as a part of the DNR certification agreement within the US Department of Transportation.

The proposed rule changes codify existing federal regulations for: the use of plastic piping systems; the safety of gas transmission pipelines; MAOP reconfirmation; expansion of assessment requirements; the safety of underground natural gas storage facilities; the safety of hazardous liquid pipelines; odorization of farm taps; and minor corrections. The OC anticipates it will be able to enforce these regulations using existing staff and resources.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes are anticipated to have no effect on revenue collections of state and local government units. The proposed rule changes do not impose any new fees or change to existing fees.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes directly affect pipeline operators and underground natural gas storage operators. The proposed rule changes codify federal regulations (419 CFR Parts 191, 192 and 195) and operators are already in compliance with same; therefore, there will be no economic impact on operators.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub  
Commissioner  
2008#022

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Fantasy Sports Contest  
(LAC 42:III.102, 104, 105, 107,  
120, 1907 and VII.Chapters 1-13)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., hereby gives notice that it intends to adopt Part VII of Title 42 of the Administrative Code, amend Sections 102, 104, 105, 107, and 120 of Chapter 1 of Part III of Title 42 of the Administrative Code, and amend §1907 of Chapter 19 of Part III of Title 42 of the Administrative Code. These rule changes clarify practices already required to take place in the industry and create uniformity with the amended statutes and the newly enacted statutes as a result of Act 322 of the 2018 Legislative Session and Act 141 of the 2020 Regular Legislative Session. The rule change allows for the conducting, application, licensing, enforcement, and regulation of fantasy sports contests.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 1. General Provisions**

#### **§102. Issuance and Renewal of Licenses by the Department**

A. The department is authorized to issue to qualified applicants, non-key gaming employee permits and non-gaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., or the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts,

First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996), LR 46:

#### **§104. Delegation to Chairman**

A. - A.3. ...

4. issue a riverboat gaming operator license or a fantasy sports contest operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator or licensed fantasy sports contest operator have been met;

5. ...

6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, a fantasy sports operator or a qualified video poker truck stop facility.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, R.S. 27:24 and R.S. 27:220.

HISTORICAL NOTE: Promulgated by the Louisiana Gaming Control Board, LR 22:1140 (November 1996), amended LR 25:80 (January 1999), LR 46:

#### **§105. Civil Penalties**

A. The department is authorized to take enforcement action by imposing civil penalties against any entity that has a license, permit or casino contract, for violation of the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., or rules promulgated in accordance therewith, provided that such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1138 (November 1996), LR 46:

#### **§107. Standards of Conduct and Ethical Rules**

A.1. - B.3. ...

C. As used in this rule, and for the purposes of R.S. 27:13, *Licensee* or *Permittee* shall mean any person who holds a license or permit issued pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Video Draw Poker Device Control Law, R.S. 27:401 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301, the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., or the Louisiana Gaming Control Law, R.S. 27:1 et seq., specifically including, but not limited to, manufacturers, distributors, suppliers, vendors, device owners, service entities, persons furnishing services or goods

material and integral to the operation of a riverboat, gaming employees, key employees, non-key employees, equity owners, contractors, and all establishments regardless of the number of gaming devices in operation at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1139 (November 1996), LR 46:

#### **§120. Application and Reporting Forms**

A. - A.6.b. ...

7. Fantasy Sports

a. Fantasy Sports Application, DPSSP 6729, including, but not limited to:

- i. instructions;
- ii. application for fantasy sports license;
- iii. applicant information;
- iv. ownership interests;
- v. general information;
- vi. records/books information;
- vii. professional services information;
- viii. gaming information (miscellaneous);
- ix. general applicant information;
- x. financial disclosure information;
- xi. affidavit of full disclosure;
- xii. applicant's request to release information;
- xiii. verification;
- xiv. release of all claims;
- xv. business tax information authorization request;
- xvi. federal business, trusts, estates, etc., consent to disclosure of tax information;
- xvii. Federal Internal Revenue Service gaming tax clearance certificate;
- xviii. state business, trusts, estates, etc., consent to disclosure of tax information;
- xix. Louisiana Department of Revenue and Taxation tax clearance certificate.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016), LR 46:

#### **Chapter 19. Administrative Procedures and Authority** **§1907. Construction of Regulations and Administrative Matters**

A. - C. ...

D. The regulations contained in Title 42, Part III, Chapters 17-47 of the Louisiana Administrative Code shall not apply to persons licensed pursuant to Chapter 8 of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1608 (July 2012), LR 46:

#### **Part VII. Louisiana Fantasy Sports Contest** **Chapter 1. General Provisions** **§101. Statement of Policy**

A. The rules contained herein are promulgated for the purpose of facilitating implementation of the fantasy sports act referred to as the Louisiana fantasy sports contests act, R.S. 27:301 et seq., to achieve the effective regulation of

fantasy sports contests, and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of the rules. Any subsequent restatement, repeal, or amendment of these regulations shall be in accordance with the aforementioned considerations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 27:15, 24, and 304.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### §103. Definitions

A. The provisions of the Act relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these regulations, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these regulations shall have the same meaning ascribed to it in the Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. As used in this Chapter, the following words and terms shall have the following meanings.

*Accumulated Statistical Results*—the total points awarded to individuals, including athletes, based upon the scoring guidelines to be provided by the licensee.

*Act*—the provisions of the Louisiana Gaming Control Law, R.S. 27:1 et seq. and all provisions of the Louisiana Fantasy Sports Contests Act, R.S. 27:301 et seq.

*Applicant*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Application*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Associated Persons*—any person required by the Act or these regulations including, but not limited to, R.S. 27:28 and Section 2107 of Part III of this Title to submit to and meet suitability and any persons the board or division determines needs to submit to and meet suitability on the license including, but not limited to: directors; officers; and managers.

*Beginner Player*—a player who has entered 50 or fewer fantasy sports contests offered by a licensee and who does not meet the definition of a highly experienced player.

*Board*—has the same meaning as that term in R.S. 27:302.

*Business Year*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Chairman* – means the chairman of the board.

*Confidential Information*—has the same meaning as that term in R.S. 27:302.

*Division*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Economic Interest*—any interest in a licensee from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the date to day operations. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the board or division determines a finding of suitability is required based upon the economic relationship with the licensee.

*Entry Fee*—has the same meaning as that term in R.S. 27:302.

*Fantasy Sports Contest*—has the same meaning as that term in R.S. 27:302.

*Fantasy Sports Contest Operator* or *Operator*—has the same meaning as that term in R.S. 27:302 and may be referred to as *licensee*.

*Fantasy Sports Contest Operator Employee* or *Operator Employee* or *Licensee Employee*—an individual employed by an operator and includes all officers, directors, trustees, and principal salaried executive staff officers. It shall also include contractors of operators that have access to confidential information as defined in the Act, these regulations, or R.S. 27:21 or 27:44.

*Fantasy Sports Contest Player* or *Player*—has the same meaning as that term in R.S. 27:302.

*Fantasy Sports Contest Player Funds*—the cash or cash equivalents that are owned by the player, are maintained in the player's account, and are not commingled with the licensee's operational funds.

*Financial Statements* or *Financial Records*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Gaming Employee*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Gaming Employee Permit* or *Employee Permit*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Gaming Equipment*—has the same meaning as the term has in Section 1701 of Part III of this Title, plus any equipment or devices that the board or division finds or determines to be used or expended in fantasy sports contest operations or activities.

*Gaming Supplier* or *Distributor*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Gaming Supplier Permit*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Gaming Supplies*—the same meaning as the term has in Section 1701 of Part III of this Title, plus services provided to the licensee that the board or division finds or determines to be used or expended in fantasy sports contest operations or activities.

*Geolocation*—the process or technique of identifying the geographical location of a person or device by means of digital information processed by digital means.

*Gross Fantasy Sports Contest Revenues*—has the same meaning as that term in R.S. 27:302.

*Highly Experienced Player*—a person who has either:

- a. entered more than 1,000 contests offered by a single licensee; or
- b. won more than 3 sports prizes of \$1,000 or more from a single licensee.

*Inactive Account*—a fantasy sports contest player account that has not been logged into or has had no activity for a period of three years.

*Internal Controls*—internal procedures and administration and accounting controls designed by the licensee that are commercially reasonable procedures for the operation of fantasy sports contests with an entry fee.

*Key Gaming Employee*—has the same meaning as that term in Section 1701 of Part III of this Title.

*Location Percentage*—has the same meaning as that term in R.S. 27:302.

*Net Revenue*—has the same meaning as that term in R.S. 27:302.

*Non-Gaming Supplier or Supplier of Goods or Services Other than Gaming Devices or Gaming Equipment*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Non-Gaming Supplier Permit*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Non-Key Gaming Employee*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Non-Key Gaming Employee Permit*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Operator's Net Revenue*—has the same meaning as that term in R.S. 27:302.

*Person*—has the same meaning as the term has in Section 1701 of Part III of this Title.

*Platform*—any website, smart phone or tablet or other electronic application, or other portal providing access to a fantasy sports contest conducted pursuant to Chapter 6 of the Louisiana Gaming Control Law.

*Prize*—anything of value including, but not limited to, cash or a cash equivalent, contest credits, merchandise, or admission to another contest in which a prize may be awarded. Any non-cash prizes shall be calculated at the cost to the licensee.

*Prohibited Parish*—a parish in which, at the election held pursuant to R.S. 27:303, a majority of the qualified electors in the parish voting on the proposition to authorize fantasy sports contests in the parish voted against the proposition.

*Script*—a list of commands that a computer related to a fantasy sports contest program can execute to automate processes on a fantasy sports contest platform.

*Segregated Account*—a financial account that segregates the funds of players such that the licensee's operational funds may not be commingled.

*Sporting Event*—an athletic game or team competition in which an individual athlete's performance is used to accumulate statistical results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§105. Gaming Control Board; Duties and Powers**

A. The board shall perform the duties and functions as authorized by the provisions of these regulations and the regulatory authority with respect to the regulation of fantasy sports contests as provided by R.S. 27:15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§107. Construction of Regulations**

#### **A. Severability**

1. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or

federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

#### **B. Captions, Pronouns, and Gender**

1. Captions appearing at the beginning of regulations are descriptive only, are for convenient reference to the regulations and in no way define, limit or describe the scope, intent or effect of the regulation. Masculine or feminine pronouns or neuter gender may be used interchangeably and the plural shall be substituted for the singular form and vice versa, in any place or places in the regulations where the context requires such substitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

## **Chapter 3. Licensing**

### **§301. Licenses, General**

A. No fantasy sports contest operator shall offer any fantasy sports contest in this state without first being licensed by the board.

B. Fantasy sports contest operator licenses shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

C. A license shall be issued in the name of the owner of the fantasy sports contest operator.

D. Any license or permit issued by the board and any permit issued by the division is deemed to be a revocable privilege, and no person holding such a license or permit is deemed to have acquired any vested rights therein.

E. All licenses and permits shall be surrendered to the board or division upon their expiration or revocation at which time they will be destroyed unless needed for a pending investigation.

F. Licenses and permits are not transferable or assignable. If the status of the fantasy sports contest operator or permittee should change such that the person no longer needs or is entitled to the license or permit, then the license or permit shall be cancelled and any tangible item which evinces such a license or permit shall be surrendered to the board or division within five days of the change of status. Any license or permit surrendered shall be marked cancelled or destroyed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§303. Permits, General**

A. Permits for gaming suppliers, non-gaming suppliers, key gaming employee, and non-key gaming employees shall be applied for, issued, and regulated according to the Act, including, but not limited to R.S. 27:1 et seq., Part III of this Title, and this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§305. Transfers of Interest; Loans and Restrictions**

A. Any transfer of interest in a licensee or permittee shall be governed by and in accordance with the provisions of Chapter 25 of Part III of this Title.

B. All debt transactions shall be entered into in accordance with the provisions of Chapter 25 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§307. Applications**

#### **A. General Authority of Board or Division**

1. The securing of a license, permit or approval required under the Act is a prerequisite for conducting, operating, or performing any activity regulated by the Act. Each applicant must file a complete application as prescribed by the board or division.

2. An applicant for a license or permit authorized by the Act is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

3. Applicants shall demonstrate experience, reputation, competence, and financial responsibility consistent with the best interest of the Louisiana gaming industry and in compliance with the laws of this state.

4. An applicant accepts the risk of adverse public notice, embarrassment, criticism, or other action or financial loss that may result from action with respect to an application and expressly waives any claim for damages as a result thereof, except relating to willful misconduct by the board or division.

5. The filing of an application under the Act or these regulations constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with a licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the board or division.

6. Any false statement, including improperly notarized documents, contained in any report, disclosure, application, permit form, or any other document required by the Act or these regulations shall be a violation of these regulations and the Act.

7. Incomplete applications, including failure to pay fees may result in a delay or denial of a license.

#### **B. Submission and Filing of Application**

1. All original and renewal applications shall be submitted to the division by the United States Postal Service certified or registered mail, return receipt requested, private or commercial interstate carrier, electronic submission in accordance with Chapter 4 of Part III of this Title, hand delivery or other board-approved method of delivery.

2. Each application, including renewal applications, shall be deemed filed with the board or division when the application and fee have been received by the division, as evidenced by the date stamp on the application.

3. Renewal applications for licenses to conduct fantasy sports contests shall be submitted to the division no later than 120 days prior to the expiration of the license.

4. Failure to timely file or submit an application may constitute grounds for delaying consideration of the application or for denial of the application or imposition of a civil penalty.

#### **C. Contents**

1. An application is not complete nor is it considered filed with the division unless it is submitted with the

required fee, is signed by the applicant, and contains all information and documentation required by the division.

2. The applicant shall notify the division in writing of all changes to any information in the application within 15 business days of the effective date of the change.

3. An application may be amended upon approval of the board or division. A request to amend an application shall be in writing. A request to amend an application may have the effect of establishing the date of such amendment as the filing date of the application with respect to the time requirements for action on the application.

4. All applicants shall disclose any violation of law or regulation from any jurisdiction.

5. Application for licensure shall be in accordance with the board's regulations and shall include all of the following:

- a. the name of the applicant;
- b. the applicant's primary place of business;
- c. the names of all persons listed in, or required to

submit to suitability pursuant to, the Act or these regulations including, but not limited to, R.S. 27:28(H)(1) and §2107 of Part III of this Title;

- d. the names of employees and persons with substantial control of the licensee;

- e. complete information and details with respect to the applicant and associated persons, antecedents, habits, character, business activities, financial affairs, criminal history and business associates;

- f. evidence of compliance with the provisions of R.S. 27:308(A);

- g. audited financial statements from the three most recently completed years;

- h. company documents including, but not limited to, articles of organization, amendments, operating agreement, corporate certificates, charters and bylaws, amended and reinstated, meeting minutes, and Louisiana Secretary of State filings; and

- i. such other information and details as the board or division may require in order to properly discharge its duties.

6. All applications shall contain a certification signed by a duly authorized representative of the applicant wherein the applicant certifies that:

- a. The information contained therein is true and correct;

- b. The applicant has read the Act and these regulations, and any other informational materials supplied by the division that pertain to fantasy sports contests; and

- c. The applicant agrees to comply with these regulations and the Act.

7. All applications shall contain an email address, a telephone number and permanent mailing address for receipt of correspondence and service of documents by the division.

8. A complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures.

9. A corporate structure flow chart illustrating all directors, key officers, positions and title for each person listed on their ownership chart.

#### **D. Associated Persons**

1. Any person who has or controls directly or indirectly 5 percent or more ownership, income, or profit or

economic interest in an entity which has or applies for a license or permit pursuant to the provisions of this Title, or who receives 5 percent or more revenue interest in the form of a commission, finder's fee, loan repayment, or any other business expense related to the fantasy sports contest operation, or who has the ability or capacity to exercise significant influence over a licensee, a permittee, or other person required to be found suitable pursuant to the provisions of this Title, shall meet all suitability requirements and qualifications pursuant to the provisions of this Title.

2. In determining whether a person has significant influence for purposes of this Chapter, the board or division may consider, but is not limited to the following: management and decision-making authority; operational control; financial relationship; receipt of gaming revenue or proceeds; financial indebtedness; and gaming related associations.

3. Personal history questionnaires, personal financial questionnaires, and all other required forms shall be submitted for all associated persons along with the application.

4. Submissions will be required by, but not limited to, the following:

a. If the applicant is a corporation, each officer, director, and shareholder having a 5 percent or greater ownership interest;

b. If the applicant is a limited liability company, each officer, managing member, manager and any member having a 5 percent or greater ownership interest;

c. If the applicant is a general partnership or joint venture, each individual partner and co-venturer;

d. If the applicant is a limited partnership, the general partner and each limited partner having a 5 percent or greater ownership interest;

e. If the applicant is a registered limited liability partnership pursuant to R.S. 9:3431 et seq., the managing partner and each partner having a 5 percent or greater ownership interest; and

f. If such shareholder, owner, partner, or member from Paragraphs a-e of this Subsection is a legal entity, each officer, director, manager or managing member and each person with an indirect ownership or economic interest equal to or greater than 5 percent in the applicant.

5. Submissions may be required by any person who in the opinion of the board or division:

a. has significant influence over an applicant, licensee, or permittee;

b. receives or may receive any share or portion of the money generated by gaming activities subject to the limitations provided in R.S. 27:28(H)(2)(b);

c. receives compensation or remuneration as an employee of an applicant, licensee or permittee in exchange for any service or thing provided to the applicant, fantasy sports contest operator, or permittee; or

d. has any contractual agreement with applicant, licensee or permittee.

6. Failure to submit the documents required by this Section may constitute grounds for delaying consideration of the application or for denying the application.

#### E. Tax Clearances

1. The applicant and all persons required to submit to suitability pursuant to the Act or this Title shall provide tax clearances from the appropriate state agencies prior to the granting of a license or permit.

2. Failure to provide the tax clearances required by Subsection A of this Section may constitute grounds for delaying consideration or for denial of the application.

#### F. Fingerprinting

1. An initial application is not complete unless all persons required by the division have submitted to fingerprinting by or at the direction of the division.

2. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

#### G. Truth of Information

1. All information included in an application shall be true, correct and a complete, accurate account of the information requested to the best of the applicant's knowledge as of the date submitted.

2. No applicant shall make any untrue statement of material fact in any application, form, statement, report or other document filed with the board or division.

3. An applicant shall not omit any material fact in any application, form, statement, report or other document filed with the board or division. The applicant shall provide all information that is necessary to make the information supplied in an application complete and accurate.

4. No applicant shall make any untrue statement in any written or verbal communication with the board or division.

#### H. Additional Information

1. Fantasy sports contest operator applicants shall submit evidence to the board that it has established and will implement commercially reasonable procedures for fantasy sports contests with an entry fee and that it complies with R.S. 27:308(A)-(C).

2. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be considered incomplete.

3. Upon request of the board or division for additional information, the applicant shall provide the requested information within 10 days of receipt of written notice of the request or within such additional time as allowed by the board or division.

#### I. Application, Fees

1. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee or permittee or the person who is the subject of the investigation.

2. An applicant shall pay all fees and costs associated with the application and investigation of the application as may be determined by the board.

3. Application fees for a fantasy sports contest operator license shall be charged and paid in accordance with R.S. 27:306.

4. All costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part shall be paid by the applicant.

5. In addition to the fees set forth in R.S. 27: 306(C) and (D), and pursuant to R.S. 27:304(C), the applicant shall pay an investigation fee of \$15,000 at the time of filing of the application or beginning of an investigation to defray administrative costs associated with the application for and the investigation, granting, or renewal of licenses and enforcement of this Part. If the cost to the division exceeds the initial submitted investigation fee, the division shall inform the applicant of the additional projected cost and shall require the applicant to remit additional funds to complete the initial investigation. Any portion of the investigation fee remaining upon completion of the investigation shall be refunded to the applicant.

J. Renewal Applications

1. The renewal application shall contain a statement made, under oath, by the applicant that any and all changes in the history and financial information provided in the previous application have been disclosed. This statement shall also be provided by each officer or director, each person with a 5 percent or greater economic interest in the applicant, and any person who, in the opinion of the board or division, has the ability to exercise significant influence over the activities of the applicant.

2. Renewal applications shall further contain:

a. a list of all civil lawsuits to which the applicant is a party instituted since the previous application;

b. a current list of all stockholders of the applicant, if the applicant is a corporation, or a list of all partners, if applicant is a partnership or limited partnership, or a list of all members if the applicant is a limited liability company, or a list of persons with a 5 percent or greater economic interest in the applicant. Applicants who are publicly traded corporations need not provide this information for any shareholder owning less than 5 percent of the applicant unless requested by the board or division;

c. a list of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, parent company of the applicant, or an affiliate;

d. prior year's corporate or company tax return of the applicant;

e. a list of all charitable and political contributions made by the applicant during the last three years, indicating the recipient and amount contributed.

f. a complete ownership chart with ownership percentage equaling 100 percent. Define all shareholders, parent companies, subsidiaries, holding companies, partnerships, and any joint ventures; and

g. a corporate structure flow chart illustrating all directors, key officers, positions and title for each entity(s) listed on their ownership chart.

K. Withdrawal of Application

1. A request to withdraw an application shall be made in writing to the chairman or division at any time prior to issuance of the determination with respect to the application. The board or division may deny or grant the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§309. Suitability and Requirements**

A. An applicant and its associated persons shall be required to submit to an investigation to determine suitability, and shall meet and maintain the suitability

standards as provided for the Act or these regulations, including, but not limited to, R.S. 27:28 and Section 2901 of Part III of this Title.

B. The board or division shall not issue a license, permit or finding of suitability to any person who fails to prove by clear and convincing evidence that he is suitable and qualified in accordance with the provisions of the Act and these regulations.

C. The applicant must prove by clear and convincing evidence that it has the competence and experience to conduct fantasy sports contests, by demonstrating through training, education, business experience, or a combination thereof, the adequate business probity, competence, experience, and capability to conduct fantasy sports contests.

D. The applicant shall demonstrate that the proposed financing of the applicant and business operation is adequate for the nature of operating fantasy sports contests and is from a source suitable and acceptable to the board. Any lender or other source of money or credit that the board finds does not meet the standards set forth in this Subsection may be deemed unsuitable.

E. An application for a license to conduct fantasy sports contests constitutes a request for a suitability determination, as described in R.S. 27:28, of the general character, honesty, integrity, and ability of any person associated with the applicant to participate or engage in, or be associated with fantasy sports contests.

F. Before obtaining a license to offer fantasy sports contests in this state, an applicant shall:

1. be a person domiciled in Louisiana or a domestic business entity with a certificate of existence from the Secretary of State and in good standing or a foreign corporation with a certificate of authority to transact business in this state from the Secretary of State and in good standing;

2. obtain and maintain current applicable parish and/or municipal occupational and other required permits and licenses to operate within said parish or municipality and pay all fees required to secure the aforementioned licenses and permits prior being issued a license; and

3. provide the board with financial statements indicating any gross fantasy sports contest revenue for the previous three years.

G. An applicant, licensee, and all associated persons shall remain current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to the state of Louisiana and the Internal Revenue Service, excluding items under formal appeal in accordance with applicable statutes and regulations, and items for which the Department of Revenue and Taxation or the Internal Revenue Service has accepted a payment schedule for taxes owed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§311. Continuing Suitability, Duty to Report**

A. Suitability is an ongoing process. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations has a continuing duty to inform the board and division of any action which could reasonably be believed to constitute a violation of the Act or these regulations. This obligation to report is to be

construed in the broadest possible manner; any question that exists regarding whether a particular action or circumstance constitutes a violation shall be decided in favor of reporting. The board and division shall be notified no later than 15 days from the date the applicant, licensee or permittee, or person knew or should have known of the possible violation. No person who so informs the board and division shall be discriminated against by an applicant, licensee or permittee because of supplying such information.

B. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of material changes in their affiliations, businesses, financial standing, operations, ownership relationships, corporate management personnel, officers or directors within 15 days of the change. However, in the case of a publicly traded company, this obligation shall be satisfied if such company files with the board and division copies of all form 10Ks, 10Qs, and 8Ks filed with the Securities and Exchange Commission within 15 days of the filing with the Securities and Exchange Commission.

C. An applicant, licensee or permittee, or person required to submit to suitability by the Act or these regulations shall also have a continuing duty to inform the board and division of all administrative actions instituted or pending in any other jurisdiction against or involving the applicant, licensee, permittee, or the parent corporation or affiliate of the applicant, licensee or permittee, within 15 days of receipt of notice of the administrative actions instituted or pending in any other jurisdiction.

D. Failure to report or provide notice required by this Section may constitute grounds for delaying consideration of the application or denial of the application, revocation, suspension, administrative action, or the imposition of a civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§313. Other Considerations for Licensing**

A. The board may consider the following criteria when deciding whether to issue a license or a finding of suitability to conduct fantasy sport contest or whether to continue licensing or finding a person suitable to participate in fantasy sports contests. The various criteria set forth may not have the same importance in each instance. Other factors may present themselves in the consideration of licensing and a finding of suitability. The following criteria are not listed in order of priority:

1. applicant or licensee and its operation is properly financed;
2. adequate security. The board may consider whether the platform is designed and secured in a manner that provides adequate security for all aspects of its operation and for players;
3. character and reputation. The board may consider the character and reputation of all persons identified with the ownership and operation of the applicant or licensee and their capability to comply with regulations and the Act; and
4. miscellaneous. The board may consider such other factors as may arise in the circumstances presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§315. Surrender of a License**

A. A license may not be surrendered without the prior approval of the board.

B. If a request to surrender a license is approved, the person is immediately eligible to apply for a license, unless the board or division has placed a condition that the applicant shall have to fulfill in order to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

## **Chapter 5. Rules; Operations**

### **§501. Fantasy Sports Contest Operator Requirements and Restrictions; Internal Controls**

A. Licensees may only conduct fantasy sports contests expressly authorized by the Act, these regulations, or its internal controls.

B. Fantasy sports contests authorized by the Act shall be conducted pursuant to the Act, these regulations, and a licensee's internal controls.

C. An applicant shall submit its internal controls with its application for licensing. Licensees shall submit updated internal controls to ensure the division is in possession of the licensee's current internal controls at all times.

D. Licensee's internal controls shall implement commercially reasonable procedures for fantasy sports contests with an entry fee to ensure compliance with all requirements of the Act, these regulations and the following:

1. prohibit participation of a player in fantasy sports contests while the player is located in a prohibited parish;
2. comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to winnings and tax withholding to taxing authorities and players;
3. prevent entries into fantasy sports contests as follows:
  - a. no more than one entry per player in a contest involving 12 or few entries;
  - b. no more than two entries per player in a contest involving 13 to 36 entries;
  - c. no more than three entries per player in a contest involving 37 to 99 entries; and
  - d. no more than the lesser of three percent of all entries or 150 entries in a contest involving one hundred or more entries;

e. notwithstanding Subparagraphs a through d of this Paragraph, a licensee may establish fantasy sports contests in which there are no restrictions on the number of entries if those contests constitute less than two percent of the total number of contests it offers and if the licensee clearly discloses that there are no limits on the number of entries per player and the entry fee is \$50 or more per entry;

4. prevent players from entering into or participating in a fantasy sports contest where the entry fee is greater than the balance in the player's account;

5. prevent employees of the licensee, and relatives of an employee living in the same household as an employee of a licensee, from competing in fantasy sports contests offered by a licensee in which the licensee offers a cash prize to the general public;



6. prevent sharing of confidential information that could affect fantasy sports contests with third parties until the information is made publicly available;
7. that no winning outcome is based on the score, point spread, or any performance of any single real-world sports team or combination of such teams or solely on any single performance of an individual athlete or participant in any single real-world sporting event;
8. that the following persons do not participate in fantasy sports contests:
  - a. athletes and individuals who participate in or officiate a game or competition that is a real-world sport or athletic event that is the subject of a fantasy sports contest; and
  - b. any sports agent, team employee, referee, or league official associated with a real-world sport or athletic event that is the subject of a fantasy sports contest;
9. verify that a fantasy sports contest player is 21 years of age or older;
10. provide fantasy sports contest players with access to information on responsible play;
11. provide fantasy sports contest players with access to the fantasy sports contest player's play history and account details that are not confidential;
12. allow individuals to restrict themselves from entering a fantasy sports contest upon request and provide reasonable steps to prevent the person entering fantasy sports contests offered by a licensee;
13. segregate fantasy sports contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which may not be used for operational activities. Reserve funds may take the form of cash, cash equivalents, payment process reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount that must exceed the total balances of the fantasy sports contest players' accounts;
14. prohibit the use of third-party scripts, unauthorized scripts, or scripting programs for any contest and ensure that measures are in place to deter, detect, and, to the extent reasonably possible, prevent cheating, collusion, and the use of cheating devices, including software programs that submit entry fees or adjust the athletes selected by a player;
15. not offer fantasy sports contests based on the performances of participants in high school or youth athletic events;
16. not offer a fantasy sports contest to the general public that does not establish and make known all prizes and awards offered to winning players in advance of the game or contest;
17. withhold all winnings from players determined to be under the age of 21 or determined to have accessed the platform or entered a fantasy sports contest from within a prohibited parish;
18. allow players to file complaints regarding the fantasy sports contest operation and the handling of the player's fantasy sports contest account;
19. verify the following for players requesting to open an account:
  - a. identity; and
  - b. date of birth.

20. provide parental controls to allow parents or guardians to exclude minors from accessing the licensee's platform; and

21. determine the geographical location of a player at the time of entry in a fantasy sports contest.

E. Licensees shall report all winnings withheld and remit all withheld amounts to the division quarterly.

F. Licensees shall provide information regarding the player's ability to file a complaint with the division, provide the information necessary to file such a complaint, and notify the division of any complaints.

G. Licensees shall ensure that all information required by the Act, these regulations, or its internal controls to be provided to players is easily accessible through the licensee's platform, is clear and concise in language, and provides a mean to contact the licensee with questions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§503. Platforms; Identification of Licensee; Duties of Licensee**

A. To ensure the protection of players, a platform shall identify the person or entity that is the licensee.

B. Licensees shall provide a set of terms and conditions readily accessible to the player on its platforms.

C. Licensees shall provide a readily accessible privacy policy to the player on its platforms. The privacy policy shall state the information that is required to be collected, the purpose for information collection, and the conditions under which information may be disclosed. Any information about a player's account that is not subject to disclosure pursuant to the privacy policy shall be kept confidential, except where the release is required by law or requested by the board or division. Player information shall be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is decommissioned. If erasure is not possible, the storage device must be destroyed.

D. A licensee shall ensure that fantasy sports contests on its platform comply as follows:

1. a licensee shall not offer or award a prize to the winner of, or athletes in, the underlying competition itself; and

2. a licensee shall not offer fantasy sports contests based on the performances of participants in high school or youth athletics.

E. A licensee shall have procedures that do all of the following prior to operating in this state:

1. prevent unauthorized withdrawals from a player's account by the licensee or others;

2. make clear that funds in a player's account are not the property of the licensee and are not available to the licensee's creditors;

3. ensure any prize won by a player from participating in a fantasy sports contest is deposited into the player's account within forty-eight hours of winning the prize;

4. ensure players can withdraw the funds maintained in their individual accounts in accordance with the act and these regulations;

5. allows a player to permanently close his account at any time for any reason; and

6. offers players access to their play history and account details.

F. A licensee shall establish procedures for a player to report complaints to the licensee regarding whether his account has been misallocated, compromised, or otherwise mishandled, and a procedure for the licensee to respond to those complaints. Licensees shall maintain a record of all complaints.

1. A player who believes his account has been misallocated, compromised, or otherwise mishandled may notify the board or division. Upon notification, the board or division shall investigate the claim and may take any action the board deems appropriate pursuant to the provisions of the Act or these regulations.

G. A licensee shall not issue to a player any form of credit governed by the provisions of the Louisiana Consumer Credit Law, R.S. 9:3510 et seq.

H. If a session is terminated due to a player inactivity timeout, the player's device must display to the player that the session has timed out and inform him of the steps needed to be taken to reestablish the session. If the session is terminated due to a player inactivity timeout, no further participation is permitted unless and until a new session is established by the player. This process shall include, at a minimum, the manual entry of the player's secure password.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **§505. Scripts**

A. Licensees shall use commercially reasonable efforts to prevent the use of unauthorized scripts in fantasy sports contests. Unauthorized scripts include:

1. Those deemed to offer an unfair advantage over other players for reasons including, but limited to:

a. facilitating entry of multiple fantasy sports contests with a single line-up;

b. facilitating changes in many line-ups at one time;

or  
c. facilitating use of commercial products designed to identify advantageous fantasy sports contest strategies.

B. Licensees may prohibit the use of any and all scripts.

C. Licensees shall monitor fantasy sports contests to detect the use of unauthorized scripts and restrict players found to have used such scripts from entering or participating in further fantasy sports contests. Licensees shall notify the Division or any unauthorized scripts detected and the actions taken against those using the scripts.

D. Licensees shall make information regarding authorized scripts readily available to all players, provided that a licensee shall clearly and conspicuously publish its rules on what types of scripts may be authorized in the fantasy sports contest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **§507. Prohibited Parish; Geolocation, Geofencing; Proxy Servers**

A. No licensee nor any licensee's employee shall allow a player to participate in a fantasy sports contest while located in a prohibited parish.

B. Licensees shall implement and abide by protocols and procedures to ensure a player is not utilizing a proxy server, virtual private network, spoofing, or other means to disguise their physical location or their computer or device's physical location when accessing a platform. Licensees shall use, at a minimum:

1. geolocation and geo-fencing techniques and capability; and

2. commercially reasonable standards for the detection and restriction of proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

C. Licensees shall deny access to its platform and all fantasy sports contests if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player.

D. If a licensee discovers a player utilizing any means to disguise their identity or physical location or their computer's or device's physical location or acting as a proxy for another player, the licensee shall immediately terminate the player's participation in any fantasy sports contest and follow protocols to restrict the player from future access and account privileges and shall maintain a record of all information, documentation, or evidence of such activity.

E. Licensees shall immediately notify the division of any entries into fantasy sports contests made when the player was located in a prohibited parish and shall provide the division with all information, documentation, and other evidence of such activity.

F. Licensees who violate this Section shall be penalized in accordance with R.S. 27:309(C)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **§509. Player Registration with Licensee Required**

A. A person shall register with a licensee prior to participating in fantasy sports contests on a platform that can be accessed by persons located in the State of Louisiana. Licensees shall not allow any person to participate in fantasy sports contests on its platform unless that person is registered.

B. With respect to registration, a licensee shall do all of the following:

1. implement security standards to prevent access to fantasy sports contests by a person whose location and age have not been verified in accordance with the act, these regulations, or internal controls;

2. ensure that all persons provide their age and state of residence, before participating in a fantasy sports contest;

3. utilize commercially reasonable steps to confirm that a person registering for an account is at least 21 years of age before such person participates in fantasy sports contests; and

4. clearly and conspicuously publish and facilitate parental control procedures to allow parents or guardians to exclude persons less than twenty-one years of age from access to any fantasy sports contest.

C. During the registration process, a person shall agree to the privacy policy and the following applicable terms and conditions of service:

1. registration information provided by the person to the licensee is accurate;
2. the person has been informed, and acknowledges, that as a player he is prohibited from allowing any other person access to or use of his account;
3. specify the handling of entry fees where the entry of a player is canceled;
4. specify the handling of entry fees for paid fantasy sports games that are voided or abandoned;
5. clearly define the rules by which any unrecoverable malfunctions of hardware or software are addressed;
6. advise the player to keep his password and login ID secure;
7. Advise the player on requirements regarding forced password changes, password strength, and other related items;
8. no individual less than twenty-one year of age is permitted to participate in fantasy sports contest;
9. the method by which players will be notified of updates to the terms and conditions and privacy policy;
10. the conditions under which an account is declared inactive and explain what actions will be undertaken on the account once this declaration is made including the forfeiting of any monies remaining in the account; and
11. clearly define what happens to the entry fees placed if a player has entered a paid fantasy sports contest prior to any self-imposed or licensee-imposed exclusion, including the return of all paid entries to the player, or settling all entries, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§511. Limitation on Active Accounts; Obligations to Players**

A. A licensee shall:

1. limit each authorized player to one active and continuously used account and username;
2. implement rules and publish procedures to terminate all accounts of any player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as a proxy;
3. publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform. The procedures shall include a toll-free number to call for help in establishing such parental controls;
4. make clear conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners when referencing the chances or likelihood of winning;
5. permit any player to permanently close an account registered to the player, on any and all platforms supported by the licensee, at any time and for any reason; and
6. implement measures to protect the privacy and online security of players, their account, and their personal financial information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§513. Designation of Players; Games Offered**

A. A licensee shall identify all highly experienced players in any contest by a symbol attached to the players' usernames, or by other visible means, on all platforms supported by the licensee.

B. A licensee shall implement and maintain on-boarding procedures for new players that explain opportunities to learn about fantasy sports contest play and how to identify highly experienced players, and shall recommend beginner fantasy sport contests and low-cost private fantasy sports contests with friends for their value as a learning experience.

C. A licensee shall develop fantasy sports contests that are limited to beginner players and shall keep non-beginner players from participating, either directly or through another person as a proxy, in those fantasy sports contest games. A licensee shall suspend the account of any non-beginner player that enters a beginner player fantasy sports contest directly or through another person as a proxy and shall ban such individual from further play unless good faith can be demonstrated. A licensee may allow a non-beginner player who is not a highly experienced player to enter up to ten beginner player fantasy sports contests in any sport in which that player has not already entered 20 fantasy sports contests.

D. A licensee shall develop fantasy sports contest games in which highly experienced players cannot, either directly or through another person as a proxy, participate. A licensee shall suspend the account of any highly experienced player who enters a fantasy sports contest that excludes highly experienced players, directly or through another person as a proxy, and shall ban such individual from further play.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§515. Charging for Inactive Accounts**

A. A licensee shall not charge a player for an inactive account.

B. A licensee shall charge players only for entry fees placed on contests entered. No player shall be charged for failure to enter a fantasy sports contest or for failure to deposit certain amounts of cash or cash equivalent into any account.

C. Licensees shall follow state law as it regards unclaimed property for inactive accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§517. Protection for Problem or Compulsive Gamblers**

A. Self-Restriction

1. Licensees shall allow a player to restrict themselves from entering a fantasy sports contest or accessing a fantasy sports contest account for a specific period of time, minimum of which shall be three months, as determined by the player and shall implement procedures to prevent the person from participating in the licensee's fantasy sports contests.

2. Licensees shall develop and maintain an online self-restriction form and a process to exclude any person from participating in fantasy sports contests who completes and submits the form to the licensee and shall provide a web

link on its platforms to the online self-restriction form. The licensee shall retain each submitted online self-restriction form and restrict such persons from play and close the player's account for the specified time.

3. Online self-restriction is different than submitting a self-exclusion form excluding a person from a casino gaming establishment. When a player chooses the option of self-restriction, he shall be notified of the option to also self-exclude from casino gaming in Louisiana and the link to the self-exclusion form on the board's website.

**B. Self-Imposed Limits**

1. Licensees shall implement and maintain procedures that allow players to limit themselves from:

- a. entering into a maximum set number of fantasy sports contests in a set period of time;
- b. paying more than a certain amount of money for any entry fee; and
- c. depositing more than a set amount of funds into their account.

C. Players shall have the option to adjust the time period of the self-restriction or to adjust the self-limits to make them more restrictive as often as they choose, but shall not have the option to make the time period or limits less restrictive within 90 days of setting. Any change must provide a prompt to ensure the player is aware of the change and the player must then confirm the change.

D. Licensees shall enforce the limitations placed upon player accounts by:

1. providing a plan to honor requests from players to self-restrict or self-limit;
2. providing a plan to ensure that, immediately upon a player self-restricting from participating, no new entry fees or deposits are accepted from that player until the self-restriction expires or is removed;
3. providing a plan to allow a player that self-restricts to access and withdraw remaining funds from his account;
4. ensuring self-restricted persons do not receive marketing or advertisement during the period of self-restriction.

E. Licensees shall train employees on problem and compulsive gambling. Such training shall include, but not be limited to: training on policies and best practices for identifying and assisting players who may be problem or compulsive gamblers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§519. Advertising, Mandatory Signage**

A. A licensee shall not advertise fantasy sports contests to a person by phone, email, or any other form of individually targeted advertisement or marketing material if the person has self-restricted or is excluded pursuant to the provisions of the Act or these regulations, or if the person is otherwise barred from participating in fantasy sports contests (including, but not limited to, advertisements targeted to persons under the age of twenty-one).

B. Advertisements and marketing material shall not depict minors, students, schools, or school settings.

C. A licensee shall not advertise or run promotional activities at any primary or secondary schools, as defined by

Louisiana law and including elementary, middle, and high schools, or sports venues exclusively used for primary or secondary schools.

D. Licensees shall ensure that all advertisements of fantasy sports contests and prizes do not target prohibited players, persons under the age of twenty-one, or self-restricted persons.

E. A licensee shall not misrepresent the frequency or extent of winning in any fantasy sports contest advertisement.

F. A licensee shall provide on its platform, any websites, and in any advertisement of fantasy sports contests or prizes for such the toll-free telephone number available for information and referral services regarding compulsive or problem gambling as required in R.S. 27:27.3.

G. A licensee shall comply with the provisions of §2927 of Part III of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**Chapter 7. Records; Accounting; Confidentiality**

**§701. Financial Statements and Records**

A. Each licensee, in such manner as the division may approve or require, shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenue that is taxable or subject to fees under the Act.

B. Each licensee shall keep general accounting records on a double entry system of accounting, with transactions recorded on a basis consistent with generally accepted accounting principles, maintaining detailed, supporting, subsidiary records, including but not limited to:

1. records identifying:
  - a. revenues by day;
  - b. expenses;
  - c. assets;
  - d. liabilities;
  - e. location percentage;
2. records required by the internal controls;
3. journal entries and all work papers, electronic or manual, prepared by the licensee and their independent accountant;
4. financial statements and supporting documents; and
5. any other records the division requires.

E. Each licensee shall create and maintain records sufficient to accurately reflect income and expenses relating to its operations.

F. If a licensee fails to keep the records used to calculate net revenue, gross fantasy sports contest revenues, and location percentages, or if the records are not adequate to determine these amounts, the division may compute and determine the amount of net revenues, gross fantasy sports contest revenues or location percentages based on an audit and statistical analysis conducted by the division.

G. Reporting gross fantasy sports contest revenues.

1. Each licensee shall report gross fantasy sports contest revenues in accordance with requirements provided by the division.

2. The payment of taxes in accordance with R.S. 27:316 shall be paid monthly and is due by the fifth of the following month. If the due date is a non-banking day, the

fees are due the closest banking day prior to the fifth unless it is more than two days before the fifth in which case the taxes are due the first banking day after the fifth.

3. Taxes shall be deposited electronically in accordance with guidelines provided by the division. Overpayments may be deducted from future taxes owed, but shall not result in a refund to the licensee unless caused by the division or if the licensee is withdrawing from the state and returning its license to operate.

H. In accordance with R.S. 27:306(B)(3), licensees shall submit to the division financial statements indicating any gross fantasy sports contest revenue for the previous three years at the time of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§703. Record Retention and Backup**

A. Upon request and at a location designated by the division, each licensee shall provide the division with the records required to be maintained by this Chapter. Each licensee shall retain all such records for a minimum of five years in a location approved by the division. In the event of a change of ownership, records of prior owners shall be retained in a location approved by the division for a period of five years unless a different period is authorized by the division. Electronic records may be maintained in other locations if access to the records is available on computers located at the principal place of business or other location approved by the division.

B. Each licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this Section, the licensee shall submit the name, location, and security controls of the off-site storage facility to the division. Licensees shall submit changes to the location and security controls of the off-site storage facility at least 30 days prior to the change. Any changes less than 30 days in advance must include justification for the late submission. A complete system data backup includes, but is not limited to:

1. all revenue reports;
2. all fantasy sports contest results;
3. patron account information; and
4. the geographical location of every player accessing a platform of the licensee and entering into a fantasy sports contest on a platform of the licensee.

C. Licensees shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§705. Funds; Segregation of Funds**

A. Licensees shall segregate fantasy sports contest player funds from operational funds in accordance with R.S. 27:308(A)(9).

B. Licensees shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a

combination of these sources that is at least equal to the amount of money deposited in fantasy sports contest player accounts.

C. Licensees shall provide the division with documentation of the amount of deposits in Louisiana players' accounts and the amount in cash reserves as of the last day of each month by the tenth day of the following month.

D. Licensees shall continuously monitor and maintain a record of all player deposits and its cash reserves to ensure compliance with the cash reserves requirement. If at any time the licensee's total available cash and cash equivalent reserve is less than the amount required, the licensee shall notify the division within 48 hours of the deficiency, the reason, and the resolution to correct the deficiency.

E. Licensees shall prohibit a player from transferring funds through his account or the platform to any other player.

F. Except as provided in Subsection E, licensees shall allow a player to withdraw the funds maintained in his account within five business days of the request being made. For purposes of this Paragraph, a request for withdrawal is considered honored if it is processed by the licensee but delayed by a payment processor, credit card issuer, or by the custodian of a financial account through no fault, action or inaction of the licensee.

G. A licensee may decline to honor a player's request to withdraw funds only if the licensee believes in good faith that the player engaged in fraudulent conduct or other conduct that would put the licensee in violation of the Act or these regulations. In such cases, the licensee may withhold the funds for a reasonable investigatory period until the investigation is resolved, if the licensee provides notice of the nature of the investigation to the player and conducts its investigation in a reasonable and expedient fashion providing the player additional written notice of the status of the investigation every tenth business day starting from the day the original notice was provided to the player. The licensee must notify the division any time it makes the decision to decline a player's request to withdraw funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

### **§707. Audits and Reporting**

A. Licensees shall comply with the provisions of R.S. 27:308(D) and 310.

B. Licensees shall provide the following information upon demand by the division. As appropriate, the information shall include, at a minimum, month to date and year to date.

1. For each paid fantasy sports contest offered, the following information:

- a. the date and time the fantasy sports contest started (began accepting entries) and ended (results finalized);
- b. the contest identifier;
- c. the prize structure;
- d. the players who entered the fantasy sports contest;
- e. the selections each player made for their team;
- f. the total number of points earned by each player's team;

- g. the total amount of entry fees paid;
- h. the results, including the points earned by the winning player or players;
- i. the total amount of winnings to the players;
- j. the total amount of cash equivalents awarded to the players; and
- k. the information used to determine the location percentage.

2. Overall reports providing the following information for all players associated with the licensee:

- a. total player deposits for the requested period;
- b. total player withdrawals for the requested period;
- c. total entry fees collected from players;
- d. total winnings paid to players; and
- e. the same information in Subparagraph c and d of this Paragraph for Louisiana players included in the calculation of the location percentage.

3. A time-stamped player log of the following:

- a. a unique player identification;
- b. all deposits to the player's account;
- c. all withdrawals to the player;
- d. all cash equivalents added to the player's account; and
- e. all manual adjustments or modifications to the player's account.

4. The following player account information:

- a. a unique player identification;
- b. the player's identity details including, but not limited to: participant's legal name; age; and address;
- c. any self-restrictions;
- d. any previous accounts; and
- e. the date and IP address from which the player account was registered or accessed.

C. Annual financial statements shall be provided to the division not later than May 1 each year or 120 days after the end of the fiscal year if not December 31.

D. A licensee shall submit to the division one copy of any report required to be filed with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency by the licensee, and their holding company, intermediate company, or parent company. These reports shall be delivered to the division within 15 days of the time of filing with such commission or agency or within 15 days of the due date prescribed by such commission or regulatory agency, whichever comes first.

E. Each licensee shall submit to the division audited financial statements reflecting all financial activities of the licensee's fantasy sports contest operations subjected to an examination conducted according to generally accepted auditing standards by an independent Certified Public Accountant (CPA).

1. This shall include an audit of annual entry fees, entry fees from Louisiana players, the Louisiana location percentage calculations, winnings paid to players, net revenue, taxes paid to Louisiana based on net revenues, and the licensee's revenue in order to ensure the licensee fairly stated net revenues and paid the correct amount of taxes to Louisiana. The auditor shall reconcile the audited amounts to the amounts reported and paid to Louisiana.

2. All audits and reports required by this Section shall be prepared at the sole expense of the licensee.

#### F. Annual Review of Operations

1. Each licensee shall require the independent CPA, engaged for purposes of examining the financial statements, to submit to the licensee two signed copies of a written report detailing the continuing effectiveness and adequacy of the internal controls.

2. The auditor shall include in this report any items discovered by the auditor or brought to the auditor's attention where the operator does not act in accordance with the internal controls and procedures provided to the division.

3. This report is due no later than 30 days after the due date of the audited financial statements required in Subsection C of this Section.

G. Each licensee shall engage an independent Certified Public Accountant (CPA). The CPA shall examine the statements in accordance with generally accepted auditing standards. The CPA is prohibited from providing internal audit services. Should the CPA previously engaged as the principal accountant to audit the licensee's financial statements resign or be dismissed as the principal accountant, or if another CPA is engaged as principal accountant, the licensee shall file a report with the division within 10 days following the end of the month in which the event occurs, setting forth the following:

1. The date of the resignation, dismissal, or engagement;

2. Any disagreements with a former accountant, in connection with the audits of the two most recent years, on any matter of accounting principles, or practices, financial statement disclosure, auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreement; including a description of each such disagreement; whether resolved or unresolved;

3. Whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and

4. A letter from the former accountant furnished to the licensee and addressed to the division stating whether the CPA agrees with the statements made by the licensee in response to this Section.

H. Unless the division approves otherwise in writing, the statements required must be presented on a comparative basis. Consolidated financial statements may be filed by commonly owned or operated operations, but the consolidated statements must include consolidating financial information or consolidated schedules presenting separate financial statements for each licensee. The CPA shall express an opinion on the consolidated financial statements as a whole and shall subject the accompanying consolidating financial information to the auditing procedures applied in the examination of the consolidated financial statements.

I. Each licensee shall submit to the division two originally signed copies of its audited financial statements and the applicable CPA's letter of engagement not later than May 1 or 120 days after the last day of the licensee's business year if not December 31.

J. If a licensee changes its fiscal year, the licensee shall prepare and submit to the division audited financial statements covering the period from the end of the previous business year to the beginning of the new business year not later than 120 days after the end of the period.

K. Each licensee shall submit a quarterly financial report including gross fantasy sports contests revenues, net revenues, location percentage calculations, and taxes paid on net revenues. The report shall be forwarded to the division not later than 30 days after the last day of the applicable quarter.

L. The division may request additional information and documents from either the licensee or their CPA, regarding the financial statements or the services performed by the CPA. The division may review any and all work papers of the CPA at a time and place determined by the division. These requirements shall be included in agreements between the licensee or its affiliates and the CPA.

M. The licensee shall submit to the division, postmarked by the United States Postal Service or deposited for delivery with a private or commercial interstate carrier, or in another manner approved by the division, any audit report prepared by the Internal Revenue Service (IRS) and issued to the licensee. The report is due within 30 days of receipt from the IRS.

N. Impairments to the independence of a CPA to perform a financial audit include, but are not limited to:

1. during the period of professional engagement to perform an audit, or at the time the opinion was issued, the auditing person:

a. had or was committed to acquire any direct or indirect financial interest in the licensee;

b. was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or indirect financial interest in the licensee;

c. had any joint closely held business investment with the licensee or any key person or owner thereof that was material in relation to the auditing person or the auditing person's firm's net worth; or

d. had any loan to or from the licensee or any key person or owner thereof, when made under normal lending procedures, terms, and requirements, except:

i. loans that are not material to the net worth of the borrower;

ii. home mortgages; or

iii. other secured loans, except loans guaranteed by the auditing person's firm that are otherwise unsecured.

2. during the period covered by the licensee's financial statements, during the period of the professional engagement to perform an audit, or at the time the opinion is issued, the auditing person was:

a. connected with the licensee as a promoter, underwriter, voting trustee, key employee, or in any capacity equivalent to that of a key employee; or

b. a trustee for any pension or profit-sharing trust of the licensee;

3. functioning as if a key employee of the licensee;

4. performing an audit of the independent CPA or independent CPA's firm's own work;

5. advocacy for the licensee; or

6. having any other role with the licensee or its affiliates other than as independent auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **§709. Public and Confidential Records**

A. Except as provided in Louisiana Revised Statutes Title 44:1 et seq. and R.S. 27:21, records of the board and division shall be public records.

B. Louisiana Revised Statutes Title 44:1 et seq., R.S. 27:21, and Chapter 39 of Part III of this Title shall govern this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **Chapter 9. Computer Systems; Security**

##### **§901. Computer Systems and Platforms**

A. Licensees shall implement and maintain procedures, protocols, and security measures in accordance, and shall comply, with Chapter 28 of Part III of this Title and this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

##### **§903. Data Security**

A. Licensees shall comply with all applicable state and federal requirements for data security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

#### **Chapter 11. Procedures; Access; Investigations**

##### **§1101. Access to Premises and Records**

A. The board and division, upon displaying proper credentials, shall be given immediate access to any premises, platform, and geolocation systems to be used in the operation of an applicant or licensee for the purpose of inspecting or examining:

1. premises, platforms, geolocation systems, etc. belonging to or under the control of or related to the operation of fantasy sports contests and any activity relating to the provisions of the Act and these regulations;

2. records or documents required to be kept under the provisions of the Act and these regulations;

3. gaming equipment to be used in the licensed operation; or

4. the conduct of any gaming activity in the licensed operation.

B. The board and division are empowered to inspect, examine, audit, photocopy and if necessary seize, all papers, books, records, documents, information and electronically stored media of an applicant or licensee pertaining to the operation or activity on all premises where such information is maintained. The division shall provide an evidence receipt to the applicant or licensee providing a general description of all documents and items seized.

C. Board and division agents shall have unrestricted contemporaneous access to all records, data, documents and electronic media of a licensee and its operation.

D. Failure to allow access and inspection as provided in this Section may constitute grounds for delaying consideration of the application, denial of the application, or administrative action against the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§1103. Refusal to Answer**

A. Refusal to provide information to, answer questions of, or cooperate in any investigation by the division or board, or a claim of privilege with respect to any testimony or evidence, may constitute sufficient grounds for denial of the application or administrative action including revocation, suspension, and penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§1115. Assisting in or Notification of Violations**

A. No licensee or their employee, agent, or representative shall assist another person in violating any provision of the Act or these regulations; any order, authorization or approval from the board or division; or the internal controls. Such assistance shall constitute a violation of these regulations.

B. It is incumbent upon a licensee or their employee, agent, or representative to promptly notify the division of any possible violation of any federal, state or municipal law, the Act, these regulations, any order, authorization or approval from the board or division, or the internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**Chapter 13. Hearings; Administrative Actions; Penalties**

**§1301. Administrative Actions**

A. The board or division may initiate administrative action authorized by the Act for any violation of the Act or of the rules after notice of the proposed administrative action and after opportunity to request a hearing before the board.

B. The board or division may initiate administrative action authorized by the Act for any violation of any

B. Penalty Schedule

condition, restriction, or limitation imposed by the board on a license or permit.

C. The board or division may initiate administrative action against a licensee, permittee, or person required to submit to suitability by the Act or these regulations who, or whose affiliate or parent company, has been subject to administrative action in another jurisdiction for gaming related activity.

D. The board or division may initiate administrative action authorized by the Act for violation of a licensee’s internal controls as approved by the division.

E. Administrative action includes revocation, suspension, finding of unsuitability, or conditioning of a license or permit, imposition of a civil penalty or such other costs as the board or division deems appropriate. The appropriate sanction may be determined by considering factors contained in the Act including, but not limited to:

1. The risk to the public and the integrity of fantasy sports contest operations created by the conduct;
2. The seriousness of the conduct and whether the conduct was purposeful and with knowledge that the conduct was in violation of the Act or rules promulgated in accordance with the Act;
3. A justification or excuse for the conduct;
4. The history of the licensee or permittee with respect to gaming activity and the operation of fantasy sports contests;
5. The corrective action taken to prevent similar misconduct from occurring in the future;
6. Whether there was any material involvement, directly or indirectly, with the licensee or permittee by a disqualified person as defined in the Act; and
7. In the case of a civil penalty or fine, the amount of the fine in relation to the severity of the misconduct and the financial means of the licensee or permittee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15, 24, and 304.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:

**§1303. Civil Penalties**

A. Pursuant to R.S. 27:311, and these regulations, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B of this Section.

Section Reference	Description	Proscriptive Period (Months)	1st	2nd	3rd or Subsequent
Revised Statutes, Title 27. Louisiana Gaming Control Law					
27:309(A)(1)	A Person Under 21 Participating in Fantasy Sports Contest When Fantasy Sports Contest Operator or Agent Reasonably Believes Person was 21 or Older per R.S. 27:309(C)(1)(a)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action
27:309(A)(1)	A Person Under 21 Participating in Fantasy Sports Contest When Fantasy Sports Contest Operator or Agent is Shown to Have Known or Reasonably Believed Person was Under 21 or if Person was Under Age of 15 Regardless of Knowledge or Reasonable Belief per R.S. 27:309(C)(1)(b)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action
27:309(A)(2)	A Person Participating in Fantasy Sports Contest While Located in a Parish that Voted Against Fantasy Sports Contests per R.S. 27:309(C)(2)	12	\$1,000 or Admin Action	\$1,000 or Admin Action	Admin Action

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 46:



### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:972, the Gaming Control Board, through its chairman, has considered the potential family impact of the proposed Rule.

The proposed Rule has no known impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Gaming Control Board, through its chairman, has considered the potential poverty impact of the proposed Rule.

The proposed Rule has no known impact on impact on the following:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Analysis**

Pursuant to the provisions of R.S. 49:965.2-965.8, the Regulatory Flexibility Act, the Louisiana Gaming Control Board, through its chairman, has concluded that the proposed Rule is not anticipated to have an adverse impact on small business; therefore, a Small Business Impact Statement has not been prepared.

### **Provider Impact Statement**

Pursuant to the provisions of HCR170 of 2014, the Gaming Control Board, through its chairman, has considered the potential provider impact of the proposed Rule.

The proposed Rule has no known impact on impact on the following:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the costs 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**

Interested persons may submit written comments to Earl G. Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802. All comments must be submitted no later than September 10, 2020.

Michael Noel  
Chairman

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Fantasy Sports Contest**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule codifies Act 322 of the 2018 Regular Legislative Session and Act 141 of the 2020 Regular Legislative Session that authorize the conducting, application, licensing, enforcement, and regulation of fantasy sports contests. In addition, the proposed rule clarifies practices already required in the gaming industry and creates uniformity.

The proposed rule increases the workload for existing staff within the Gaming Control Board as a result of additional quarterly and annual reports as well as new applications from the operators of fantasy sports contests. However, the additional workload related to fantasy sports can be accomplished utilizing existing personnel and budgetary resources.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have an unknown impact on revenue collections of state and local governmental units. The proposed rule will have an unknown impact on revenue collections of state and local governmental units. Act 141 of the 2020 Regular Session authorizes the Gaming Control Board to assess and collect fees of \$1,000 for an initial nonrefundable application fee, licensing fees between \$5,000 - \$40,000 for 3-years based on the operator's average gross revenue, and civil fines of at least \$1,000. The exact amount of state revenues from application and licensing fees as well as civil fines is unknown. Revenues from fees will be available to the Department of Public Services and Department of Justice subject to appropriation.

Authorizing fantasy sports contests will impact consumer behavior in an unknown manner. Whether this behavior will increase state and local revenues or shift revenues from other forms of existing legalized gaming is unknown. To the extent the proposed rule change results in an expansion of gaming activity, revenue may increase at the statewide or local level. Also, to the extent the proposed rule change shifts gaming behavior, local revenues may increase or decrease between localities.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will result in an unknown impact on costs and economic benefits to licensed operators of fantasy sports contests. Authorizing fantasy sports contests will impact consumer behavior in an unknown manner. Whether this behavior will result in costs or economic benefits to licensed operators of fantasy sports contests is unknown. To the extent the proposed rule may result in an increase of gaming activity, economic benefits may increase at the statewide or local level. To the degree that the proposed rule change shifts gaming behavior, existing gaming locations may realize indeterminable costs or economic benefits.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule will result in an unknown impact on competition and employment. To the extent the proposed rule change may result in an increase of gaming activity, competition and employment may benefit at the statewide or

local level. To the extent the proposed rule change shifts gaming behavior, competition and employment may expand or contract between localities.

Michael Noel  
Chairman  
2008#013

Christopher Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of the State Fire Marshal  
Uniform Construction Code Council**

State Uniform Construction Code  
(LAC 17:I.111)

In accordance with R.S. 49:953(B) of the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council, hereafter referred to as the “LSUCCC” or the “Council”, proposes to amend LAC 17:I.Chapter 1 of the State Uniform Construction Code as authorized by R.S.40:1730.28. The LSUCCC proposes the adoption of amendments to the current State Uniform Construction Code, 2015 *International Plumbing Code*, Section 422.11, Handwashing Facilities, to provide greater health and safety for the public and for those providing medical care to patients. A letter from Dr. Jimmy Guidry, State Health Officer, Department of Health, was received by the LSUCCC requesting an amendment be adopted by the Council. This amendment will serve to better protect the

public and to follow national guidelines from the Center for Disease Control (CDC), in addition to promoting greater access to safer hygiene practices and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

In Dr. Guidry’s letter, he states the following: “In the absence of nationally mandated requirements or guidelines regarding handwashing facilities in medical office exam rooms, I’ve considered the minimum indications for handwashing and antiseptics, as accepted by the Center for Disease Control (CDC). The CDC recognizes hand hygiene in health-care settings, based on the recommendations of the Healthcare Infection Control Practices Advisory Council. It is my recommendation that the following language be added as an exception to the referred to section above as an Emergency Rule Amendment. This should only be acceptable in lieu of handwashing facilities alone, in a healthcare setting such as doctor’s offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM).”

**Title 17  
CONSTRUCTION**

**Part I. Uniform Construction Code**

**Chapter 1. Adoption of the Louisiana State Uniform Construction Code**

**§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2015 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

* * *		
Amend	Chapter 4	
* * *		
Adopt	Section 422.11, Handwashing Facilities.	Medical facilities, including doctor’s office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.
Amend	Exception	1. In healthcare setting such as doctor’s offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM), where hands are not expected to be visibly soiled and clinical situations described in items 1C-J (IA) (74,93,166,169,283,294,312,398) are followed, use of an alcohol-based hand rub for routinely decontaminating hands shall be allowed in lieu of handwashing facilities. The design professional shall provide documentation to the building official specifying the anticipated exposure.
* * *		

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire

Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 46:

**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 formation/functioning, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, 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 Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Small Business Analysis**

In compliance with Act 820, of the 2008 Regular Legislative 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. 49:965.6.

#### **Provider Impact Statement**

As described in HCR 170 of the 2014 Regular Legislative Session, the 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**

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, P.O. Box 66614, Baton Rouge, LA 70896. Written comments may also be hand-delivered to Melinda L. Long, Department of Public Safety, Office of Legal Affairs, 7979 Independence Boulevard, Suite 308, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2020 at 4:30 p.m.

#### **Public Hearing**

A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a) if needed.

Chief H. "Butch" Browning, Jr.  
State Fire Marshal

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: State Uniform Construction Code**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule adopts amendments to the State Uniform Construction Code, 2015 International Plumbing Code, Section 422.11, Handwashing Facilities. At the request of Dr. Jimmy Guidry, State Health Officer at the LA Department of Health (LDH), the proposed rule amends the handwashing sink requirements and practices. The change will provide a process for the healthcare industry to provide care which meets or exceeds the CDC guidelines and provide a more consistent statewide process of handwashing practices while following CDC recommended practices.

The proposed rule is not anticipated to result in additional costs or savings for state agencies. There is an anticipated indeterminable impact on cost savings for local governmental units as a result of the proposed rule. Due to the size of governmental jurisdictions and the varying permitting and inspection process within each governmental jurisdiction, this impact is indeterminable.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated impact on revenue collections for state or local governments as a result of the proposed rules.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The adoption of the proposed rule is anticipated to impact directly affected persons or non-governmental groups. The adoption of the proposed rule is anticipated to effect jurisdictions, contractors, developers, doctors and consumers by allowing alternative methods for handwashing in medical facilities and removing the requirement to install handwashing sinks in all exam rooms. Also, the proposed rule is anticipated to reduce construction costs to existing facilities undergoing renovation while promoting greater access to safer hygiene practices; thereby allowing certain existing buildings to become healthcare facilities. These healthcare facilities will be geographically closer to those seeking or requiring medical treatment while reducing overall construction costs.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not anticipated to effect competition or employment. The proposed rule will provide access to more existing healthcare facilities, which may allow a potential increase in healthcare worker employment.

Lt. Col. Jason Starnes  
Deputy Superintendent/CAO  
2008#048

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Revenue Policy Services Division**

Mandatory Electronic Filing of Certain  
Excise Tax Returns and Payment of Taxes  
(LAC 61:III.1539-1546)

Under the authority of R.S. 26:354(F), 47:831, 47:1511, 47:1519, and 47:1520, 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 adopt LAC 61.III.1539 through 1546, to provide mandatory electronic filing and payment requirements for the Alcoholic Beverage Tax Return, State and Parish and Municipal Beer Tax Return, Return for Wines Shipped Direct to Consumers, Hazardous Waste Disposal Tax Return, Transportation and Communication Utilities Tax Return, and Report of Inspection and Supervision Fee.

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 regulation is to mandate electronic filing of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision Fee returns and reports and electronic payment of all Alcoholic Beverage, Hazardous

Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision taxes and fees.

## **Title 61**

### **REVENUE AND TAXATION**

#### **Part III. Administrative and Miscellaneous Provisions**

#### **Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment**

##### **§1539. Alcoholic Beverage Tax Returns—Electronic Filing Requirements**

A. For taxable periods beginning on or after January 1, 2021, every manufacturer and wholesale dealer handling beverages of high and low alcoholic content and every out-of-state wine producer, manufacturer and retailer who sells and ships wine directly to a consumer in Louisiana shall be required to file all alcoholic beverage tax returns and reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Manufacturers, wholesale dealers, and out-of-state wine producers, manufacturers, and retailers may not send paper versions of any returns or reports required to be filed.

C. 1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

##### **§1540. Alcoholic Beverage Taxes—Electronic Payment Required**

A. R.S. 47:1519(B)(1) allows the secretary to require payment of taxes on all alcoholic beverages by electronic funds transfer.

B. Effective for all reporting periods beginning on or after January 1, 2021, all payments of the tax on alcoholic beverages shall be electronically transferred to the Department of Revenue on or before the fifteenth of the month following the close of the reporting period for beverages of high alcoholic content, and the twentieth day of the month following the close of the reporting period for beverages of low alcoholic content and wine shipped directly to a consumer in Louisiana using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with

documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1539.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

##### **§1541. Hazardous Waste Disposal Tax Return—Electronic Filing Requirements**

A. For taxable periods beginning on or after January 1, 2021, every generator and disposer of hazardous waste subject to the tax levied in Chapter 7-A of Subtitle II of Title 47 of the Louisiana Revised Statutes shall be required to file all Hazardous Waste Disposal Tax Returns and Schedules electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Generators and disposers of hazardous waste may not send paper versions of any returns or schedules required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in Paragraph 1 of this Subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

##### **§1542. Hazardous Waste Disposal Tax—Electronic Payment Required**

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the tax on disposal and storage of hazardous waste by electronic funds transfer.

B. Effective for all taxable periods beginning on or after January 1, 2021, all payments of the tax on disposal and storage of hazardous waste shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not

timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1541.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

#### **§1543. Transportation and Communication Utilities Tax Return—Electronic Filing Requirements**

A. For taxable periods beginning on or after January 1, 2021, every public utility as defined by R.S. 47:1003 shall be required to file the Transportation and Communication Utilities Tax Return electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Public utilities may not send paper versions of any returns required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

#### **§1544. Transportation and Communication Utilities Tax—Electronic Payment Required**

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the transportation and communication utilities tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after January 1, 2021, all payments of the transportation and communication utilities tax shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period for monthly filers and the thirtieth day following the close of the reporting period for quarterly filers using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1543.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

#### **§1545. Report of Inspection and Supervision Fee—Electronic Filing Requirements**

A. For fee periods beginning on or after January 1, 2021, every common carrier and public utility required to file the quarterly report of inspection and supervision fee shall file the report electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Common carriers and public utilities may not send paper versions of any reports required to be filed.

C.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in Paragraph 1 of this Subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

#### **§1546. Inspection and Supervision Fee - Electronic Payment Required**

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the inspection and supervision fee by electronic funds transfer.

B. Effective for all reporting periods beginning on or after January 1, 2021, all payments of the inspection and supervision fee shall be electronically transferred to the Department of Revenue on or before the last day of the third month following the close of the reporting period using the electronic format provided by the department.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

## Public Hearing

A public hearing will be held on September 28, 2020 at 9:00AM in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana. Masks are required in the LaSalle Building.

Kimberly Lewis Robinson  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Mandatory Electronic Filing of Certain Excise Tax Returns and Payment of Taxes**

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules require electronic filing of the returns and reports of all alcoholic beverage taxes, Hazardous Waste Disposal Tax, Transportation and Communication Utilities Tax, and Inspection and Supervision Fee, and electronic funds transfer of all related tax and fee payments. The proposed rules also provide for the assessment and waiver of penalties for non-compliance.

Implementation of this proposal will not result in material additional costs or cost savings to governmental units. LDR is implementing electronic filing of these returns and reports through LDR's LaTAP system as an ongoing enhancement of its collection efforts. 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 SGR collections from penalties by an indeterminable amount in FY 21 and FY 22 and SGF collections in FY 23 (see note below). A modest and temporary increase in revenue from penalties may occur as the proposed rules are implemented, although LDR cannot predict non-compliant behavior. For informational purposes, on returns that are currently required to be filed electronically, LDR collected approximately \$7,000 in FY 17, \$1,000 in FY 18, \$6,000 in FY 19, and \$45,000 in FY 20. 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.

Note: Pursuant to Act 348 of the 2020 Regular Session, penalties and fees except compensatory fees levied by LDR will accrue to the state general fund, rather than to SGR for the department.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

LDR 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, as online access and activity has largely become a business standard. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. LDR 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 Lewis Robinson  
Secretary  
2008#049

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

D. Failure to comply with the electronic funds transfer requirements shall result in the fee payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a fee-payer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the fee-payer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the fee-payer from the requirement to transmit funds electronically.

G. The reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the report required by the Department of Revenue are set forth in LAC 61.III.1545.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR

### 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 25, 2020.

## NOTICE OF INTENT

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

#### Removal of Abandoned Crab Traps (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.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1; Volume 45, Number 2; Volume 45, Number 12*). The Wildlife and Fisheries Commission took action on August 6, 2020 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery

#### §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point originating along the eastern shoreline of the Mississippi River at 29 degrees 46 minutes 30.00 seconds north latitude, 90 degrees 01 minutes 03.51 seconds west longitude; thence easterly along 29 degrees 46 minutes 30.00 seconds north latitude to its intersection with the eastern bank of Bayou Terre Aux Boeufs at 29 degrees 46 minutes 30.00 seconds north latitude, 89 degrees 46 minutes 58.76 seconds west longitude; thence southerly along the eastern bank of Bayou Terre Aux Boeufs to 29 degrees 41 minutes 15.19 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence southerly along 89 degrees 38 minutes 00.00 seconds west longitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 38 minutes 00.00 seconds west longitude; thence westerly along 29 degrees 34 minutes 12.00 seconds north latitude to 29 degrees 34 minutes 12.00 seconds north latitude, 89 degrees 42 minutes 36.00 seconds west longitude; thence southerly along 89 degrees 42 minutes 36.00 seconds west longitude to its intersection with the eastern bank of the Mississippi River at 29 degrees 30 minutes 51.57 seconds north latitude, 89 degrees 42 minutes 36.24 seconds west longitude; thence northerly along the eastern bank of the Mississippi River to its point of origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Lafourche and Terrebonne Parishes as described below:

1. from a point originating on the eastern shore of Bayou Lafourche at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 17 minutes 52.32 seconds west longitude, thence due west to the southwestern most point of the Pointe Aux Chenes Wildlife Management Area at 29 degrees 26 minutes 09.67 seconds north latitude, 90 degrees 19 minutes 32.14 seconds west longitude, thence westerly following the southern boundary of the Pointe Aux Chenes Wildlife Management Area to its intersection with the western shore of Bayou Pointe Aux Chenes (29 degrees 26 minutes 49.37 seconds north latitude, 90 degrees 27 minutes 53.44 seconds west longitude), thence southerly along the western shore of Bayou Pointe Aux Chenes to the point where Bayou Pointe Aux Chenes exits between Lake Raccourci and Lake Felicity (29 degrees 15 minutes 55.48 seconds north latitude, 90 degrees 23 minutes 47.39 seconds west longitude), thence easterly to a point on the eastern shoreline of Bayou Pointe Aux Chenes (29 degrees 15 minutes 55.66 seconds north latitude, 90 degrees 23 minutes 46.76 seconds west longitude), thence easterly along the shoreline to a point at 29 degrees 15 minutes 52.74 seconds north latitude, 90 degrees 23 minutes 01.97 seconds west longitude, thence due south to Timbalier-Terrebonne Bay Light #23 (29 degrees 09 minutes 37.26 seconds north latitude, 90 degrees 22 minutes 58.17 seconds west longitude), thence southeasterly following the buoy line through Havoline Canal to a point on the eastern shore of Bayou Lafourche (29 degrees 09 minutes 40.54 seconds north latitude, 90 degrees 13 minutes 57.34 seconds west longitude), thence northerly following Bayou Lafourche to its point of origin.

C. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 1, 2021 through 11:59 p.m. February 14, 2021 within portions of Iberia and St. Mary Parishes as described below:

1. from a point originating at Point Marone (29 degrees 38 minutes 03.42 seconds north latitude, 91 degrees 38 minutes 44.07 seconds west longitude), thence southwesterly to East Point on Marsh Island (29 degrees 34 minutes 06.06 seconds north latitude, 91 degrees 42 minutes 31.15 seconds west longitude), southerly along the eastern shore of Marsh Island to South Point (29 degrees 29 minutes 25.55 seconds north latitude, 91 degrees 46 minutes 07.56 seconds west longitude), thence northeasterly to Point Chevreuil (29 degrees 31 minutes 37.85 seconds north latitude, 91 degrees 32 minutes 21.91 seconds west longitude), thence northerly and westerly along the north shore of East Cote Blanche Bay to its point of origin.

D. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 22, 2021 through 11:59 p.m. March 7, 2021 within portions of Plaquemines and St. Bernard Parishes as described below:

1. from a point located where Bayou La Loutre and Bayou Terre Aux Boeufs intersect at 29 degrees 50 minutes 31.70 seconds north latitude, 89 degrees 45 minutes 47.19 seconds west longitude, thence westerly to the western shore of Bayou Terre Aux Boeufs (29 degrees 50 minutes 31.57

seconds north latitude, 89 degrees 45 minutes 47.65 seconds west longitude), thence southerly following the western bank of Bayou Terre Aux Boeufs to 29 degrees 40 minutes 28.34 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude, thence north along 89 degrees 36 minutes 18.00 seconds west longitude to a point located in Grand Pass, between Lake Jean Louis Robin and Lake Coquille (29 degrees 43 minutes 48.00 seconds north latitude, 89 degrees 36 minutes 18.00 seconds west longitude), thence east along 29 degrees 43 minutes 48.00 seconds north latitude to its intersection with the western shore of the MRGO (29 degrees 43 minutes 48.06 seconds north latitude, 89 degrees 28 minutes 05.96 seconds west longitude), thence northwesterly along the western shore of the MRGO to its intersection with the northern shore of Bayou La Loutre, thence westerly following the northern shore of Bayou La Loutre to its point of origin.

E. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites and determine the final disposition of crab traps removed from the closure areas, including but not limited to disposal, buy-back, recycling, or distributed to industry members participating in the retrieval of crab traps from within a closure area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014), LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:78 (January 2019), repromulgated LR 45:282 (February 2019), LR 46:1815 (December 2019), amended LR 46:

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.

#### **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.

#### **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.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **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](mailto:pcagle@wlf.la.gov) prior to September 30, 2020.

William Hogan  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Removal of Abandoned Crab Traps**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no impact on expenditures of the Department of Wildlife and Fisheries (LDWF) or local governmental units associated with the proposed rule regarding the removal of abandoned crab traps.

The proposed rule change would prohibit the use of crab traps in portions of six parishes at different periods in February and March 2021. The proposed rule would establish three closure areas between February 1 and February 14, 2021, banning the local use of crab traps in portions of Plaquemines and Saint Bernard, Lafourche and Terrebonne, and Iberia and Saint Mary parishes. It would establish one closure area encompassing portions of Plaquemines and Saint Bernard parishes between February 22 and March 7, 2021.

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 the Louisiana Department of Wildlife and Fisheries (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 anticipated to have no impact on revenue collections of the state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, 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 from having 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 of 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 lowest harvests and adjacent waters will remain open for crab fishermen to continue to fish.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minor negative impact on receipts or income in Louisiana.

Since 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, effects on competition and employment are expected to be negligible.

Bryan McClinton  
Undersecretary  
2008#023

Christopher A. Keaton  
Legislative Fiscal Officer  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Environmental Quality Office of Environmental Services Waste Permits Division

#### Notice of Rulemaking for Medical Waste Incinerator Regulations

Pursuant to Act No. 163 of the 2020 Regular Session of the Louisiana Legislature (Amending R.S. 30:2011(D)(24)(e), 2018(C), and 2154(C); Repealing R.S. 30:2180(D)(4)) and under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Waste Permits Division, will begin the rulemaking process to promulgate regulations for medical waste incinerators. (2008Pot2)

The law requires the Department of Environmental Quality to promulgate rules and to conduct hearings on environmental assessment statements (EAS). Simultaneously with the submission of the statement to the department, the law requires the applicant to submit copies of the statement to the local governmental authority and placement of the EAS in a designated public building where the facility is located. The law also requires notification to legislators in the area of the site facility prior to issuance of a permit and authorizes the secretary to issue a permit for medical waste facilities only in parishes with a population less than 50,000 according to the latest decennial census.

If you have questions, please contact Mia Townsel, Environmental Scientist Manager, at the Waste Permits Division by phone at (225) 219-3043 or by E-mail at Mia.Townsel@la.gov.

Courtney J. Burdette  
General Counsel

2008#029

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

#### Interstate Transport Prong 4 State Implementation Plan (SIP) Revision 2015 Ozone National Ambient Air Quality Standards (NAAQS)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division, will submit to the Environmental Protection Agency (EPA) a revision to the Louisiana State Implementation Plan (SIP) for 2015 Ozone NAAQS, Interstate Transport, Prong 4, as required by Section

110(a)(2)(D)(I)(i) and (ii) of the Clean Air Act Amendments of 1990. (2008Pot3)

Louisiana submitted the 2015 Ozone NAAQS Infrastructure SIP certification to EPA on February 5, 2019, and November 12, 2019. These submittals intended to demonstrate how the existing Louisiana SIP met the infrastructure requirements for the newly promulgated standard. The EPA approved the SIP submittal pertaining to each specific element of Section 110(a)(2) except for subsection (D)(i) and (ii), namely Prong 4, Visibility Transport. This amendment SIP submittal addresses the requirements for Prong 4 under the 2015 Ozone NAAQS, as well as those requirements previously disapproved for the 2006 PM 2.5, 2008 Ozone, 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide, and the 2012 PM 2.5 NAAQS.

All interested persons may submit written comments concerning the revision no later than 4:30 p.m., Friday, September 25, 2020, to Vivian H. Johnson, Office of Environmental Assessment, P. O. Box 4314, Baton Rouge, LA. 70821-4314 or by Email at vivian.johnson2@la.gov. A public hearing will be held upon request. The deadline for requesting a public hearing is Friday, September 4, 2020. The revision is available for review via LDEQ's electronic document management service (EDMS), AI# 174156, or at LDEQ Headquarters, 602 North 5th Street, Baton Rouge, Louisiana, 70802.

Courtney J. Burdette  
General Counsel

2008#030

## POTPOURRI

### Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Notice of Public Hearing—Substantive Changes to Proposed Rule WQ097—Water Quality Standards Triennial Revision (LAC 33:IX.1105, 1109, and 1113)

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 the department is seeking to incorporate substantive changes to proposed regulation (LAC 33:IX.1105, 1109, and 1113) (Log # WQ097S), which was originally noticed as WQ097 in the December 20, 2019, issue of the *Louisiana Register*. (2008Pot1)

The department has proposed substantive changes to address comments received during the public comment period of proposed rule WQ097. The changes clarify the proposed rule language. In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulation in question. The department is

also providing an interim response to comments received on the initial regulation proposal.

A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available on the department's website under Rules and Regulations at <http://deq.louisiana.gov/page/rules-regulations>.

The following changes are to be incorporated into the Notice of Intent:

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part IX. Water**

**Subpart 1. Water Pollution Control**

**Chapter 11. Surface Water Quality Standards**

**§1105. Definitions**

\* \* \*

*Pollutant Minimization Program*—a structured set of activities to improve processes and pollutant controls that will prevent and reduce pollutant loadings in the context of LAC 33:IX.1109.E.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009), amended by the Office of the Secretary, Legal Division, LR 40:2243 (November 2014), LR 42:736 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

**§1109. Policy**

Water quality standards policies concerned with the protection and enhancement of water quality in the state are discussed in this Section. Policy statements on antidegradation, water use, water body exception categories, compliance schedules and variances, short-term activity authorization, errors, severability, revisions to standards, and sample collection and analytical procedures are described.

A. - A.2. ...

a. Waters may be identified for the protections described in Paragraph 2 of this Subsection on a parameter-by-parameter basis or on a water body-by-water body basis. Where the state identifies waters for antidegradation protection, the state shall provide an opportunity for public involvement in any decisions about whether the protections described in Paragraph 2 of this Subsection will be given to a water body, and the factors considered when making those decisions. A water body shall not be excluded from the protections described in Paragraph 2 of this Subsection solely because water quality does not exceed levels necessary to support all of the uses specified in section 101(a)(2) of the Clean Water Act.

A.2.b. - B.5. ...

C. Water Body Exception Classification. Some water bodies may qualify for a water body exception classification. This classification will be made on a case-by-case basis. Whenever data indicate that a water body exception

classification is warranted, the department will recommend the exception to the administrative authority for approval. In all cases where exceptions are proposed, the concurrence of EPA must be obtained and the opportunity for public participation must be provided during the exceptions review process. The general criteria of these standards shall apply to all water bodies classified as a water body exception except where a particular water body is specifically exempted. A use attainability analysis shall be conducted to justify a water body exception classification if an accompanying downgrade of a 101(a)(2) use and application of less stringent criteria is being proposed. Exceptions are allowed for the following three classifications of water bodies.

1. - 3. ...

a. Naturally dystrophic waters are include waters that receive large amounts of natural organic material largely of terrestrial plant origin, are commonly stained by the decomposition of such organic material, and are low in dissolved oxygen because of natural conditions. Only those water bodies primarily affected by nonanthropogenic sources of oxygen-demanding substances or naturally occurring cycles of oxygen depletion will be considered for classification as naturally dystrophic waters. These water bodies typically include or are surrounded by wetlands (e.g., bottomland hardwood forests, freshwater swamps and marshes, or intermediate, brackish, or saline marshes) and have sluggish, low-gradient flows most of the year. Naturally dystrophic water bodies, though seasonally deficient in dissolved oxygen, may fully support fish and wildlife propagation and other water uses. Low dissolved oxygen concentrations (less than 5 mg/l) may occur seasonally during the warmer months of the year in naturally dystrophic water bodies.

b. - c. ...

d. A wastewater discharge may be proposed for an approved, designated naturally dystrophic water body in a wetland only if the discharge will not by itself, or in conjunction with other discharges, cause inundation of the receiving area such that regeneration of characteristic vegetative species would be significantly reduced, will not significantly modify species composition of the receiving area, and will not increase biological succession of the receiving area above naturally occurring levels. Natural background conditions and proposed significant changes will be determined through use attainability analyses prior to the addition of any discharge.

D. - E. ...

1. The state may adopt a WQS variance, as defined in Section 1105 of this Chapter. The WQS variance is subject to the provisions of this Subsection and public participation requirements at 40 CFR 131.14 and is a water quality standard subject to EPA review and approval or disapproval under section 303(c) of the Clean Water Act.

a. - a.ii. ...

iii. Once the WQS variance is adopted by the state and approved by EPA, it shall be the applicable standard for purposes of the Clean Water Act under 40 CFR 131.21(d)-(e), for the following limited purposes of developing LPDES permit limits and requirements under federal regulations, where appropriate, consistent with Clause E.1.a.i of this Subsection.

E.1.a.iv. - K.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:966 (October 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2546 (November 2000), LR 29:557 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:828 (May 2007), amended by the Office of the Secretary, Legal Division, LR 40:2243 (November 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

### §1113. Criteria

A. - C.6.f. ...

\* \* \*

<sup>6</sup> Total refers to the sum of the Aroclor analyses: PCB-1016 (CAS 12674-11-2), PCB-1221 (CAS 11104-28-2), PCB-1232 (CAS 11141-16-5), PCB-1242 (CAS 53469-21-9), PCB-1248 (CAS 12672-29-6), PCB-1254 (CAS 11097-69-1), and PCB-1260 (CAS 11096-82-5).

<sup>7</sup> Endosulfan is the sum of Endosulfan  $\alpha$  (959-98-8) and Endosulfan  $\beta$  (33213-65-9).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:829 (May 2007), LR 35:446 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:736 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1188 (September 2019), LR 46:

#### Public Hearing

A public hearing on the substantive changes will be held on September 25, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the substantive changes. 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. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as WQ097S. Such comments must be received no later than September 25, 2020, 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, by fax (225) 219-4068, or emailed to [DEQ.Reg.Dev.Comments@la.gov](mailto:DEQ.Reg.Dev.Comments@la.gov). The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes 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 WQ097S. These proposed

regulations are available on the internet at <http://deq.louisiana.gov/page/rules-regulations>.

These substantive changes to WQ097 are available for inspection at the following LDEQ office locations from 8:00 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette  
General Counsel

2008#031

### POTPOURRI

#### Office of the Governor Coastal Protection and Restoration Authority

Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #7: Wetlands, Coastal, and Nearshore Habitats; and Birds

**Action:** Notice of availability; request for public comments.

**Summary:** In accordance with the Oil Pollution Act of 1990 (OPA); the National Environmental Policy Act of 1969 (NEPA); the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS) and the Consent Decree, the federal and state natural resource trustee agencies for the Louisiana Trustee Implementation Group (LA TIG) have prepared the *Louisiana Trustee Implementation Group Draft Restoration Plan #7 and Environmental Assessment: Wetlands, Coastal and Nearshore Habitats; and Birds* (Draft RP/EA #7) which describes and proposes restoration project alternatives to help restore bird habitat and wetlands, coastal, and nearshore habitats injured or lost as a result of the *Deepwater Horizon* (DWH) oil spill. The purpose of this notice is to inform the public of the availability of the Draft RP/EA #7 and to seek public comments on the document.

The Draft RP/EA #7 provides the LA TIG's analysis of alternatives under the "Wetlands, Coastal, and Nearshore Habitats" restoration type and the "Birds" restoration type. Under the "Wetlands, Coastal and Nearshore Habitats" restoration type, the preferred alternatives include a conceptual project that would undergo E&D if selected, and two alternatives that are analyzed for full implementation if selected. These alternatives are: (1) Bird's Foot Delta Hydrologic Restoration project (E&D), (2) Terrebonne Basin Ridge and Marsh Creation Project: Bayou Terrebonne Increment (Terrebonne project) (full implementation) and (3) Grande Cheniere Ridge Marsh Creation (full implementation).

The Terrebonne project was approved and funded for E and D in the 2017 Louisiana Trustee Implementation Group Final Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally

Managed Lands; and Birds. The other, Bayou Grand Cheniere Ridge Marsh Creation project underwent E&D through a separate funding process. Both projects have reached a stage in their E and D where sufficient information has been developed for analysis under NEPA and the OPA NRDA regulations and can proceed to construction in the near term.

Under the “Birds” restoration type, the LA TIG proposes conceptual projects that would undergo E&D if selected for funding. The preferred “Birds” alternatives are (1) Isle au Pitre Restoration and (2) Terrebonne Houma Navigation Canal Island Restoration.

The approximate cost to implement the LA TIG’s proposed action (five preferred alternatives) in Draft RP/EA #7 is \$234,100,000.

**Dates:** The LA TIG will consider public comments received on or before September 22, 2020.

**Public Webinar:** The Louisiana TIG will conduct a public webinar on September 3, 2020, at 3:00 CST. The public may register for the webinar at <https://attendee.gotowebinar.com/register/6495772168532544525>.

After registering, participants will receive a confirmation email with instructions for joining the webinar. Instructions for commenting will be provided during the webinar. Comments will also be taken through submission online or through U.S. mail (see *Submitting Comments* below.) The presentation material will be posted on the web shortly after the webinar is completed.

**Addresses:**

**Obtaining Documents:** You may download the Draft RP/EA #7 at <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>. Alternatively, you may request a CD of the Draft RP/EA (see FOR FURTHER INFORMATION CONTACT below). Also, you may view the document at any of the public facilities listed in Table 7 of the Draft RP/EA #7.

**Submitting Comments:** You may submit comments on the draft RP/EA #7 by one of the following methods:

**Via the Web:** <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>

**Via U.S. Mail:** U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. To be considered, mailed comments must be postmarked on or before the comment deadline.

**During the Public Webinar:** Written comments may be provided by the public during the webinar.

**For Further Information Contact:** Beth Golden, CPRA, 225-342-4708

**Administrative Record**

The documents comprising the Administrative Record for Draft RP/EA #7 can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord>.

**Authority**

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 *et seq.*), its implementing NRDA regulations found at 15 C.F.R. Part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 *et seq.*), the implementing Natural Resource

Damage Assessment Regulations found at La. Admin. Code 43:101 *et seq.*, and the NEPA (42 U.S.C. §§ 4321 *et seq.*).

Lawrence B. Haase  
Executive Director

2008#021

**POTPOURRI**

**Department of Health  
Office of Public Health  
Bureau of Family Health**

Public Notice of Title V Block Grant

The Louisiana Department of Health (LDH) intends to apply for Title V Maternal and Child (MCH) Block Grant Federal Funding for FFY 2021 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 Block Grant Application includes a revised 5-year State Action Plan (FFY 2021-2025) that outlines the goals and planned activities to advance maternal and child health and the 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 over the past year. 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](mailto:elizabeth.keenan@la.gov).

Alexander C. Billioux, MD, DPhil,  
FACP Assistant Secretary

2008#008

**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
Bog Energy, LLC	Zwolle	S	Kimbrell 35	001	250142
Bog Energy, LLC	Zwolle	S	Kimbrell 13	002	250558
Bog Energy, LLC	Zwolle	S	Kimbrell 3	001	250999
Bog Energy, LLC	Zwolle	S	Kimbrell 3	002	244170
Bog Energy, LLC	Zwolle	S	Kimbrell 4	001	244430
Bog Energy, LLC	Zwolle	S	J O Kimbrell 2	001	244169
Bog Energy, LLC	Zwolle	S	Kimbrell 10	001	249531
Bog Energy, LLC	Zwolle	S	Kimbrell 13	001	249153
Bog Energy, LLC	Zwolle	S	Kimbrell 2	001	249786
Bog Energy, LLC	Zwolle	S	Kimbrell 2	002	250143

Operator	Field	District	Well Name	Well Number	Serial Number
Condor Petroleum Corporation	Ossun, North	L	Trahan	001-D	77804
Condor Petroleum Corporation	Ossun, North	L	Ns 3 Sub;Trahan	001	76550
Condor Petroleum Corporation	Ossun, North	L	North Ossun swd	001	970603
Condor Petroleum Corporation	Ossun, North	L	Uns ra suc;Domingue	001-D	86550
Condor Petroleum Corporation	Ossun, North	L	Ns 3 Sud;Domingue	001	85076
David Energy Corporation	Bellevue	S	Norfleet	002	246943
David Energy Corporation	Bellevue	S	Norfleet swd	001	246942
David Energy Corporation	Bellevue	S	Norfleet	006	247204
David Energy Corporation	Bellevue	S	Norfleet	004	246945
David Energy Corporation	Bellevue	S	Norfleet	003	246944
David Energy Corporation	Bellevue	S	Norfleet	005	247203
David Lynn Chiles	Sligo	S	Welch swd	003	183639
David Lynn Chiles	Millers Bluff	S	Doles	003	151825
David Lynn Chiles	Millers Bluff	S	Doles	001	149731
David Lynn Chiles	Sligo	S	Rod ra sug;Lucky	001	182280
David Lynn Chiles	Caddo Pine Island	S	Li	001	240489
David Lynn Chiles	Sligo	S	Rod ra sud; Frederick M Lucky	001	233999
David Lynn Chiles	Caddo Pine Island	S	Li	002	240490
David Lynn Chiles	Millers Bluff	S	Doles	002	149960
Gilliland Oil Co.	Wildcat – No La Shreveport Dist	S	G W Taylor	007	5459
Gilliland Oil Co.	Wildcat – No La Shreveport Dist	S	G W Taylor	B-9	6713(30)
Harrell Plantation, Inc.	Monroe	M	Harrell	008	150631
Harrell Plantation, Inc.	Monroe	M	Harrell	010	150664
Harrell Plantation, Inc.	Monroe	M	Harrell	006	150479
Harrell Plantation, Inc.	Monroe	M	Harrell	003	150320
Harrell Plantation, Inc.	Monroe	M	Harrell	007	150630
Harrell Plantation, Inc.	Monroe	M	Harrell	009	150663
Harrell Plantation, Inc.	Monroe	M	Harrell	011	150697
Harrell Plantation, Inc.	Monroe	M	Harrell	004	150321
Providence Contracting Company, LLC	Lake Curry	M	Conn ra Sue; SI 7763-Karam	001	164144

Operator	Field	District	Well Name	Well Number	Serial Number
Providence Contracting Company, LLC	Lake Curry	M	Fred K Conn et al swd	001	86216
Providence Contracting Company, LLC	Lake Curry	M	Conn Ra Sue;SI 7763 Karam	001-ALT	204209
Providence Contracting Company, LLC	Lake Curry	M	Vua;Hayner et al	001	224982
Providence Contracting Company, LLC	Lake Curry	M	Cox swd	001	226102
Robert C Brower	Vixen	M	Gloyd Sua; La Central	001	73914
Robert C Brower	Vixen	M	Hills sua; La Central	001-D	75549
South Central Natural Gas Corporation	Elm Grove	S	H G Van Hoose et al	A-1	86002
Tom Cat Production	Caddo Pine Island	S	C W Lane	011	207779
Tom Cat Production	Caddo Pine Island	S	C W Lane	008	207776
Tom Cat Production	Caddo Pine Island	S	Pardue-Christian	002	199198
Tom Cat Production	Caddo Pine Island	S	C W Lane	002	169218
Tom Cat Production	Caddo Pine Island	S	Pardue-Christian	004	217128
Tom Cat Production	Caddo Pine Island	S	C W Lane	010	207778
Tom Cat Production	Caddo Pine Island	S	Pardue-Christian	003	201877
Tom Cat Production	Caddo Pine Island	S	Pardue-Christian	001	198150
Tom Cat Production	Caddo Pine Island	S	C W Lane	007	188124
Tom Cat Production	Caddo Pine Island	S	C W Lane	005	182282
Tom Cat Production	Caddo Pine Island	S	C W Lane	003	173408
Tom Cat Production	Caddo Pine Island	S	C W Lane	009	207777
Tom Cat Production	Caddo Pine Island	S	C W Lane	006	182283
Tom Cat Production	Caddo Pine Island	S	C W Lane	001	166660
Tom Cat Production	Caddo Pine Island	S	C W Lane swd	001	970297
Tom Cat Production	Caddo Pine Island	S	C W Lane	004	173706
Tom Cat Production	Caddo Pine Island	S	Pardue-Christian	005	233767

Richard P. Ieyoub  
Commissioner

2008#024

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