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13 130 018. SUPERVISION FEES FOR OFFENDERS UNDER FIELD SUPERVISION BY THE DOC

Section 1. Authority.

28 V.S.A, Chapter 3, § 102 (c) (14).

Pursuant to statute, the Commissioner is responsible for seeing that the Vermont Department of Corrections collects a supervisory fee up to the amount of $ 30 per month from each offender under the supervision of the Department who is on probation, furlough, pre-approved furlough, supervised community sentence, or parole. The law indicates that the Commissioner will adopt rules governing the collection of the supervisory fees, to include the following: maximum period of time offenders are subject to supervision fees and the offender's ability to pay.

Section 2. Purpose.

The purpose of this administrative rule is to set standards for Department assessment of offender payment of supervision fees, including determination of ability to pay, as required in statute. Collection of supervision fees will be used to offset some of the Department's cost of supervising offenders in the community. The Department will collect a supervision fee of up to $ 30 per month, as allowed by statute, from each offender under Department community supervision, except as noted in section 5.

Section 3. Definitions.

Community Restitution Program: An intermediate sanction program in the reparative track in which an offender performs community work service on a Community Service Team or agency supervised team for up to 60 days. The program is designed to be an alternative to a short incarcerative sentence.

Furlough: An extension of the limits of confinement of an inmate to locations outside a correctional facility.

Intake: An initial meeting where an offender shares identifying information, criminal history, risk issues, and other necessary information with the Caseworker/Probation Officer.

Payment Contract: The Department form which is completed by staff to assess an offender's ability to pay a supervision fee. Ability to pay is based on whether or not the offender meets one of the requirements for an exemption.

Parole: The release of an inmate to the community by the Parole Board before the end of the inmate's sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner.

Pre-Approved Furlough (PAF): The legal status in which an offender is sentenced to serve a term of imprisonment, but is placed by a court on furlough to participate in such programs administered by the Department that reduce the offender's risk to reoffend.

Probation: The legal status a court may impose on a defendant that suspends all or part of the sentence and places the person in the care and custody of the Commissioner of Corrections, upon such conditions and for such time as it may prescribe, in accordance with law, or until further order of the court.

Supervised Community Sentence (SCS): A court-imposed sentence of incarceration to be served in a community setting subject to the rules of the Commissioner of Corrections. These offenders are under the jurisdiction of the Parole Board.

Supervision: The authority or oversight exercised by supervising authorities of the Department over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to, or be monitored by, supervising authorities. This includes any condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

Tax Setoff Debt Collection: A process by which the Department may submit claims to the Tax Department for collection of offender debts of $ 50 or more.

Section 4. Guidelines for the Collection of Supervision Fees.

a. Statute allows the Department to collect a supervisory fee of up to $ 30 per month from offenders under the supervision of the Department and in the community on the following legal statuses: probation, furlough, pre-approved furlough, supervised community sentence, or parole.

b. The Probation and Parole Officer (PO) will assess supervision fees at intake using the questions on the Payment Contract. If the offender is exempt from paying the supervision fee, the PO will indicate on the form the reason(s) why. A copy of this form will be placed in the offender file, and staff will document the information in the Department electronic database.

c. After assessing the supervision fees, the PO will inform the offender of their responsibilities concerning supervision fees. This will include the amount and the place of payment. The Department will determine the place and appropriate method of payment.

d. The Department will establish time frames to re-assess the eligibility of offenders exempted from payment of fees.

e. The offender will only be charged a supervision fee while on a supervision status that requires payment of the fees. Upon closure of an offender's case, any unpaid supervision fee balances over $ 50 will be sent to tax setoff.

Section 5. Exceptions to Fee Collection.

a. Those offenders exempt from paying the monthly supervision fee to the Department of Corrections are offenders in the following categories only:

-- Offenders whose sole source of income is Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI), Vermont's Aged, Blind, and Disabled Program (AABD), the Reach Up Program;

-- Offenders sentenced to the Community Restitution Program only;

-- Offenders accepted for supervision in another state, subject to the rules of the Interstate Compact for Adult Offender Supervision;

-- Offenders residing in a residential treatment facility;

-- Offenders housed in a correctional facility.

b. Offenders on Parole supervision for life may request an exemption from supervision fees when they are on an "Administrative Supervision" status as ordered by the Parole Board.

Section 6. Non-payment of Fees.

The Department will employ an array of non-incarcerative strategies to encourage payment of supervision fees, including tax setoff.

Section 7. Application of Payment.

In cases where offenders owe both court-related fines and supervision fees, offender payments will be applied to pay supervision fees first, with amounts paid over the amount of fees owed applied toward fines.

Section 8. Review.

A review of Departmental administrative directives associated with this rule will be completed with any necessary updates of relevant documents and procedures within one (1) year of this rule taking effect.

Statutory Authority

STATUTORY AUTHORITY:

28 V.S.A. §102

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Supervision Fees for Offenders under Field Supervision by the DOC

DOC Policy #426

Effective May 5, 2008

1. AUTHORITY

28 V.S.A, Chapter 3, § 102 (c) (14).

Pursuant to statute, the Commissioner is responsible for seeing that the Vermont Department of Corrections collects a supervisory fee up to the amount of $30 per month from each offender under the supervision of the Department who is on probation, furlough, pre-approved furlough, supervised community sentence, or parole. The law indicates that the Commissioner will adopt rules governing the collection of the supervisory fees, to include the following: maximum period of time offenders are subject to supervision fees and the offender's ability to pay.

2. PURPOSE

The purpose of this administrative rule is to set standards for Department assessment of offender payment of supervision fees, including determination of ability to pay, as required in statute. Collection of supervision fees will be used to offset some of the Department's cost of supervising offenders in the community. The Department will collect a supervision fee of up to $30 per month, as allowed by statute, from each offender under Department community supervision, except as noted in section 5.

3. DEFINITIONS

Community Restitution Program: An intermediate sanction program in the reparative track in which an offender performs community work service on a Community Service Team or agency supervised team for up to 60 days. The program is designed to be an alternative to a short incarcerative sentence.

Furlough: An extension of the limits of confinement of an inmate to locations outside a correctional facility.

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Parole: The release of an inmate to the community by the Parole Board before the end of the inmate's sentence, subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner.

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Supervision: The authority or oversight exercised by supervising authorities of the Department over an offender for a period of time determined by a court or releasing authority, during which the offender is required to report to, or be monitored by, supervising authorities. This includes any condition or requirement imposed on the offender at the time of the offender's release to the community or during the period of supervision in the community.

Tax Setoff Debt Collection: A process by which the Department may submit claims to the Tax Department for collection of offender debts of $50 or more.

4. GUIDELINES FOR THE COLLECTION OF SUPERVISION FEES

a. Statute allows the Department to collect a supervisory fee of up to $30 per month from offenders under the supervision of the Department and in the community on the following legal statuses: probation, furlough, pre-approved furlough, supervised community sentence, or parole.

b. The Probation and Parole Officer (PO) will assess supervision fees at intake using the questions on the *Payment Contract.* If the offender is exempt from paying the supervision fee, the PO will indicate on the form the reason(s) why. A copy of this form will be placed in the offender file, and staff will document the information in the Department electronic database.

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5. EXCEPTIONS TO FEE COLLECTION

a. Those offenders exempt from paying the monthly supervision fee to the Department of Corrections are offenders in the following categories only:

- Offenders whose sole source of income is Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI), Vermont's Aged, Blind, and Disabled Program (AABD), the Reach Up Program;
- Offenders sentenced to the Community Restitution Program only;
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- Offenders residing in a residential treatment facility;
- Offenders housed in a correctional facility.

b. Offenders on Parole supervision for life may request an exemption from supervision fees when they are on an "Administrative Supervision" status as ordered by the Parole Board.

6. NON-PAYMENT OF FEES

The Department will employ an array of non-incarcerative strategies to encourage payment of supervision fees, including tax setoff.

7. APPLICATION OF PAYMENT

In cases where offenders owe both court-related fines and supervision fees, offender payments will be applied to pay supervision fees first, with amounts paid over the amount of fees owed applied toward fines.

8. REVIEW

A review of Departmental administrative directives associated with this rule will be completed with any necessary updates of relevant documents and procedures within one (1) year of this rule taking effect.

FINES & FEES JUSTICE CENTER

REFORM

50 State Survey: Probation & Parole Fees

A State-by-State Look at the Scope of Probation and Parole Fees and the Consequences for Failure-to-Pay

BY:
FINES AND FEES JUSTICE CENTER
REFORM ALLIANCE

PUBLISHED:
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About Us

The Fines and Fees Justice Center (FFJC) is catalyzing a movement to eliminate the fines and fees that distort justice. Our goal is to create a justice system that treats individuals fairly, ensures public safety and community prosperity, and is funded equitably. We work together with affected communities and justice system stakeholders to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices. Visit ffjc.us and follow @FinesandFeesJC on Twitter to get the latest updates on local, state and national fines and fees reforms.

The Reform Alliance is committed to transforming probation and parole throughout the United States by changing laws, systems, and culture. The organization is working to replace America's criminal justice system with a restorative approach that is fair, accountable, and invested in rehabilitation. Our goal is for people to reenter society with dignity, create meaningful pathways to work, and equip them with the tools to succeed, all while making families and communities safer and stronger.

Contact

If you have any questions on any information within this report or for any media inquiries, please contact Jag Davies at jdavies@ffjc.us.

Introduction

At any given time, millions of adults—approximately 1 in every 75 people—are under probation or parole supervision in the United States.[1] In most states, people on probation or parole are required to pay supervision fees that can range from hundreds to thousands of dollars. In addition, if a person is required as a condition of their supervision to participate in a program, like mental health counseling or electronic monitoring, or is subject to regular drug or alcohol testing, they may pay additional fees. These fees are in addition to other fines and fees that may have been imposed when the person is convicted, which are unrelated to supervision or its conditions.

What is the difference between probation and parole?

As we use them in this report, **probation** is a sentence of supervision that a court imposes when incarceration is not the appropriate result of a conviction.[2] **Parole**, on the other hand, is when an incarcerated person is released from prison and placed on a term of supervision prior to the end of a sentence.

Most people on probation are required to follow strict requirements that can include things like mandatory and regular check-ins with their probation officer, electronic monitoring, drug and alcohol testing and treatment, counseling, self-improvement classes, submitting to random searches, curfews or home confinement, and payment of court costs. Failure to follow any of these conditions can lead to further punishment, including longer terms of probation or even incarceration. The number of conditions varies but can be twenty or more in some jurisdictions.[3] The conditions of parole are often similar to those found in probation.

The amount of time a person spends under supervision affects how much they will owe. Many states charge supervision fees by the month and many of the programs required as part of supervision include repeated charges for recurring sessions or obligations. Given that the average length of probation supervision in the U.S. is just under 2 years,[4] charges can escalate quickly. Moreover, failure to pay these charges on time, can lead to late fees, interest payments, and the extension of time on supervision.[5]

As far back as 1990, the U.S. Department of Justice's National Institute for Justice issued a report acknowledging that fees assessed against people on probation and parole were largely intended to raise revenue.[6] Both probation and parole are ostensibly mechanisms aimed at protecting public safety. Like other public safety measures–such as fire, police, and emergency medical assistance–it is a government function that succeeds only when it is equitably funded.

When states and localities instead impose these costs directly on the people in the system, it creates a regressive tax on those least likely to be able to pay.

Nationwide, two of every three people on probation make less than $20,000 per year, with nearly 40% of those making less than $10,000 annually.[7] Studies show that millions of dollars in fines and fees go uncollected around the country, making them poor bases

for court budgeting, and that the cost of collections can outpaces the revenue it might generate.[8]

Moreover, given the documented racial disparities in the criminal legal system, these costs also disproportionately affect people of color and disproportionately draw financial resources out of communities of color.[9] Black adults are about 3.5 times as likely as white adults to be supervised on probation or parole, and although Black people make up approximately 13 percent of the U.S. adult population, they account for 30 percent of those on probation or parole.[10]

While the fees assessed to people on probation and parole likely total in the hundreds of millions of dollars each year, exact fee assessments can be difficult to determine, given the patchwork of potential fees across states and from county to county within states[11]—a problem exacerbated by poor data keeping in far too many jurisdictions. As this survey details, in most states, those under supervision must pay a fee—either a flat sum or a monthly charge—for being under the supervision of a probation or parole officer. Additionally, in nearly every state, those on probation or parole must pay the costs of programming, classes, or "services" that are conditions of their release or sentence.[12]

While the United States Constitution prohibits incarcerating people who are unable to pay fines and fees imposed as part of the criminal case,[13] payment of supervision and programming fees, in practice, is frequently a condition of probation and parole, and failing to pay may be grounds for revocation proceedings and a host of potential sanctions, including extension of time under supervision or incarceration. These additional sanctions are not tied to improving public safety; they are simply punishments aimed at coercing payment, often from people who simply lack the means to pay. As the Federal Reserve pointed out, in 2020, "[n]early 3 in 10 adults were either unable to pay their monthly bills or were one modest financial setback away from failing to pay monthly bills in full" and that this challenge disproportionately affects Black and Hispanic/Latinx adults.[14]

Studies show that imposing criminal fees is correlated with higher recidivism rates and declines in overall public safety.[15] If public safety and ensuring the success of those under supervision as they reenter their communities are goals of probation and parole, passing the costs of supervision and programming on to individual supervisees is counterproductive.

States should prohibit charging probation and parole supervision fees and should prohibit the imposition of fees or costs related to programming or services that are conditions of probation or parole.

The imposition of fees related to probation and parole are contrary to the interests of justice. These fees, and the sanctions which may result from failing to pay them, set people up for failure. Public safety is harmed when our neighbors are saddled with debt in order to fund a court system that serves us all. It's particularly egregious to inflict this debt burden on those who are least able to pay and in a system which is rife with racial disparities. True fairness, justice, and public safety will be better served when states eliminate all fees related to probation and parole.

Reform Highlight: Ramsey County, Minnesota Eliminates Probation Fees

"In the end we realized that the revenue we expected from fees in our budget was unrealistic because people couldn't pay the fees."

In 2020, Ramsey County, Minnesota eliminated all probation fees. According to Jan Scott, Assistant Deputy Director for Adult Services for Ramsey County Community Corrections, the move has unquestionably helped both to the department and the people they supervise.

First, the original fees "undermined the success of people on probation and placed additional economic hardship on our clients." Second, the fees distorted the Department's budget. "In the end we realized that the revenue we expected from fees in our budget was unrealistic because people couldn't pay the fees." Now, the Department has a budget it can rely on.

Finally, eliminating the fees made a big impact on people's lives. "We didn't know what to expect when we got rid of the fees, but we were overwhelmed by the number of calls we received from people thanking us."

For more on criminal justice fees in general and efforts to eliminate the burdens they impose, please see FFJC's Fee Elimination Guidance.

Probation Supervision Fees:

Most states charge those on supervision a fee for simply being supervised. Although probation is a sentencing alternative to incarceration, violations of the conditions of probation—including the payment of fees—may result in severe sanctions including probation extension and even incarceration.

47 states have laws allowing for probation supervision fees.

- **38 states charge a monthly supervision fee**[16]
  These fees range from a low of $10 per month[17] to a high of over $208 per month.[18] Five of these states are authorized to add, in addition to monthly fees, a one-time "enrollment," "processing," or "intake fee," which can range from $25 - $600 in additional costs, depending on the state and the offense.[19]

- **7 states charge a single flat fee.**
  Connecticut, Delaware, Hawaii, Kansas, Iowa, Virginia, and Wyoming charge single, flat fees for probation supervision without additional monthly charges, though this may be payable in installments. These flat fees can run from $60 to $300.[20]

- **2 states allow local jurisdictions to determine the amounts and payment schedules.**[21]
  Minnesota and South Dakota, while having statutes that authorize the imposition and collection of supervision fees, allow local jurisdictions to determine the amounts and payment schedules. Therefore, costs and the length of financial obligations could vary depending on the location within the state.

Only 3 states do not authorize probation supervision fees.

- **Alaska's laws are silent on the issue of probation related fees.**
  In practice, it appears supervision fees are not charged.[22]

- **California and Oregon passed laws removing supervision fees.**
  California and Oregon enacted legislation in 2020 that amended their respective codes to eliminate language that had previously permitted charging fees related to probation supervision.

Important note: *None of these three states have language expressly prohibiting probation supervision fees. Instead, they are silent on the issue or have removed statutory language that had previously authorized the fees. In order to prevent local jurisdictions from creating their own authority to impose such fees, states that wish to truly eliminate fees for probation supervision should not only remove authorizing language from their statutes but should expressly prohibit the practice.*

Probation Programming Fees

Every sentence of probation carries with it conditions that the person must follow, often including participating in court-ordered programming, classes, or other interventions. In many states, the costs of these court-imposed programs are passed directly to those under supervision.[23]

Fees for drug testing and treatment,[24] for counseling or mental health treatment,[25] for taking classes or participating in programs,[26] for participating in community service,[27] and for being on electronic monitoring[28] are common. When the intervention is recurring—such as for classes or drug testing—people may be charged on a per session basis. Where it is ongoing—such as with electronic monitoring—the fees may be imposed on a daily, weekly, or monthly basis.

Many states also impose fees unrelated to any programming or conditions of probation in an individual's case. These universally imposed fees are often mandated contributions to particular court or prosecutorial funds, such as to general victims' funds[29] or a crime prevention fund.[30]

Whether or not authorized explicitly by state statutes, these fees for specific conditions are being imposed in every state.[31] These fees are often hard to identify and quantify as they may come from a variety of sources. While some may be assessed directly by courts or probation agencies, some programs may charge participants directly and terminate a person's participation in the program if fees go unpaid. Termination from a probation-ordered program for any reason may be grounds for probation extension or revocation, which could lead to incarceration.

Failing to Pay Probation Fees

The Supreme Court of the United States has held that no one may be imprisoned for failure to pay court-imposed costs, unless the court finds that the failure to pay was "willful" or, in other words, unless the court determines the person has the capacity to pay and simply refuses to do so.[32] Despite this, the statutes in most states allow for sanctions against people on probation who fail to pay court-imposed costs.

- **32 states allow for probation revocation and/or extension if fees are not paid.[33]**
- **8 states do not allow probation revocation and/or extensions if these fees are unpaid.[34]**
- **6 states have statutes that are unclear whether these fees are formal conditions of probation that would justify revocation and/or extension if not paid. However, it may be possible to interpret the statutes broadly enough to contemplate revocation or extension of supervision, even if not explicitly.[35]**
- **4 states have statutes authorizing non-criminal responses to unpaid probation fees and are silent on revocation.[36]**

Mary's Story — Tulsa, Oklahoma [37]

"I feel robbed. I'm really against the wall. It messes with my mental situation. There are times it can make me feel depressed."

Mary was forced to go on Social Security Disability Insurance (SSDI) after a disability left her unable to work. SSDI became her only source of income, totaling just under $800 per month. After pleading "no contest" to a minor misdemeanor offense, Mary was placed on probation. Everyone agreed she didn't deserve to be in jail.

After paying her monthly rent, utilities, food and basic necessities costs, Mary is left with around $20 a week in her pocket. Yet her probation terms require her to pay a $40 fee each month to the local District Attorney's office to cover the costs of her probation supervision. The process of paying for her probation fee also comes with additional costs. Paying the fee in person means also paying extra for parking at the DA's office. And if she pays over the phone or electronically, she must pay an additional processing fee. On a limited income like Mary's, these extras add up.

Mary spends much of her time worrying that the next emergency or unexpected expense will throw her life into unrecoverable turmoil, "it's a real mental strain. But what else is there to do? My hands are tied." Unfortunately, Mary's situation is not the worst example of how supervision fees impact people's lives, nor is her experience rare. Research has shown that people on probation often must choose between paying their fees and eating, getting medical care, or paying rent and utilities.[38]

Parole Supervision Fees

If the state releases someone on parole, that person will have to comply with conditions and community supervision, similar to probation. Because it is a subset of a prison sentence, however, the ways in which parole is administered and the process for revoking parole can differ significantly from probation.

Parole, as we use it here, is a discretionary release system in which a parole board or some other agency holds an administrative hearing for eligible people to decide whether they should be released from prison prior to the end of their sentence and placed on some form of supervision while in the community. At least 16 states have moved away from discretionary parole in favor of so-called "truth in sentencing" laws, which either require nearly all of a person's term of incarceration be served before they are released or have transitioned away from discretionary parole to some other "conditional release program" that revolves around strictly defined release criteria. In each of these states, however, those sentenced to prison terms prior to these statutory changes are still eligible for discretionary parole.[39]

37 states have statutes or rules expressly authorizing fees for parole supervision.

These statutes sometimes set the fee directly and sometimes direct the parole agency to do so. Twenty-five of these statutes have been enacted since 1990,[40] as states have shifted away from general tax sources that fund public safety in favor of directly imposed court costs.

- **33 states[41] impose monthly fees, which range from a low of $10[42] to a high of over $208.[43]**
- **4 state statutes set a one-time flat fee ranging from $50 – $475.[44]**
- **1 state, Florida,[45] allows for parole[46] supervision costs as a general principle but provides little statutory guidance on how those costs are to be set.**

2 states allow supervision fees on those placed on a heightened form of parole supervision, but not for general parole supervision.

These states—**Delaware**[47] and **Wyoming**[48]—do not specify an amount of this enhanced supervision fee, but only that the fees are to go to the cost of the elevated supervision program.

10 states do not have statutes or rules expressly authorizing fees for parole supervision.

Two states—**California** and **Oregon**[49]—recently passed legislative changes have removed prior statutory language authorizing such fees but did not explicitly prohibit them. Five other states—**Alaska**, **Connecticut**, **Georgia**, **Hawaii**, **Illinois**, **Indiana,** and **Maine**—have state codes that are also silent on parole supervision fees.[50]

Only **New Jersey** expressly provides that parole supervision shall be paid by the state.[51]

Parole Programming Fees

Like those on probation, those on parole are released from their term of incarceration under an agreement to abide by a series of conditions. And like with probation, these parole conditions regularly come with individual financial obligations attached in many states. Failure to pay these financial obligations could be a violation of parole in many states and cause the person to be sent back to prison. It is of note that even if a state does not authorize conditions-related fees to people on probation, it may still do so against those on parole.[52]

The scope of conditions that come with a price tag for those on parole are similar to those found in probation. These include fees for drug testing and treatment,[53] counseling,[54] participating in community service,[55] taking classes or participating in programs,[56] residing in a halfway house,[57] and for being on electronic monitoring.[58] Researchers have found that most state parole agencies impose the same set of standard conditions on each person, regardless of the offense for which the person was incarcerated.[59]

In some states, those on parole may also be subject to other administrative fees unrelated to programming or supervision, such as payment to victims' funds[60] or to fund appointed counsel programs.[61]

Failing to Pay Parole Fees

As outlined previously, the U.S. Constitution prohibits incarcerating people for not being able to pay fees.[62] Despite this, unpaid fees are one reason those on parole may be returned to prison or face other sanctions.

- **30 states allow for parole revocation if fees are not paid.[63]**
- **9 states do not allow parole revocation if these fees are unpaid.[64]**
- **7 states have statutes that are unclear whether these fees are formal conditions of parole that would justify revocation if not paid. However, it may be possible to interpret the statutes broadly enough to contemplate revocation of supervision, even if not explicitly.[65]**
- **4 states have statutes that only authorize non-criminal responses to unpaid parole fees and are silent on revocation.[66]**

While the Constitution requires hearings on whether to revoke parole, these hearings need not be conducted by the court.[67] Additionally, at least 16 states' parole authorities will not allow parole to end if the person has outstanding fees still pending.[68]

Probation and Parole Fees Appendices

The imposition of probation and parole fees is pervasive across the country, though the details vary from state to state and sometimes among counties within a state. In order to provide a state-by-state view of the scope, the charts in Appendices A and B outline the statutory and regulatory provisions granting a court or an agency authority to impose these fees. Where possible, supplemental information on how these provisions operate in practice obtained from interviews with probation and parole staff in some states, is included.

Given the breadth and complexity of statutes, rules, regulations, guidance, court orders, case law, and other sources of authority, this is not intended to be an exhaustive collection of all possible fees related to probation or parole. There may be local rules or laws affecting fees that were simply beyond the scope of this analysis. The fees referred to in this chart are of supervision costs or the costs of particular programming that have been identified. Fees related to restitution, law enforcement, prosecution and investigation, defense counsel, incarceration, or other fees not associated with terms of probation or parole are beyond the scope of this chart.

Appendix C outlines how failure to pay fees associated with supervision or programming can affect a person's probation or parole. Based on statutes alone, we have categorized the authorized potential consequences individuals may face for failure to pay these fees.

The information contained within these appendices is for educational purposes only and should never be taken as legal advice.

Appendix A – Probation Fees

All information included in the chart below is current as of December 2021.

State	Probation Supervision Fees	Probation Programming Fees
Alabama	Intensive supervision: $40/month or an amount not to exceed 25% of gross monthly income Ala. Code § 15-22-2; Ala. Code § 15-22-56	None identified in statute.
Alaska	None identified in statute.	None identified in statute. An agency supervisor reported that electronic monitoring fees may be charged while on probation.
Arizona	Mandatory monthly fee of not less than $65, subject to ability to pay Ariz. Rev. Stat. Ann. § 13-901	Electronic monitoring for some offenses Ariz. Rev. Stat. Ann. § 13-902(G)
Arkansas	Monthly supervision fee of $35 - $50 Ark. Code Ann. § 16-93-104.	A public service work supervisory fee as set by local courts Ark. Code Ann. § 5-4-322
California	None authorized in statute. (AB 1869, signed into law in 2020, removed previous authority to charge probation fees.)	Domestic violence conviction programing and/or counseling fees Cal. Pen. § 1203.097(a)(5)(E). "Batterer's Program" fees a sliding scale not to exceed $250. Cal. Pen. § 1203.097(c)
Colorado	$50 per month for the length of ordered probation Colo. Rev. Stat. Ann. § 18-1.3-204	None identified in statute.
Connecticut	A one time supervision fee of $200 Conn. Gen. Stat. Ann. 53a-29(c)	Electronic monitoring services not to exceed $6 per day Conn. Gen. Stat. Ann. § 53a-30 Costs indidental to residence in community center or halfway house. Conn. Gen. Stat. Ann. § 53a-30

State	Probation Supervision Fees	Probation Programming Fees
Delaware	Flat fee of $200 for each period of probation. Del. Code Ann. tit. 11, § 6504	Monthly payments for house arrest program Del. Code Ann. tit. 11, § 4332
Florida	The "court-ordered amount, but not to exceed the actual per diem cost of the supervision." Fla. Stat. Ann. § 948.09 Misdemeanor probation: not less than $40 per month. Fla. Stat. Ann. § 948.09	For felonies: a "$2-per-month surcharge to the department" Electronic monitoring "at a rate that may not exceed the full cost of the monitoring service in addition to the cost of supervision as directed by the sentencing court." Fla. Stat. Ann. § 948.09
Georgia	Monthly probation fee of $23, plus a one-time fee of $50 if convicted of any felony Ga. Code Ann. § 42-8-34	$25 fee for DUI or possession of marijuana convictions Ga. Code Ann. § 42-8-34 Day reporting center fee not to exceed $10 per day Ga. Code Ann. § 42-8-34
Hawaii	One-time $150 for supervision more than 1 year; $75 for one year or less Haw. Rev. Stat. Ann. § 706-648	None identified in statute.
Idaho	Not more than $75 per month to cover costs "including tests to determine drug and alcohol use, books and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology." Idaho Code Ann. § 20-225	"... other costs and fees, including but not limited to electronic monitoring fees and other fees." Idaho Code Ann. § 31-3201D
Illinois	$50 monthly 730 Ill. Comp. Stat. Ann. 5/5-6-3.1	Reasonable fees for mandatory drug or alcohol testing and all costs for electronic monitoring 730 Ill. Comp. Stat. Ann. 5/5-6-3.1
Indiana	For felonies, a $25–$100 one-time fee plus a $15–$30 monthly supervision fee. For misdemeanors, not more than $50 as a one-time fee plus a $10–$20 monthly supervision fee. Ind. Code Ann. § 35-38-2-1	Costs of lab tests or series; an alcohol abuse deterrent fee and a medical fee set by the court; and administrative fee of $100 for felonies and $50 for misdemeanors separate and apart from supervision fees Ind. Code Ann. § 35-38-2-1

State	Probation Supervision Fees	Probation Programming Fees
Iowa	An enrollment fee of $300 Iowa Code Ann. § 905.14	Fees for drug and sobriety monitoring program Iowa Code Ann. § 901D.6
Kansas	Misdemeanor correctional supervision fee: $60 Felony supervision fee: $120 Kan. Stat. Ann. § 21-6607	Costs of drug abuse assessment and treatment programming Kan. Stat. Ann. 75-52,144 House arrest program costs, which may include electronic monitoring and remote blood alcohol monitoring Kan. Stat. Ann. 21-6609
Kentucky	Felony supervision: not less than $10/month while on active supervision but not more than $2,500/year; Misdemeanor supervision: not less than $10/month while on active supervision but not more than $500/year Ky. Rev. Stat. Ann. § 439.315 Supervision of city or county adult misdemeanor probation/work release program shall be not less than $100 nor more than $500 per year. Ky. Rev. Stat. Ann. § 439.315	Drug and alcohol testing and analysis Ky. Rev. Stat. Ann. § 533.030 Reasonable fee for monitoring device in the supervision and equipment usage Ky. Rev. Stat. Ann. § 439.470
Louisiana	Monthly fee of not less than $60 and not more than $110, as well as an additional $11 per month LA C.Cr.P. Art. 895.1 Additional one-time probation and parole processing fee of $65 La. Stat. Ann. § 15:574.4.5 Unsupervised probation: monthly fee of not more than $1 LA C.Cr.P. Art. 895.1	Drug testing and analysis; blood an saliva testing (for those convicted of sex offenses); psychological evaluations; all costs for the counseling or therapy; adult education or reading programming; and sex offender treatment fees LA C.Cr.P. Art. 895
Maine	A supervision fee of between $10 and $50 per month M.R.S.. 17-A § 1807 For administrative release, discretionary monthly administrative supervision fee not to exceed $50 M.R.S. 17-A § 1854	Electornic monitoring fees and substance testing fees M.R.S. 17-A § 1807

State	Probation Supervision Fees	Probation Programming Fees
Maryland	Monthly fee of $50 Md. Code Ann., Crim. Proc. § 6-226	Court-ordered drug or alcohol abuse testing Md. Code Ann., Crim. Proc. § 6-226; MD Code, Correct'l Serv., § 7-702 Drinking Driver Monitor Program: $75 monthly Md. Code Ann., Corr. Servs. § 6-115
Massachusetts	Monthly probation supervision fee of $60, not including the first 6 months Mass. Gen. Laws Ann. ch. 276, § 87A Administrative supervised probation: $45 per month, not including the first 6 months Mass. Gen. Laws Ann. ch. 276, § 87A	"probationers' victim services surcharge": $5 per month Mass. Gen. Laws Ann. ch. 276, § 87A Certain drug and alcohol testing, assessments, and treatment fees Mass. Gen. Laws Ann. ch. 90 § 24D
Michigan	$30 per month, not to exceed more than 60 months for supervision without electronic monitoring; $60 per month, if including electronic monitoring Mich. Comp. Laws Ann. § 771.3c	No additional fees identified in statute.
Minnesota	DOC is authorized to set and enforce supervision fees. Minn. Stat. Ann. § 241.272 A one-time supervision fee per case file of $300 for each felony; $200 for each gross misdemeanor, and $100 for each misdemeanor. https://bit.ly/37ah0QY	Other court-ordered services Minn. Stat. Ann. § 244.18 Sex offender treatment program fees Minn. Stat. Ann. § 241.272
Mississippi	$55.00 per month, not to exceed 10 years Miss. Code. Ann. § 47-7-49	In-patient drug or mental health treatment "shall not be at public expense," if it is in a private facility. Miss. Code Ann. § 47-7-47 $10 for any postitive drug test Miss. Code Ann. § 47-5-605 Agency personnel report electronic monitoring costs are also charged in some cases.

State	Probation Supervision Fees	Probation Programming Fees
Missouri	Up to $60 a month Mo. Ann. Stat. § 217.690 For misdemeanors: not less than $30 or more than $50 per month to the private entity providing supervision services, as set by the court. Mo. Ann. Stat. § 559.604	Drug education, treatment, and rehabilitation programs Mo. Ann. Stat. § 217.785 Electronic monitoring in adult abuse cases Mo. Ann. Stat. § 455.095
Montana	$120 - $360 a year, prorated at no less than $10 a month Mont. Code Ann. § 46-23-1031 Those on probation for misdemeanor domestic assault or violating a protective order must pay all probation supervision costs. Mont. Code Ann. § 46-23-1005	GPS monitoring: not more than $4,000 a year Mont. Code Ann. § 46-23-1010; Mont. Code Ann. § 46-23-1031 Drug and alchohol sobriety program fees Mont. Code Ann. § 44-4-1205
Nebraska	One-time administrative enrollment fee: $30. Monthly probation programming fee: $25 Montly intensive supervised probation fee: $35 Neb. Rev. Stat. Ann. § 29-2262.06	Fees for drug or alcohol tests, psychological evaluations, assessment screens, and rehabilitative services Neb. Rev. Stat. Ann. § 29-2262
Nevada	Up to $30 monthly Nev. Rev. Stat. Ann. § 213.1076	"The court may order the person to participate in a program of probation secured by a surety bond" and "the court shall set the surety bond in an amount which, in the judgment of the court, will reasonably ensure the participation of the person in the program of probation." Nev. Rev. Stat. Ann. § 176A.300 Surety bonds for probation shall cover the cost of a wide range of possible programming including drug and alcohol testing, mental health counseling, family counseling, educational courses, and the fees of the surety. Nev. Rev. Stat. Ann. § 176A.310 Community service fee: "a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance". Nev. Rev. Stat. Ann. § 213.1076176.087

State	Probation Supervision Fees	Probation Programming Fees
New Hampshire	Not less than $40 per month, unless waived, and may be any greater amount as established by the court or board. N.H. Rev. Stat. Ann. § 504-A:13	The court may assess fees for parole services. For fees other than supevision fees, a collection service charges of 10% of the funds collected may be imposed. N.H. Rev. Stat. Ann. § 504-A:13
New Jersey	Monthly fee up to $25 N.J. Stat. Ann. § 2C:45-1	Fees for any drug treatment program N.J. Stat. Ann. § 2C:35-14
New Mexico	The actual costs of probation service not exceeding $1,800 annually to be paid in monthly installments of not less than $25 and not more than one $150 N.M. Stat. Ann. § 31-20-6 Misdemeanor county probation: $15 - $50 per month N. M. Stat. Ann. § 31-20-5.1	$10 - $100, to be paid in monthly installments at least $5, to a local crime stopper program, a local domestic violence prevention or treatment program, or a local drug abuse resistance education program N.M. Stat. Ann. § 31-20-6
New York	Every county and the city of New York, may requiring local supervision and administrative fees of $30 per month N.Y. Exec. Law § 257-c (McKinney)	None indicated in statute. However, a 2019 report by the New York State Comptroller explains, "While some [court-ordered probation] programs may be covered by Medicaid or private insurance, defendants are responsible for any out-of-pocket costs." https://on.nyc.gov/37OsZ6k
North Carolina	$40 per month N.C. Gen. Stat. Ann. § 15A-1343	Fees and costs related to continuous alcohol monitoring are to be paid directly to the monitoring provider. N.C. Gen. Stat. Ann. § 15A-1343.3 House arrest with electronic monitoring: $90, plus a daily fee in an amount that reflects the actual cost of providing the electronic monitoring N.C. Gen. Stat. Ann. § 15A-1343
North Dakota	Not less than $55 per month N.D. Cent. Code Ann. § 12.1-32-07	Community service fee: $25 N.D. Cent. Code Ann. § 29-26-22

State	Probation Supervision Fees	Probation Programming Fees
Ohio	Up to $50 monthly Ohio Rev. Code Ann. § 2951.021	Community service fees to cover the costs of participation and liability insurance Ohio Rev. Code Ann. § 2951.02 Drug testing fees Ohio Rev. Code Ann. § 2951.05
Oklahoma	$40.00 per month Okla. Stat. Ann. tit. 22, § 991d	None indicated in statute.
Oregon	No probation supervision fees are authorized. (OR LEGIS 653 (2021), 2021 Oregon Laws Ch. 653 (S.B. 620), signed into law in 2021, removed previous authority to charge probation fees.) Probation officers are not permitted to collect any fees to offest the cost of supervision. Or. Stat. Ann. § 137.630	None indicated in statute.
Pennsylvania	At least $25 monthly 37 Pa. Code § 68.2 & § 68.22; 18 Pa. Stat. Ann. § 11.1102	None indicated in statute, however some local court rules impose fees for substance abuse testing, assessment, and treatment; electronic monitoring; and any other theraputic programming. *See*, *e.g.*, Pa R Washington Cty RCRP Rule L-711
Rhode Island	The DOC is authorized to impose a supervision fee in an amount that will substantially defray the cost of the community supervision program. 13 R.I. Gen. Laws Ann. § 13-8-32 The DOC has set supervision fees of $20 per month and the fees are collected by a private company. https://bit.ly/3JEhQ5w	DOC charges an Electronic Monitoring fee of $6 per day, which is collected through a private company. Fees may also be charged for any counseling or treatment ordered as part of supervision. https://bit.ly/3LXacEO
South Carolina	$20 - $100 per month. S.C. Code Ann. § 24-21-80 Intensive supervision may be $10 - $30 each week for the duration of intensive supervision in lieu of the regular supervision fee. S.C. Code Ann. § 24-21-80	Electronic monitoring fees authorized. S.C. Code Ann. § 24-21-85 Polygraphs fees authorized. S.C. Code Ann. § 24-21-87 Administrative monitoring: up to $10 a month. S.C. Code Ann. § 24-21-100

State	Probation Supervision Fees	Probation Programming Fees
South Dakota	The sentencing judge may assess costs as a condition of probation. S.D. Codified Laws § 23A-27-12.1	Court-ordered chemical dependency treatment are reimbursable to the county. S.D. Codified Laws §23A-27-18.3 Individuals are to pay associated costs and expenses for the "24/7 sobriety program, including: • Twice-a-day testing up to $3 for each test S.D. Codified Laws§ 1-11-26 • Urinalysis testing up to $10 for each test, plus full costs of tests if further analysis is needed S.D. Codified Laws § 1-11-27 • Drug patch fee up to $50 for each drug patch S.D. Codified Laws § 1-11-28 • Electronic alcohol monitoring device or the use of a mobile breath alcohol testing up to $10 per day with an installation fee and deactivation fee of not more than $50 each S.D. Codified Laws § 1-11-29 • Cost of ignition interlock device installation and operation paid directly to the authorized vendor plus an enrollment fee of up to $50 and monitoring fees up to $20 at intervals to be set by the attorney general S.D. Codified Laws § 1-11-30
Tennessee	Probation supervised by DOC: $15 per month Tenn. Code Ann. § 40-28-201 In misdemeanors: between $10 and $45 per month Tenn. Code Ann. § 40-35-303	Electronic monitoring: $30 per month not to exceed 10% of thier net income Tenn. Code Ann. § 40-28-201 GPS monitoring for certain sexual offenses: cost as assessed by vendor, plus reasonable collections costs Tenn. Code Ann. § 40-39-302 & § 40-39-303 Counseling or treatment fees Tenn. Code Ann. § 40-35-303. Evaluations, treatment, and behavior management fees Tenn. Code Ann. § 39-13-705 Alcohol and drug assessment or treatment fees Tenn. Code Ann. § 40-35-303

State	Probation Supervision Fees	Probation Programming Fees
Texas	$25 - $60 per month Tex. Code Crim. Proc. Ann. art 42A.652	Drug or alcohol rehabilitation fees Tex. Code Crim. Proc. Ann. art. 42A.402 Sex offender treatment, specialized supervision, or rehabilitation fees Tex. Code Crim. Proc. Ann. art.42A.452
Utah	$30 per month Utah Code Ann. § 64-13-21	Home confinement electronic monitoring fees Utah Code Ann. § 77-18-107 Unless specifically authorized by statute, a defendant shall not be required to pay court costs in a criminal case as part of a sentence or probation. Utah Code Ann. § 77-18-116 (note: at least one supervision office reported that courts sometime order conditions that come with other additional costs.)
Vermont	$30 per month Vt. Stat. Ann. tit. 28, § 102	Residential treatment center programming fees as appropriate Vt. Stat. Ann. tit. 28, § 254
Virginia	The state authorized to see fees for participating in local community-based probation services and supervision. Va. Code Ann. § 9.1-182 CCJB standards set a max flat "supervision and intervention" fee of $150 for first 6 months, and $25 if over 6 months; may be paid in installments. https://bit.ly/3jB9zVp	Local alcohol safety action program education and intervention not to exceed $300 Va. Code Ann. § 19.2-299.2
Washington	Misdemeanor or gross misdemeanor: up to $100 per month Wash. Rev. Code Ann. § 9.95.214 For DOC supervision: $400 - $600 on each judgment and sentence imposed Wash. Rev. Code Ann. § 9.94A.780 DOC regs set the intake fee at $475 per judgement: https://bit.ly/3EbtFPw	Fees for special programming under DOC supervision including electronic monitoring, day reporting, and telephone reporting Wash. Rev. Code Ann. § 9.94A.704 For locally supervised probation, electronic monitoring fees and fees for interlocal drug fund are authorized. Wash. Rev. Code Ann. § 9.95.210

State	Probation Supervision Fees	Probation Programming Fees
West Virginia	Up to $20 per month W. Va. Code Ann. § 62-12-9	Community corrections programming: up to $35 per month plus a one-time $10 fee. W. Va. Code Ann. § 62-11C-4 Home incarceration fee: $2.50 per day W. Va. Code Ann. § 62-11C-4(c)
Wisonsin	DOC is authorized to set a "reasonable fee" for supervision. Wis. Stat. Ann. § 304.074 DOC regs allow for $20, $40,or $60 per month, depending on the gross income of the person and their spouse. https://bit.ly/37hPhxF	Electronic monitoring fees. Wis. Stat. Ann. § 301.135 Contracted vendor may charge individuals directly for diagnostic services, evaluation, treatment, counseling, referral and information, day care, inpatient hospitalization, transportation, recreation, special education, vocational training, work adjustment, sheltered employment, special living arrangements and legal and protective services. Wis. Stat. Ann. §301.08(b)(1)&(3)
Wyoming	Intensive supervision fees are authorized. Wyo. Stat. Ann. § 7-13-1102	Substance abuse assessment fees Wyo. Stat. Ann. § 7-13-1302 24/7 Sobriety Program fees to be collected by the county sheriff. Wyo. Stat. Ann. §§ seq. 7-13-1704 to 7-13-1708. (For example, the Teton County Sheriff's department's 24/7 Sobriety program charges $30 as an enrollment fee plus $2 for each breathalyzer and $10 for each drug test. https://bit.ly/3uCSu3C)

Appendix B — Parole Fees

At least 16 states have moved away from discretionary parole in favor of so-called “truth in sentencing” laws, which either require nearly all of a person's term of incarceration be served before they are released or have transitioned away from discretionary parole to some other “conditional release program” that revolves around strictly defined release criteria. Where possible, we have included parole fees for those states. In others, we have listed fees related to post-incarceration release, which may still exists in the form of supervised or conditional release. **All information included in the chart below is current as of December 2021.**

State	Parole Supervision Fees	Parole Programming Fees
Alabama	**Intensive supervision: $40/month or an amount not to exceed 25% of gross monthly income** **Ala. Code § 15-22-2;** **Ala. Code § 15-22-56**	**None identified in statute.**
Alaska	**None identified in statute.**	**Electronic Monitoring** **Alaska Stat. Ann. § 33.16.150(g)** **Substance use program** **Alaska Stat. Ann. § 33.16.150(h)**
Arizona	**"monthly supervision fee of not less than sixty-five dollars"** **Ariz. Rev. Stat. Ann. § 31-411(E)**	**Drug treatment** **Ariz. Rev. Stat. Ann. § 31-411.01(B)(1)**
Arkansas	**Monthly supervision fee of $35 - $50** **Ark. Code Ann. § 16-93-104.**	**None identified in statute.**
California	**None authroized in statute.** **(AB 1869, signed into law in 2020, removed previous authority to charge parole fees.)**	**Mandatory electronic monitoring fee for sex offenses** **Cal. Pen. § 3000.07**
Colorado	**"reasonable" costs of supervision** **Colo. Rev. Stat. Ann. § 17-2-201.** **In practice, there is a standard parole fee of $10/month.** **https://bit.ly/3xnTZVh**	**Fees for random chemical tests, drug or alcohol program, community correctional nonresidential program, mental health program, or other fee-based or non-fee-based treatment program approved by the parole board** **Colo. Rev. Stat. Ann. § 17-2-201**

State	Parole Supervision Fees	Parole Programming Fees
Connecticut	None identified in statute.	Costs incidental to residence in community center or halfway house Conn. Gen. Stat. Ann. § 54-125 & 54-125a Cost of confirmatory drug analysis when challenging positive drug test results Conn. Gen. Stat. Ann.§ 54-125f
Delaware	None identified in statute.	Monthly payments for house arrest program Del. Code Ann. tit. 11, § 4347
Florida	The "court-ordered amount, but not to exceed the actual per diem cost of the supervision." Fla. Stat. Ann. § 948.09 Each individual Circuit appears to set it's own rules -- *e.g.*, the 9th Circuit imposes $20/month if none was set by individual judges: https://bit.ly/3vn7Mca	For felonies: a "$2-per-month surcharge to the department." Electronic monitoring "at a rate that may not exceed the full cost of the monitoring service in addition to the cost of supervision as directed by the sentencing court." Fla. Stat. Ann. § 948.09
Georgia	None identified in statute.	A "reasonable fee" to providers of ordered treatment or services Ga. Code Ann. § 42-9-21
Hawaii	None identified in statute.	Reasonable fees, not less than the actual and administrative costs, to cover: (1) Any drug test; and (2) Any assessment of the person Haw. Rev. Stat. Ann. § 353G-10
Idaho	Not more than $75 per month to cover costs "including tests to determine drug and alcohol use, books and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology." Idaho Code Ann. § 20-225	Drug and alcohol tests shall be paid for by the person on parole. Idaho Code Ann. § 19-2608 Agency personnel report that those convicted of sex offenses may be required to pay for all required treatments and yearly polygraph testing, which may range from $250-275.
Illinois	None identified in statute.	None identified in statute.

State	Parole Supervision Fees	Parole Programming Fees
Indiana	None identified in statute.	Fee for laboratory chemical tests Ind. Code Ann. § 11-13-3-4 Fees for participation in a treatment or other program required as a condition of parole. Ind. Code Ann. § 11-13-3-4
Iowa	An enrollment fee of $300 Iowa Code Ann. § 905.14	None identified in statute.
Kansas	A supervision service fee not to exceed $30.00 per month Kan. Admin. Reg. §44-5-115	Fees for transportation expenses for interstate warrant return for violation of condition of probation, parole, conditional release or post-release supervision Kan. Stat. Ann. § 22-3717 $100 administrative fee (for defense counsel) Kan. Stat. Ann. § 22-3717 Cost of electronic monitoring. Kan. Stat. Ann. § 22-3717
Kentucky	Felony supervision: not less than $10/month while on active supervision but not more than $2,500/year Misdemeanor supervision: not less than $10/month while on active supervision but not more than $500/year Ky. Rev. Stat. Ann. § 439.315	Reasonable fee for monitoring device in the supervision and equipment usage Ky. Rev. Stat. Ann. § 439.470
Louisiana	Montly supervision fee not to exceed $63 La. Stat. Ann. §15:574.4.2 Additional one-time probation and parole processing fee of $65 La. Stat. Ann. § 15:574.4.5	Drug testing and screening; certain psychological counseling; GED or other educational programming; and pre-release STD testing La. Stat. Ann. §15:574.4.2
Maine	None identified in statute.	None identified in statute.
Maryland	Monthly fee of $50 Md. Code Ann. , Correct'l Serv., § 7-702	Court-ordered drug or alcohol abuse testing. Md. Code Ann., Crim. Proc. § 6-226; MD Code, Correct'l Serv., § 7-702 Drinking Driver Monitor Program: $75 monthly. Md. Code Ann., Correct'l Serv.§ 6-115

State	Parole Supervision Fees	Parole Programming Fees
Massachusetts	A supervision and rehabilitation fee is authorized. Mass. Gen. Laws Ann. 127 § 133D The state's Parole Division sets a monthly "supervision and victim services surcharge" of $80. https://bit.ly/3JCAwCD	GPS monitors for those on parole for life or for a sex offense Mass. Gen. Laws Ann. 127 § 133D 1/2
Michigan	$30 per month, not to exceed more than 60 months for supervision without electronic monitoring; $60 per month, if including electronic monitoring Mich. Comp. Laws Ann. § 791.236a	No additional fees identified in statute.
Minnesota	DOC is authorized to set and enforce supervision fees. Minn. Stat. Ann. § 241.272 A one-time supervision fee per case file of $300 for each felony; $200 for each gross misdemanor, and $100 for each misdemeanor. https://bit.ly/3E8VGas	Other court-ordered services Minn. Stat. Ann. § 244.18 Sex offender treatment program fees Minn. Stat. Ann. § 241.272
Mississippi	$55.00 per month, not to exceed 10 years Miss. Code. Ann. § 47-7-49	$10 for any positive drug test Miss. Code Ann. § 47-5-605 Agency personnel report electronic monitoring costs are also charged in some cases.
Missouri	Up to $60 a month Mo. Ann. Stat. §217.690	A reasonable fee for post-conviction drug education, treatment and rehabilitation programs may be assessed Mo. Ann. Stat. § 217.785
Montana	$120 - $360 a year, prorated at no less than $10 a month Mont. Code Ann. § 46-23-1031	GPS monitoring: not more than $4,000 a year Mont. Code Ann. § 46-23-1010; Mont. Code Ann. § 46-23-1031
Nebraska	$25 monthly Neb. Rev. Stat. Ann. § 83-1,107.01	No additional parole fees identified in statute.
Nevada	Up to $30 monthly Nev. Rev. Stat. Ann. § 213.1076	Electronic monitoring fee in certain sex offenses Nev. Rev. Stat. Ann. § 213.1076

State	Parole Supervision Fees	Parole Programming Fees
New Hampshire	Not less than $40 per month, unless waived, and may be any greater amount as established by the court or board N.H. Rev. Stat. Ann. § 504-A:13	The court may assess fees for parole services. For fees other than supevision fees, a collection service charge of 10% of the funds collected may be imposed. N.H. Rev. Stat. Ann. § 504-A:13
New Jersey	The state is required to pay for the parole system. N.J. Stat. Ann. § 30:4-121	None indicated in statute.
New Mexico	The actual costs of parole services not exceeding $1,800 annually to be paid in monthly installments of not less than $25 and not more than one $150 N.M. Stat. Ann. § 31-21-10	None indicated in statute.
New York	$35 monthly N.Y. Corr. § 201	None indicated in statute.
North Carolina	$40 per month N.C. Gen. Stat. Ann. § 15A-1374	$250 to participate in the community service provided by the program staff N.C. Gen. Stat. Ann. § 143B-708 Cost of any required proof that person is alcohol free N.C. Gen. Stat. Ann. § 15A-1374(b)(8a) & (d).
North Dakota	Statute gives the Parole Board authority to set all conditions of parole. N.D. Cent. Code Ann. § 12-59-07 One standard condition of parole includes an agreement that the person "shall pay a $45 monthly supervision fee which is due on the first of every month." https://bit.ly/3E8ZB74	Actual cost of electronic monitoring, plus an administration fee up to $5 per day N.D. Cent. Code Ann. § 12-67-03
Ohio	The department is authorized to assess supervision fees. Ohio Rev. Code Ann. § 5120.56(D)(5) Regulations set the supervision fee at $20 per month. Ohio A.D.C. 5120:1-1-02	Costs of random drug testing Ohio Rev. Code Ann. § 2967.131

State	Parole Supervision Fees	Parole Programming Fees
Oklahoma	$40.00 per month Okla. Stat. Ann. tit. 22, § 991d	None indicated in statute.
Oregon	No parole supervision are fees authorized. (OR LEGIS 653 (2021), 2021 Oregon Laws Ch. 653 (S.B. 620) removed previous authority to charge parole fees.)	None indicated in statute.
Pennsylvania	At least $25 monthly 37 Pa. Code § 68.2; 18 Pa. Stat. Ann. § 11.1102 Authors found fees as high as $30 per month being imposed.	Fees for drug and alcohol testing, assessment, and treatment 18 Pa. Stat. Ann. § 3815
Rhode Island	The DOC is authorized to impose a supervision fee in an amount that will substantially defray the cost of the community supervision program. 13 R.I. Gen. Laws Ann. § 13-8-32 The DOC has seet supervision fees of $20 per month and the fees are collected by a private company. https://bit.ly/3LZTwg3	DOC charges an Electronic Monitoring fee of $6 per day, which is collected through a private company. Fees may also be charged for any counseling or treatment ordered as part of supervision. https://bit.ly/3jCaRzy
South Carolina	$20 - $100 per month S.C. Code Ann. § 24-21-80 Intensive supervision may be $10 - $30 each week for the duration of intensive supervision in lieu of the regular supervision fee. S.C. Code Ann. § 24-21-80	Electronic monitoring fees authorized S.C. Code Ann. § 24-21-85 Polygraphs fees authorized S.C. Code Ann. § 24-21-87 Administrative monitoring: up to $10 a month S.C. Code Ann. § 24-21-100
South Dakota	The DOC may establish supervision fee rates. S.D. Codified Laws § 24-15-11.3 Regular supervision: $20 per month. Intensive supervision: $25 per month. https://bit.ly/3rqrGS9	24/7 sobriety program fee of up to $3 per day S.D. Codified Laws § 1-11-32

State	Parole Supervision Fees	Parole Programming Fees
Tennessee	$15 per month Tenn. Code Ann. § 40-28-201	Electronic monitoring: $30.00 per month, not to exceed 10% of the person's net income Tenn. Code Ann. § 40-28-201 Criminal injuries compensation fund: $30.00 for each month while under supervision, not to exceed 10% of the offender's net income Tenn. Code Ann. § 40-28-201 GPS monitoring: reasonable collections costs set by and paid directly to the vendor Tenn. Code Ann. § 40-39-302 & § 40-39-303
Texas	Monthly parole supervision fee of $10 and an administrative fee of $8 Tex. Gov't Code Ann. § 508.182	Monthly fee for certain sex offenses: $5 Tex. Gov't Code Ann. §508.189
Utah	$30 per month Utah Code Ann. § 64-13-21	Unless specifically authorized by statute, a defendant shall not be required to pay court costs in a criminal case as part of a sentence or probation. Utah Code Ann. § 77-18-116 (Note: at least one supervision office reported that courts sometime order conditions that come with other additional costs.)
Vermont	$30 per month Vt. Stat. Ann. tit. 28, § 102	Outpatient counseling and treatment fees Vt. Stat. Ann. tit. 28, § 403 Residential treatment center programming fees, as appropriate Vt. Stat. Ann. tit. 28, § 502b
Virginia	$50 fee as a condition of parole Va. Code Ann. § 53.1-150	Substance abuse treatment fees based upon an ability to pay Va. Code Ann. § 53.1-150.1

State	Parole Supervision Fees	Parole Programming Fees
Washington	Supervision fee assessment and intake authorized from $400 - $600 on each judgment and sentence imposed. Wash. Rev. Code Ann. § 9.94A.704; Wash. Rev. Code Ann. § 72.04A.120; Wash. Rev. Code Ann. § 9.94A.780 DOC regs set the intake fee at $475 per judgement: https://bit.ly/3KBgRUW	Fees for special programming including electronic monitoring, day reporting, and telephone reporting Wash. Rev. Code Ann. § 9.94A.704
West Virginia	Up to $40 per month W. Va. Code Ann. § 62-12-17	None indicated in statute.
Wisconsin	DOC is authorized to set a "reasonable fee" for supervision. Wis. Stat. Ann. § 304.074 DOC regs allow for $20, $40,or $60 per month, depending on the gross income of the person and their spouse. https://bit.ly/3rpQZ6P	Electronic monitoring fees Wis. Stat. Ann. § 301.135 Contracted vendor may charge individuals directly for diagnostic services, evaluation, treatment, counseling, referral and information, day care, inpatient hospitalization, transportation, recreation, special education, vocational training, work adjustment, sheltered employment, special living arrangements and legal and protective services. Wis. Stat. Ann. §301.08(b)(1)&(3).
Wyoming	Intensive parole superivsion fees may be required. Wyo. Stat. Ann. § 7-13-421	Fees for evaluations, treatment, services, programs or assistance the person receives Wyo. Stat. Ann. § 7-13-421 Intensive supervision program fees for electronic monitoring, regimented daily schedules or itineraries, house arrest, telephone contact, drug testing, curfew checks or other supervision methods which facilitate contact with supervisory personnel; community service work, family, educational or vocational counseling, cognitive-behavioral programming to address criminal thinking, and treatment for substance abuse, mental health treatment to be paid by participants Wyo. Stat. Ann. § 7-13-1102

Appendix C — Consequences for Failure to Pay Probation or Parole Fees

All information included in the chart below is current as of March 2022.

Consequences for Failure to Pay Probation or Parole Fees	Status Label Defined
Revocation Possible	Statutes explicitly make payment of these fees a condition of the supervision or explicitly state that failure to pay the fee could be ground for such sanction under some circumstances.
Revocation Not Possible	Statutes either prohibit revocation and/or extension of supervision for failure to pay these fees or prohibits such sanctions if failure to pay is the sole violation.
Unclear	While every state has statutes allowing for probation or parole revocation for failing to adhere to certain conditions of release, fees are not explicitly listed as conditions of probation or parole. However, it is possible that some may find the statutes broad enough to allow for revocation or extension of supervision, even if not explicitly.
Non-criminal responses	Statutes define a non-criminal sanction for failing to pay supervision-related fees, which typically include some level of civil enforcement, and are silent on whether unpaid fees are grounds for revocation.

State	Failure to Pay PROBATION FEES	Failure to Pay PAROLE FEES
Alabama	Revocation Possible	Revocation Possible
Alaska	Revocation Not Possible	Revocation Not Possible
Arizona	Revocation Possible	Revocation Possible
Arkansas	Unclear	Revocation Possible
California	Revocation Not Possible	Revocation Not Possible
Colorado	Revocation Possible	Revocation Possible
Connecticut	Revocation Possible	Revocation Possible
Delaware	Revocation Possible	Unclear
Florida	Revocation Possible	Revocation Possible
Georgia	Revocation Possible	Revocation Possible
Hawaii	Revocation Possible	Unclear
Idaho	Revocation Possible	Revocation Possible
Illinois	Revocation Possible	Revocation Not Possible
Indiana	Revocation Not Possible	Revocation Not Possible
Iowa	Unclear	Unclear
Kansas	Revocation Possible	Revocation Possible
Kentucky	Revocation Possible	Revocation Possible

State	Failure to Pay PROBATION FEES	Failure to Pay PAROLE FEES
Louisiana	Revocation Not Possible	Non-criminal responses
Maine	Revocation Not Possible	Revocation Not Possible
Maryland	Revocation Possible	Revocation Possible
Massachusetts	Non-criminal responses	Revocation Possible
Michigan	Revocation Possible	Non-criminal responses
Minnesota	Non-criminal responses	Non-criminal responses
Mississippi	Revocation Possible	Revocation Possible
Missouri	Non-criminal responses	Unclear
Montana	Unclear	Unclear
Nebraska	Revocation Possible	Revocation Possible
Nevada	Revocation Not Possible	Revocation Possible
New Hampshire	Revocation Possible	Revocation Possible
New Jersey	Revocation Possible	Revocation Not Possible
New Mexico	Unclear	Revocation Possible
New York	Revocation Not Possible	Revocation Not Possible
North Carolina	Revocation Possible	Revocation Possible
North Dakota	Non-criminal responses	Unclear

State	Failure to Pay PROBATION FEES	Failure to Pay PAROLE FEES
Ohio	Revocation Possible	Revocation Not Possible
Oklahoma	Revocation Possible	Revocation Possible
Oregon	Revocation Not Possible	Revocation Not Possible
Pennsylvania	Unclear	Unclear
Rhode Island	Revocation Possible	Revocation Possible
South Carolina	Revocation Possible	Revocation Possible
South Dakota	Revocation Possible	Revocation Possible
Tennessee	Revocation Possible	Revocation Possible
Texas	Revocation Possible	Revocation Possible
Utah	Revocation Possible	Revocation Possible
Vermont	Unclear	Revocation Possible
Virginia	Revocation Possible	Revocation Possible
Washington	Revocation Possible	Revocation Possible
West Virginia	Revocation Possible	Revocation Possible
Wisconsin	Non-criminal responses	Non-criminal responses
Wyoming	Revocation Possible	Revocation Possible

Endnotes

[1] At the end of 2019, 4,357,700 people were on probation or parole in the United States. *Probation and Parole in the United States*, *2019*, Dept. of Justice, Bureau of Justice Statistics, published July 2021: https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus19.pdf. The estimated population of the United States was 328,239,523 at the end of 2019. U.S. Census Bureau, https://www.census.gov/quickfacts/fact/table/US/PST045219.
[2] Although probation departments in many jurisdictions also supervise pretrial release conditions for those who have a pending case, probation is a sentence of supervision after conviction. Fees are often imposed as part of pretrial supervision, but those fees are beyond the scope of this document.
[3] Ronald Corbett. "The Burdens of Leniency: The Changing Face of Probation" 99 U. Minn. L. Rev. 1697, 1709 (2015) (noting that in a sample of state probation contracts, the author found a low of seven conditions and a high of twenty-four, with an average in the mid-teens.)
[4] The Pew Charitable Trusts, *States Can Shorten Probation and Protect Public Safety*, p 1., December 2020 and updated April 2021. https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety, (noting that average lengths of probation vary greatly by state, ranging from a low of 9 months in Kansas to a high of nearly 5 years in Hawaii.)
[5] Id. at 18.(noting that in some states probation may even be extended beyond statutory maximums for the underlying offense).
[6] Dale Parent, *Recovering Correctional Costs through Fees*, Nat'l Institute for Justice (1990) 1. 2021, https://www.officialdata.org/us/inflation/1988?amount=85000000.
[7] Mack Finkel, *New data: Low incomes – but high fees – for people on probation*, Prison Policy Initiative, 2019 at https://www.prisonpolicy.org/blog/2019/04/09/probation_income/
[8] Michael Menendez, et. al., *The Steep Costs of Criminal Justice Fees and Fines*, The Brennan Center for Justice (2019) p. 5, https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf; Stephanie Campos-Bui, et. al, *Making Families Pay: The Harmful, Unlawful, and Costly Practice of Charging Juvenile Administrative Fees in California* (March 20, 2017). UC Berkeley Public Law Research Paper, pp 17-18, Available at: https://dx.doi.org/10.2139/ssrn.2937534.
[9] *See* Ella Baker Ctr. for Human Rts. et al., *Who Pays? The True Cost of Incarceration on Families*, 13–14 (Sept. 2015), http://whopaysreport.org/wp-content/uploads/2015/09/Who-Pays-FINAL.pdf (outlining how families of poor offenders often take out loans and make risky financial choices in order to help loved ones pay court-related debt); Council of Econ. Advisors, *Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor*, 1 (Dec. 2015), https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf (finding that costs place "large burdens on poor offenders who are unable to pay criminal justice debts."); Alexes Harris et al., *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, 115 Am. J. of Socio. 1753, 1770–71 (2010) ("Millions of mainly poor people living in the United States have been assessed monetary sanctions by the courts.").;
[10] Jake Horowitz & Connie Utada. *Community Supervision Marked by Racial and Gender Disparities*, Pew Charitable Trusts (2018) available at: https://www.pewtrusts.org/en/research-and-analysis/articles/2018/12/06/community-supervision-marked-by-racial-and-gender-disparities (noting that federal statistics on rates of supervision for Hispanics was complicated by lack of reporting on ethnicity by many states).
[11] *See, e,g*, Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*, 104 Geo. L.J. 291, 314 (2016).
[12] Sharon Brett, Neda Khoshkhoo, and Mitali Nagrecha, *Paying on Probation: How Financial Sanctions Intersect with Probation to Target, Trap, and Punish People Who Cannot Pay*, Harvard Law School Criminal Justice Policy Program (2020) 11-12 [hereafter, *Paying on Probation*].
[13] Beard v. Georgia, 461 U.S. 660 (1983) (finding it unconstitutional to incarcerate a person for nonpayment unless the person has the means to pay and is simply unwilling to do so).
[14] Federal Reserve Board, *Report on the Economic Well-Being of U.S. Households in 2019* (May 2020) available at https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-dealing-with-unexpected-expenses.htm (noting that even pre-pandemic, 16% of adults could not meet monthly bills and another 12% would be unable to pay their current bills if faced with $400 in unexpected expenses.)
[15] Tyler Giles, *The (Non)Economics of Criminal Fines and Fee*s (2021) available at https://sites.google.com/view/tylergiles/research?authuser=0, working paper (finding that a new fee of $200 on all misdemeanor convictions in Milwaukee, WI increased the overall likelihood of re-offense within two years); Rebecca Goldstein, Michael W. Sances, & Hye Young You, "Exploitative Revenues, Law Enforcement, and the Quality of Government Services," *Urban Affairs Review*, 1-27,4-5 & 17. (finding that a

1% increase in the shares of fines and fees a police department gets is associated with a 6.1 percentage point drop in clearance rates for violent crimes.).

[16] This includes Rhode Island, which does not explicitly authorize a probation supervision fee through statute, but which authorizes the Department of Corrections to impose "appropriate eligibility criteria and conditions" when a person is ordered to be on probation. According to the Department's Probation and Parole FAQ on its website, it imposes a monthly probation supervision fee of $20. http://www.doc.ri.gov/community-corrections/probation-parole/faq.php)

[17] Several states' statutes set a maximum monthly cost without setting a minimum, and thus could conceivably go below $10 per month, but of those that set a minimum or gave ranges, $10 was the lowest. *See, e.g.*, Me. Rev. Stat. 17-A § 1807; Mont. Code Ann. § 46-23-1031.

[18] Kentucky authorizes monthly fees but caps the annual collection rate at $2,500 in felony cases, which comes to a maximum charge of $208.33 per month. Ky. Rev. Stat. Ann. § 439.315

[19] These additional fees can range from $25 – $600, depending on the state and the charges. Ga. Code Ann. § 42-8-34(d)(1)&(2) (authorizing a one-time probation fee of $25 for certain misdemeanors and $50 for felonies, in addition to monthly supervision costs); Ind. Code Ann. § 35-38-2-1 (authorizing from $25-$100 as an additional flat fee for felonies and up to $50 for misdemeanors); La. Stat. Ann. § 15:574.4.5 (authorizing a one-time flat fee of $65 on top of monthly supervision charges); Neb. Rev. Stat. Ann. § 29-2262.06 (authorizing a one-time fee of $30 in addition to monthly supervision charges); Wash. Rev. Code Ann. § 9.94A.780 (authorizing an additional flat fee up to $600).

[20] Conn. Gen. Stat. Ann. 53a-29(c) (imposing a one-time fee of $200); Del. Code Ann. tit. 11, § 6504 (setting a fixed fee of $200 per probation period); Haw. Rev. Stat. Ann. § 706-648 (imposing a fee of $75 on probation less than one year and $150 on probation longer than one year); Iowa Code Ann. § 905.14 (imposing a probation enrollment fee of $300); Kan. Stat. Ann. § 21-6607 (imposing a supervision fee of $60 for misdemeanors and $120 for felonies); Va. Code Ann. § 9.1-182(D) (requiring the Department of Criminal Justice Services to establish a statewide probation supervision fee, which the Department has set as a flat fee of $150 for the first six months of probation, plus an additional flat fee $25 if probation exceeds six months: https://bit.ly/3KW8HGq; Wyo. Stat. Ann. § 6-10-102 (setting an "automation fee" of $40 on all cases that result in probation).

[21] Minnesota's statutes allow local supervision agencies to determine a "reasonable" amount, Minn. Stat. Ann. § 241.272 and § 244.18, but in practice, the Department of Corrections has set statewide guidelines for flat fees ranging from $100-$300 depending on the level of the offense, *see* Letter from Department to State Sen. Warren Limmer dated Jan. 16, 2018, https://bit.ly/3immM3R; South Dakota's statute places parameters on court regarding the assessment of costs but does not set any specific amounts. S.D. Codified Laws § 23A-27-12.1.

[22] The Alaska Department of Corrections, Division of Pretrial, Probation, and Parole responded to an inquiry from the Fines and Fees Justice Center in November 2021 confirming no supervision fee was imposed but acknowledging that fees for electronic monitoring, if in place, may apply.

[23] *Paying on Probation*, *supra* note 12, 11-12.

[24] *See, e.g.*, Idaho Code Ann. § 19-2608; 730 Ill. Comp. Stat. Ann. 5/5-6-3.1; Ind. Code Ann. § 35-38-2-1; Md. Code Ann., Crim. Proc. § 6-226; and Neb. Rev. Stat. Ann. § 29-2262.

[25] Tenn. Code Ann. 40-35-303(i)(2); Miss. Code Ann. § 47-7-47(4).

[26] *See, e.g.*, Ga. Code Ann. § 42-8-34 (authorizing a $10 per day fee for daily reporting centers); La. Code Crim. Proc. Ann. art. 895 (requiring those who test below a 6th grade reading level to take adult education reading classes as a condition of probation); S.C. Code Ann. § 24-21-87 (authorizing charging fees for "maintenance polygraph" services).

[27] *See, e.g.*, Ark. Code Ann. § 5-4-322; Ohio Rev. Code Ann. § 2951.02; N.D. Cent. Code Ann. § 29-26-22.

[28] *See, e.g.*, Ariz. Rev. Stat. Ann. § 13-902; Conn. Gen. Stat. Ann. § 53a-30; Ky. Rev. Stat. Ann. § 439.470; N.C. Gen. Stat. Ann. § 15A-1343; Tenn. Code Ann. § 40-28-201

[29] *See, e.g.*, Mass. Gen. Laws Ann. ch. 276, § 87A; Tenn. Code Ann. § 40-24-107

[30] *See, e.g.*, N.M. Stat. Ann. § 31-20-6.

[31] *Paying on Probation*, *supra* note 12, 11-12.

[32] Bearden v. Georgia, 461 U.S. 660 (1983).

[33] Ala. Code § 15-22-2; Ariz. Rev. Stat. Ann. § 13-915; CO ST § 16-11-206; Del. Code Ann. tit. 11, § 6504; Fla. Stat. Ann. § 948.09; Ga. Code Ann. § 42-8-102 & Ga. Code Ann. § 42-8-34; Haw. Rev. Stat. Ann. § 706-644 & Haw. Rev. Stat. Ann. § 706-644; Idaho Code Ann. § 20-225; 730 Ill. Comp. Stat. Ann. 5/5-6-4; KS ST 22-3425 & KS ST 22-3716; Ky. Rev. Stat. Ann. 533.050. & Ky. Rev. Stat. Ann. § 439.315; Md. Code Ann., Crim. Proc. § 6-226; Mich. Comp. Laws Ann. § 771.3 & Mich. Comp. Laws Ann. § 791.225a; Miss Code Ann § 47-7-49; MO ST § 559.100; Neb. Rev. Stat. Ann. § 29-2262.06; N.H. Rev. Stat. Ann. § 504-A:13; N.J. Stat. Ann. § 2C:45-3; N.C. Gen. Stat. Ann. § 15A-1345; Ohio Rev Code Ann § 2951.021 (providing for possible revocation and civil remedies); Okla. Stat. Ann. tit. 22, § 991d & Okla. Stat. Ann. tit. 22, § 991b; RI ST § 12-19-8.1; S.C. Code Ann. § 24-21-80; S.D. Codified Laws § 23A-27-25.4; Tenn. Code Ann. § 40-28-201 & Tenn. Code Ann. § 40-35-303; UT ST § 77-18-108 & § 64-13-21; Va. Code Ann. § 19.2-305 & Va. Code Ann. § 19.2-306; RCW 9.95.220; W. Va. Code Ann. § 62-12-10; WY ST § 7-13-305.

[34] Alaska, California, and Oregon do not charge probation supervision fees; Ind. Code Ann. § 35-38-2-3; La. Code Crim. Proc. Ann. art. 894.4; ME ST T. 17-A § 1807; Nev. Rev. Stat. Ann. 176A.630; N.Y. Exec. Law § 257-c (McKinney).
[35] Arkansas, Iowa, Montana, New Mexico, and Vermont have statutes allowing for these fees, they are unclear whether failure to pay may constitute revocation. Also, *see* 37 Pa Code § 68.22 (which requires the agency responsible for supervision to inform those on probation about what failures could result in revocation but doesn't define them. FFJC is aware that some courts do revoke for nonpayment in practice).
[36] Mass. Gen. Laws Ann. ch. 276, § 87A (may require unpaid community service of not more than 4 hours per month of probation supervision if person is unable to pay); Minn. Stat. Ann. § 241.272 & Minn. Stat. Ann. § 244.18 (may use any available civil means of debt collection); N.D. Cent. Code Ann. § 12.1-32-07 (converting unpaid fees to a civil judgment); Wis. Stat. Ann.
§ 304.074 (payment may be enforced through civil action).
[37] At the person's request, the authors are using a pseudonym to protect this individual's anonymity.
[38] Ebony Ruhland (2021) *It's all about the money: an exploration of probation fees*, Corrections, 6:1, 65-84, 73, DOI: 10.1080/23774657.2018.1564635; K. Beckett & A. Harris, *On cash and conviction: Monetary Sanctions as misguided policy*. Criminology & Public Policy, 10(3), (2011) 505–507.
[39] *See*, Jorge Renaud, *Grading the Parole Release Systems of All 50 States,* National Prison Project, 2019 (citing research by the Robina Institute for Criminal Law and Criminal Justice https://bit.ly/36uqTbj)
[40] Dale Parent, *Recovering Correctional Costs Through Offender Fees,* 59, U.S. Dept. of Justice, Nat'l Institute of Justice, 6 (1990) (finding only 15 states that statutorily authorized the imposition of parole supervision fees in 1990).
[41] This includes North Dakota, which grants the parole authority the ability to release anyone it feels will conform to the conditions the agency may establish, though the statute is silent on costs. N.D. Cent. Code Ann. § 12-59-07. The Department of Corrections and Rehabilitation imposes a $45 monthly supervision fee as one of its standard conditions of parole. *See* Alexis Lee Watts, et. al, *Profiles in Parole Release and Revocation: Examining the Legal Framework in the United States: North Dakota*, 6, Robina Institute of Criminal Law and Criminal Justice (2019).
[42] *See, e.g.*, Tex. Code Ann. § 508.182; Mont. Code Ann. § 46-23-1031. *See also*, Colo. Rev. Stat. Ann. § 17-2-201 (authorizing "reasonable" parole fees) and Letter from Juliann Jenson, Research Analyst, Colorado Legislative Council Staff, dated October 9, 2020 https://leg.colorado.gov/sites/default/files/r19-1293_fines_and_fees_in_the_criminal_justice_system_with_attachments.pdf (outlining a $10 monthly payment for parole supervision, without citing a source).
[43] Kentucky authorizes monthly fees for parole just as it does for probation but caps the annual collection rate at $2,500 in felony cases, which comes to a maximum charge of $208.33 per month. Ky. Rev. Stat. Ann. § 439.315
[44] Minnesota's statutes allow local supervision agencies to determine a "reasonable" amount, Minn. Stat. Ann. § 241.272 and Minn. Stat. Ann. § 244.18, but in practice, the Department of Corrections has set a statewide guidelines for flat fees ranging from $100-$300 depending on the level of the offense, *see* Letter from Department to State Sen. Warren Limmer *supra* note 21; Iowa Code Ann. § 905.14 (setting an enrollment fee of $300); Va. Code Ann. § 53.1-150 (setting a $50 payment for those on parole); Washington Dept. of Correction Policy No. 200.380, sec. IV(B), sets a parole supervision intake assessment fee at $475, https://doc.wa.gov/information/policies/showFile.aspx?name=200380
[45] Florida's statute provides that those placed on community-based supervision following a term of incarceration must "pay the department a total sum of money equal to the total month or portion of a month of supervision … but not to exceed the actual per diem cost of the supervision." Fla. Stat. Ann. §984.09. In at least some jurisdictions within Florida, the court has set the parameters for supervision by the Department of Corrections Probation and Parole Services. For example, in Florida's Ninth District, an administrative order sets a default of $20 per month when the judge does not set a different cost. Administrative Order 07-94-10, Circuit Court of the Ninth Judicial Circuit. It is unclear how circuits without such guidance determine parole or conditional release supervision cost and payment schedules.
[46] In Florida, parole was effectively eliminated with the institution of new sentencing guidelines, though many of those sentenced prior to 1983 may still be eligible for parole. Florida now also has "conditional release," which is mandatory post-prison supervision for inmates who are sentenced for certain offenses. Unlike parole, conditional release is not discretionary release. For more information, see the Florida Commission on Offender Review website: https://www.fcor.state.fl.us/postrelease.shtml.
[47] Del. Code Ann. tit. 11, § 4347 (providing that those on the "house arrest program" must pay a regular payment toward sustaining the program).
[48] Wyo. Stat. Ann. § 7-13-421 (providing that the costs or partial costs of intensive parole supervision shall be charged to those in the program).
[49] CA Penal § 1203.1e, repealed by Stats.2020, c. 92 (A.B.1869), § 52, operative July 1, 2021; OR LEGIS 653 (2021), 2021 Oregon Laws Ch. 653 (S.B. 620)).
[50] FFJC made outreach to parole agencies in each of these states. Staff at the parole agencies in Alaska, Hawaii, and Indiana confirmed that no parole supervision fees were charged in practice. We did not receive responses from agencies in Connecticut and Georgia.

[51] N.J. Stat. Ann. § 30:4-121.
[52] *See, e.g.*, Alaska Stat. Ann. § 33.16.150; Haw. Rev. Stat. Ann. § 353G-10; Ga. Code Ann. § 42-9-21 Ind. Code Ann. § 11-13-3-4.
[53] *See, e.g.,* Ariz. Rev. Stat. Ann. § 31-411; Colo. Rev. Stat. Ann. § 17-2-201; Haw. Rev. Stat. Ann. § 353G-10.
[54] *See, e.g.*, Vt. Stat. Ann. tit. 28, § 403.
[55] *See, e.g.,* N.C. Gen. Stat. Ann. § 143B-708.
[56] *See, e.g.,* Ga. Code Ann. § 42-9-21; Ind. Code Ann. § 11-13-3-4; Md. Code Ann., Crim. Proc. § 6-226; Wyo. Stat. Ann. § 7-13-421.
[57] *See, e.g.,* Conn. Gen. Stat. Ann. § 53a-30; N.H. Rev. Stat. Ann. § 504-A:13.
[58] *See, e.g*., Alaska Stat. Ann. § 33.16.150; Conn. Gen. Stat. Ann. § 53a-30; Kan. Stat. Ann. § 22-3717
[59] Ebony L. Ruhland, et al., *The Continuing Leverage of Releasing Authorities: Findings from a National Survey*, Robina Institute of Criminal Law and Criminal Justice (2016). p. 36.
[60] *See, e.g*., Tenn. Code Ann. § 40-28-201.
[61] *See, e.g*., Kan. Stat. Ann. § 22-3717.
[62] Bearden v. Georgia, 461 U.S. 660 (1983).
[63] Ala. Code § 15-22-2; Ariz. Rev. Stat. Ann. § 31-415; Ark. Code Ann. § 16-93-104: Colo. Rev. Stat. Ann. § 17-2-103; Conn. Gen. Stat. Ann. § 54-124a(j)(1)(i); Fla. Stat. Ann. § 948.09; Ga. Code Ann.§ 42-9-44; Idaho Code Ann. § 20-225; Kan. Stat. Ann. 75-5217; Ky. Rev. Stat. Ann. § 439.315 & §533.050; Md. Code Ann., Crim. Proc. § 6-226; Mass. Gen. Laws Ann. ch. 127, § 145; Miss. Code Ann § 47-7-49; Neb. Rev. Stat. Ann. § 83-1,107.01; Nev. Rev. Stat. Ann. § 213.1076; N.H. Rev. Stat. Ann. § 504-A:13; N.M. Stat. Ann. § 31-21-14 (New Mexico's Department of Corrections' website indicates it considers supervision fees a condition of parole, and thus covered by this statute); N.C. Gen. Stat. Ann. § 15A-1376; Okla. Stat. Ann. tit. 22, § 991b & § 991d; R.I. ST § 13-8-18; S.C. Code Ann. § 24-21-80; S.D. ST § 24-15A-28; Tenn. Code Ann. § 40-28-201; Tex. Gov't Code Ann. § 508.182; Utah Code Ann. § 77-27-11 & § 64-13-21; Vt. Code Ann. 28 § 552; Va. Code Ann. § 53.1-165; Wash. Rev. Code Ann. § 72.04A.120 & § 72.04A.090; W. Va. Code Ann § 62-12-19; Wyo. Code Ann. § 7-13-408.
[64] Alaska, Indiana, Ohio, and New York have statute explicitly stating that failure to pay parole fees cannot constitute a revocable act. (Alaska Stat. Ann. § 33.16.220; Ind. Code Ann. § 11-13-3-4; Ohio ADC 5120:1-1-02; N.Y. Exec. § 259-I (McKinney's)). California, Illinois, Maine, New Jersey, and Oregon do not have statutes authorizing parole fees.
[65] While Delaware and Hawaii do not charge parole supervision fees, the statutes are unclear whether failure to pay a required fee for a parole program may result in revocation. Iowa's statutes are unclear as to whether parole fees are conditions of parole upon which revocation may be predicated. Mo. Code § 217.690 (parole board may "sanction supervisees" without defining what sanctions are possible); Montana statutes allow for parole supervision and programming fees but are unclear whether failure to pay may constitute a revocable violation); North Dakota's Department of Corrections is responsible for rules of payment with regard to parole, but it is unclear whether failure to pay a fee is grounds for revocation under the state's statutes); 37 Pa Code § 68.22 (requires the agency responsible for supervision to inform those on probation about what failures could result in revocation but doesn't define them).
[66] La. Stat. Ann. § 47:299.21 (past due payments may be drawn from state tax refunds); Mich. Comp. Laws Ann. § 791.236a (unpaid parole fees shall be waived, where possible, and outstanding balance may be pursued through intercepting tax refunds); Minn. Stat. Ann. § 241.272 & Minn. Stat. Ann. § 244.18 (may use any available civil means of debt collection); Wis. Stat. Ann. § 304.074 (payment may be enforced through civil action).
[67] Morrissey v. Brewer, 408 U.S. 471 (1972).
[68] Ebony L. Ruhland, et al., *The Continuing Leverage of Releasing Authorities: Findings from a National Survey*, Robina Institute of Criminal Law and Criminal Justice (2016). p.38.

ATTACHMENT G
Premiums and Co-Payments for Demonstration Populations

Premiums for children age 0 through age 18 in Population 1 may be charged up to the amounts in the following chart:

Group	Premiums
Children with income > 195% percent through 237% of the FPL	$15/month/family
Underinsured Children with income > 237% through 312% FPL	$20/month/family
Uninsured Children with income > 237% through 312% of the FPL	$60/month/family

Population	Premiums	Co-Payments	State Program Name
Demonstration Population 7: Medicare beneficiaries with income at or below 150 percent of the FPL, who may be enrolled in the Medicare Savings Program (MSP) but are not otherwise categorically eligible for full benefits.	Premiums not to exceed the following: 0-150% FPL: $15/month/person	Not to exceed the nominal co-payments specified in the Medicaid State plan.	VPharm1
Demonstration Population 8: Medicare beneficiaries with income above 150 percent and up to and including 225 percent of the FPL, who may be enrolled in the Medicare Savings Program (MSP), but are not otherwise categorically eligible.	Premiums not to exceed the following: 151-175% FPL: $20/month/person 176-225% FPL: $50/month/person	Not to exceed the nominal co-payments specified in the Medicaid State plan.	VPharm2 or VPharm3

CENTERS FOR MEDICARE & MEDICAID SERVICES
EXPENDITURE AUTHORITY

NUMBER: **11-W-00128/1**

TITLE: **Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS**

AWARDEE: **Office of MaineCare Services (OMS)**

Under the authority of section 1115(a)(2) of the Social Security Act (the Act), expenditures made by Maine for the items identified below, which are not otherwise included as expenditures under section 1903 of the Act shall, for the period of this demonstration extension, be regarded as expenditures under the state's title XIX plan.

The following expenditure authority shall enable Maine to implement the Maine section 1115 demonstration for individuals with human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS). Except as identified below as not applicable to the demonstration expenditures, all Medicaid requirements will apply.

1. **Demonstration Population 2 ("Enrollees")** Expenditures for medical assistance for individuals who do not meet the eligibility requirements of MaineCare, but who are HIV-positive and are at or below 250 percent of the federal poverty level.

2. **Disease Management Services:** Expenditures for case management services that coordinate care and services related to HIV/AIDS that are not otherwise available under the state plan.

Requirements Not Applicable to the Demonstration Expenditures:

1. Section 1902(a)(10) of the Act -- Benefit Package Requirements:
To the extent necessary to enable the state to provide only a targeted benefit to demonstration population 2, which may not include all required benefits available to state plan populations.

2. Section 1902(a)(14) of the Act -- Premiums and Cost Sharing:
To the extent necessary to permit the state to impose premiums or cost sharing upon demonstration population 2.

3. Section 1902(a)(43) of the Act -- Early and Periodic Screening Diagnosis and Treatment (EPSDT) Services
To the extent necessary to permit the state to limit the provision of EPSDT services for demonstration population 2 to examinations and other services included in the targeted benefit package.

CENTERS FOR MEDICARE & MEDICAID SERVICES
WAIVER AUTHORITY

NUMBER: **11-W-00128/1**

TITLE: **Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS**

AWARDEE: **Office of MaineCare Services (OMS)**

All requirements of the Medicaid program expressed in law, regulation, and policy statement, not expressly waived in this list, shall apply to MaineCare members, as described for the demonstration project, beginning April 19, 2019, through December 31, 2028.

The following waivers shall enable Maine to implement the section 1115 demonstration for MaineCare members with human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

1. **Amount, Duration, and Scope of Services** **Section 1902(a)(10)(B)**

   To enable Maine to offer additional benefits to MaineCare members than are being otherwise offered under the Medicaid state plan.

CENTERS FOR MEDICARE & MEDICAID SERVICES
SPECIAL TERMS AND CONDITIONS

NUMBER: **11-W-00128/1**

TITLE: **Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS**

AWARDEE: **Office of MaineCare Services (OMS)**

I. PREFACE

The following are the Special Terms and Conditions (STCs) for the "Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS" section 1115(a) Medicaid demonstration (hereinafter "demonstration") to enable the Maine Department of Health and Human Services ("DHHS") to operate this demonstration. The Centers for Medicare & Medicaid Services (CMS) has granted the state waiver and expenditure authorities authorizing federal matching of demonstration costs that are not otherwise matchable, and which are separately enumerated. These STCs set forth in detail the nature, character, and extent of federal involvement in the demonstration and the state's obligations to CMS related to this demonstration. The "Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS" demonstration will be statewide and is approved for a 10-year period, from April 19, 2019 through December 31, 2028.

The STCs have been arranged into the following subject areas:

I. Preface
II. Program Description And Objectives
III. General Program Requirements
IV. Eligibility, Benefits, and Enrollment
V. Cost Sharing
VI. Delivery Systems
VII. General Reporting Requirements
VIII. Evaluation of the Demonstration
IX. General Financial Requirements Under Title XIX
X. Monitoring Budget Neutrality for the Demonstration

Attachment A: Developing the Evaluation Design
Attachment B: Preparing the Evaluation Report
Attachment C: Evaluation Design (reserved)

II. PROGRAM DESCRIPTION AND OBJECTIVES

This section 1115(a) demonstration expands access to individuals with HIV/AIDS and provides a targeted benefits package through the demonstration without having to spend down income or resources. The demonstration is designed to provide more effective, early treatment of HIV disease by making available a limited but comprehensive package of services, including anti-retroviral therapies.

The state believes that early treatment and case management services provided to individuals with HIV/AIDS create efficiencies that allow Medicaid to help individuals maintain access to critical treatments, keeping them from disease progression. The demonstration includes two groups: "Members" who are MaineCare eligibles identified as HIV-positive individuals who are at or below 133 percent of the federal poverty level (FPL); and, "Enrollees" who do not meet the eligibility requirements of MaineCare, but who are HIV-positive and are at or below 250 percent of the FPL.

The state's goal in implementing the demonstration is to improve the health status of individuals living with HIV/AIDS in Maine by:

- Improving access to continuous health care services;
- Arresting progression of HIV/AIDS status by providing early and optimal care coupled with high quality and cost efficiency; and
- Expanding coverage to additional low-income individuals living with HIV with the savings generated from Disease Prevention and the delayed onset of full-blown AIDS

III. GENERAL PROGRAM REQUIREMENTS

1. **Compliance with Federal Non-Discrimination Laws.** The state must comply with applicable federal civil rights laws relating to non-discrimination in services and benefits in its programs and activities. These include, but are not limited to, the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), the Age Discrimination Act of 1975, and Section 1557 of the Affordable Care Act (Section 1557). Such compliance includes providing reasonable modifications to individuals with disabilities under the ADA, Section 504, and Section 1557 in eligibility and documentation requirements, to ensure they understand program rules and notices, as well as meeting other program requirements necessary to obtain and maintain benefits.

2. **Compliance with Medicaid Law, Regulation, and Policy.** All requirements of the Medicaid program, expressed in federal law, regulation, and written policy, not expressly identified as not applicable in the expenditure authority documents (of which these terms and conditions are part), apply to the demonstration.

3. **Changes in Medicaid Law, Regulation, and Policy.** The state must, within the timeframes specified in federal law, regulation, or written policy, come into compliance with any changes in federal law, regulation, or policy affecting the Medicaid program<u>s</u> that occur during this demonstration approval period, unless the provision being changed is expressly waived. In addition, CMS reserves the right to amend the STCs to reflect such changes and/or changes of an operational nature without requiring the state to submit an amendment to the demonstration under STC 7. CMS will notify the state 30 calendar days in advance of the expected approval date of the amended STCs to allow the state to provide comment.

4. **Impact on Demonstration of Changes in Federal Law, Regulation, and Policy.**

    a. To the extent that a change in federal law, regulation, or policy requires either a reduction or an increase in federal financial participation (FFP) for expenditures made under this demonstration, the state must adopt, subject to CMS approval, a modified budget neutrality agreement for the demonstration to comply with such change. Further, the state may seek an amendment to the demonstration (as per STC 7 of this section) as a result of the change in FFP.

    b. If mandated changes in the federal law require state legislation, unless otherwise prescribed by the terms of the federal law, the changes must take effect on the day such state legislation becomes effective, or on the last day such legislation was required to be in effect under federal law, whichever is sooner.

5. **State Plan Amendments.** The state will not be required to submit title XIX state plan amendments (SPAs) for changes affecting any populations made eligible solely through the demonstration. If a population eligible through the Medicaid state plan is affected by a change to the demonstration, a conforming amendment to the appropriate state plan may be required, except as otherwise noted in these STCs. In all such instances, the Medicaid state plan governs.

6. **Changes Subject to the Amendment Process.** If not otherwise specified in these STCs, changes related to eligibility, enrollment, benefits, beneficiary rights, delivery systems, cost sharing, sources of non-federal share of funding, budget neutrality, and other comparable program elements must be submitted to CMS as amendments to the demonstration. All amendment requests are subject to approval at the discretion of the Secretary in accordance with section 1115 of the Act. The state must not implement changes to these elements without prior approval by CMS either through an approved amendment to the Medicaid state plan or amendment to the demonstration. Amendments to the demonstration are not retroactive and no FFP of any kind, including for administrative or medical assistance expenditures, will be available under changes to the demonstration that have not been approved through the amendment process set forth in STC 7, except as provided in STC 3.

7. **Amendment Process.** Requests to amend the demonstration must be submitted to CMS for approval no later than 120 calendar days prior to the planned date of implementation of the change and may not be implemented until approved. CMS reserves the right to deny or delay approval of a demonstration amendment based on non-compliance with these STCs, including but not limited to failure by the state to submit required elements of a complete amendment request as described in this STC, and failure by the state to submit reports required in the approved STCs and other deliverables in a timely fashion according to the deadlines specified herein. Amendment requests must include, but are not limited to, the following:

    a. A detailed description of the amendment including impact on beneficiaries, with sufficient supporting documentation;

    b. A data analysis worksheet which identifies the specific "with waiver" impact of the proposed amendment on the current budget neutrality agreement. Such analysis shall include total computable "with waiver" and "without waiver" status on both a summary and detailed level through the current approval period using the most recent actual expenditures, as well as summary and detail projections of the change in the "with waiver" expenditure total as a result of the proposed amendment, which isolates (by Eligibility Group) the impact of the amendment;

    c. An explanation of the public process used by the state consistent with the requirements of STC 13; and,

    d. If applicable, a description of how the evaluation design will be modified to incorporate the amendment provisions.

8. **Extension of the Demonstration.** States that intend to request a demonstration extension under sections 1115(e) or 1115(f) of the Act must submit extension applications in accordance with the timelines contained in statute. Otherwise, no later than twelve months prior to the expiration date of the demonstration, the Governor or Chief Executive Officer of the state must submit to CMS either a demonstration extension request that meets federal requirements at 42 CFR 431.412(c) or a transition and phase-out plan consistent with the requirements of STC 9.

9. **Demonstration Phase-Out.** The state may only suspend or terminate this demonstration in whole, or in part, consistent with the following requirements:

    a. Notification of Suspension or Termination. The state must promptly notify CMS in writing of the reason(s) for the suspension or termination, together with the effective date and a transition and phase-out plan. The state must submit a notification letter and a draft transition and phase-out plan to CMS no less than six months before the effective date of

the demonstration's suspension or termination. Prior to submitting the draft transition and phase-out plan to CMS, the state must publish on its website the draft transition and phase-out plan for a 30-day public comment period. In addition, the state must conduct tribal consultation in accordance with STC 13, if applicable. Once the 30-day public comment period has ended, the state must provide a summary of the issues raised by the public during the comment period and how the state considered the comments received when developing the revised transition and phase-out plan.

b. Transition and Phase-out Plan Requirements. The state must include, at a minimum, in its transition and phase-out plan the process by which it will notify affected beneficiaries, the content of said notices (including information on the beneficiary's appeal rights), the process by which the state will conduct administrative reviews of Medicaid eligibility prior to the termination of the demonstration for the affected beneficiaries, and ensure ongoing coverage for eligible beneficiaries, as well as any community outreach activities the state will undertake to notify affected beneficiaries, including community resources that are available.

c. Transition and Phase-out Plan Approval. The state must obtain CMS approval of the transition and phase-out plan prior to the implementation of transition and phase-out activities. Implementation of transition and phase-out activities must be no sooner than 14 calendar days after CMS approval of the transition and phase-out plan.

d. Transition and Phase-out Procedures. The state must comply with all applicable notice requirements found in 42 CFR, part 431 subpart E, including sections 431.206, 431.210, 431.211, and 431.213. In addition, the state must assure all applicable appeal and hearing rights are afforded to beneficiaries in the demonstration as outlined in 42 CFR, part 431 subpart E, including sections 431.220 and 431.221. If a beneficiary in the demonstration requests a hearing before the date of action, the state must maintain benefits as required in 42 CFR 431.230. In addition, the state must conduct administrative renewals for all affected beneficiaries in order to determine if they qualify for Medicaid eligibility under a different eligibility category prior to termination as discussed in October 1, 2010, State Health Official Letter #10-008 and as required under 42 C.F.R. 435.916(f)(1). For individuals determined ineligible for Medicaid, the state must determine potential eligibility for other insurance affordability programs and comply with the procedures set forth in 42 CFR 435.1200(e).

e. Exemption from Public Notice Procedures, 42 CFR Section 431.416(g). CMS may expedite the federal and state public notice requirements under circumstances described in 42 CFR 431.416(g).

f. Enrollment Limitation during Demonstration Phase-Out. If the state elects to suspend, terminate, or not extend this demonstration, during the last six months of the

demonstration, enrollment of new individuals into the demonstration must be suspended. The limitation of enrollment into the demonstration does not impact the state's obligation to determine Medicaid eligibility in accordance with the approved Medicaid state plan.

g. Federal Financial Participation (FFP). FFP will be limited to normal closeout costs associated with the termination or expiration of the demonstration including services, continued benefits as a result of beneficiaries' appeals, and administrative costs of disenrolling beneficiaries.

10. Expiring Demonstration Authority. For demonstration authority that expires prior to the demonstration's expiration date, the state must submit a demonstration authority expiration plan to CMS no later than six months prior to the applicable demonstration authority's expiration date, consistent with the following requirements:

a. Expiration Requirements. The state must include, at a minimum, in its demonstration authority expiration plan the process by which it will notify affected beneficiaries, the content of said notices (including information on the beneficiary's appeal rights), the process by which the state will conduct administrative reviews of Medicaid eligibility prior to the termination of the demonstration authority for the affected beneficiaries, and ensure ongoing coverage for eligible beneficiaries, as well as any community outreach activities.

b. Expiration Procedures. The state must comply with all applicable notice requirements found in 42 CFR, part 431 subpart E, including sections 431.206, 431.210, 431.211, and 431.213. In addition, the state must assure all applicable appeal and hearing rights are afforded to beneficiaries in the demonstration as outlined in 42 CFR, part 431 subpart E, including sections 431.220 and 431.221. If a beneficiary in the demonstration requests a hearing before the date of action, the state must maintain benefits as required in 42 CFR 431.230. In addition, the state must conduct administrative renewals for all affected beneficiaries in order to determine if they qualify for Medicaid eligibility under a different eligibility category prior to termination as discussed in October 1, 2010, State Health Official Letter #10-008 and as required under 42 CFR 435.916(f)(1). For individuals determined ineligible for Medicaid, the state must determine potential eligibility for other insurance affordability programs and comply with the procedures set forth in 42 CFR 435.1200(e).

c. Federal Public Notice. CMS will conduct a 30-day federal public comment period consistent with the process outlined in 42 CFR 431.416 in order to solicit public input on the state's demonstration authority expiration plan. CMS will consider comments received during the 30-day period during its review of the state's demonstration authority expiration plan. The state must obtain CMS approval of the demonstration authority expiration plan prior to the implementation of the expiration activities. Implementation

of expiration activities must be no sooner than fourteen (14) calendar days after CMS approval of the demonstration authority expiration plan.

d. Federal Financial Participation (FFP). FFP will be limited to normal closeout costs associated with the expiration of the demonstration authority including services, continued benefits as a result of beneficiaries' appeals, and administrative costs of disenrolling beneficiaries.

11. **Withdrawal of Waiver or Expenditure Authority.** CMS reserves the right to withdraw waivers and/or expenditure authorities at any time it determines that continuing the waivers or expenditure authorities would no longer be in the public interest or promote the objectives of title XIX. CMS must promptly notify the state in writing of the determination and the reasons for the withdrawal, together with the effective date, and afford the state an opportunity to request a hearing to challenge CMS' determination prior to the effective date. If a waiver or expenditure authority is withdrawn, FFP is limited to normal closeout costs associated with terminating the waiver or expenditure authority, including services, continued benefits as a result of beneficiary appeals, and administrative costs of disenrolling beneficiaries.

12. **Adequacy of Infrastructure.** The state must ensure the availability of adequate resources for implementation and monitoring of the demonstration, including education, outreach, and enrollment; maintaining eligibility systems; compliance with cost sharing requirements; and reporting on financial and other demonstration components.

13. **Public Notice, Tribal Consultation, and Consultation with Interested Parties.** The state must comply with the state notice procedures as required in 42 CFR 431.408 prior to submitting an application to extend the demonstration. For applications to amend the demonstration, the state must comply with the state notice procedures set forth in 59 Fed. Reg. 49249 (September 27, 1994) prior to submitting such request.

    The state must also comply with tribal and Indian Health Program/Urban Indian Health Organization consultation requirements at section 1902(a)(73) of the Act, 42 CFR 431.408(b), State Medicaid Director Letter #01-024, or as contained in the state's approved Medicaid State Plan, when any program changes to the demonstration, either through amendment as set out in STC 7 or extension, are proposed by the state.

    The state must also comply with the Public Notice Procedures set forth in 42 CFR 447.205 for changes in statewide methods and standards for setting payment rates.

14. **Federal Financial Participation (FFP).** No federal matching for state expenditures under this demonstration, including for administrative and medical assistance expenditures, will be

available until the effective date identified in the demonstration approval letter, or if later, as expressly stated within these STCs.

15. Common Rule Exemption. The state shall ensure that the only involvement of human subjects in research activities that may be authorized and/or required by this demonstration is for projects which are conducted by or subject to the approval of CMS, and that are designed to study, evaluate, or otherwise examine the Medicaid program – including procedures for obtaining Medicaid benefits or services, possible changes in or alternatives to Medicaid programs and procedures, or possible changes in methods or levels of payment for Medicaid benefits or services. The Secretary has determined that this demonstration as represented in these approved STCs meets the requirements for exemption from the human subject research provisions of the Common Rule set forth in 45 CFR 46.104(b)(5).

IV. ELIGIBILITY, BENEFITS, AND ENROLLMENT

The Maine HIV/AIDS demonstration provides a comprehensive set of services to those who are both HIV positive and are at or below 250 percent of the FPL. The demonstration expands access to individuals with HIV/AIDS who are otherwise ineligible for MaineCare; however beneficiaries with other insurance may still receive this benefit. MaineCare may pay premiums/cost-sharing for this insurance according to current MaineCare rules.

16. Eligibility. Mandatory state plan groups described below ("members") are subject to all applicable Medicaid laws and regulations, except to the extent expressly waived, or listed as not applicable to demonstration expenditures, in the list of waivers and expenditure authorities issued with the award letter for this demonstration.

Those non-Medicaid eligible groups described below ("enrollees") who are made eligible for the demonstration by virtue of the expenditure authorities expressly granted in this demonstration are subject to Medicaid laws or regulations only as specified in the expenditure authorities for this demonstration.

The eligibility criteria for the HIV/AIDS demonstration for both members and enrollees are as follows:

- Positive HIV status;
- Financially eligible;
- Completed information form related to other insurance, i.e., third party liability (TPL);
- Payment of premiums (if applicable); and
- Willingness to sign informed consent that includes;
    - Understanding of requirements of the benefit; and
    - Willingness to comply with treatment recommendations

Demonstration Eligibility Groups	Federal Poverty Level (FPL) and qualifying	Eligible Benefit

	criteria	
"Members" State Plan Groups*	HIV-positive individuals below 133 percent of FPL	Full Medicaid benefits offered under the state plan and case management services.
"Enrollees" Expansion Populations**	HIV-positive individuals at or below 250 percent of FPL	Targeted benefit

* These state plan eligible beneficiaries ("Members") are enrolled in the demonstration for the benefit of enhanced coordination.

** These "Enrollee" eligible beneficiaries are expansion populations who would not otherwise be eligible for medical assistance.

17. Eligibility Exclusions. The following persons are excluded from the HIV/AIDS demonstration.

Negative HIV Status
Individuals with HIV and income over 250 percent of the FPL

18. Maine HIV/AIDS Demonstration Benefits. Benefits are based on a disease model with the goal to delay, prevent, and reverse the progression of HIV/AIDS. The HIV/AIDS demonstration benefit is not an entitlement program. It is a disease management program with defined treatment protocols. A candidate for the benefit must agree to be monitored and participate in medical treatment. Participants must meet certain eligibility requirements and must follow treatment recommendations after being determined eligible for the program.

The 1115 HIV/AIDS Participant "Members" receive all of the medically necessary covered MaineCare services, while "Enrollees" receive a targeted essential set of MaineCare services as listed in the chart below. Services may also be provided by a qualified provider employed by a Federally Qualified Health Center, Rural Health Center or Indian Health Center.

The following MaineCare categories of services and respective policies of the MaineCare Benefits Manual (MCBM) ***are included*** in the limited benefit for "Enrollees":

General Category of Service	Services*
Inpatient	MCBM Section 45, Hospital Services
Psychiatric Facility	MCBM Section 46, Psychiatric Facilities Services
Outpatient	MCBM Section 45, Hospital Services

General Category of Service	Services*
EPSDT Examinations	MCBM Section 94, Early and Periodic Screening, Diagnosis and Treatment Services (EPSDT); Section 90, Physician Services; Examinations: Physician Services
Medications	MCBM Section 80, Pharmacy Services
Community Support Services	MCBM Section 17, Community Support Services; Section 92, Behavioral Health Home Services
Lab & X-ray	MCBM Section 55, Laboratory Services; Section 101, Medical Imaging Services
Transportation	MCBM Section 113, Non-Emergency Transportation Services; benefit will only pay for transportation to and from MaineCare covered services; MCBM, Section 5, Ambulance Services
Ambulatory Care	MCBM Section 3, Ambulatory Care Clinic Services; Section 4, Ambulatory Surgical Center Services
Case Management	MCBM Section 13.03, Targeted Case Management Services
Family Planning	MCBM Section 30, Family Planning Agency Services
Behavioral Health	MCBM Section 65, Behavioral Health Services (including Psychological Services); Section 92, Behavioral Health Home Services
Medicare Crossover-A	MCBM Section 45, Hospital Services
STI/STD Testing and Treatment	MCBM Section 30, Family Planning Services; MCBM, Section 90, Physician Services
Medicare Crossover-B	MCBM Section 90, Physician Services; Section 31, Federally Qualified Health Center Services; Section 103, Rural Health Clinic Services

Physician, Physician Assistant, Advanced Practice Registered Nurse, Certified Nurse Practitioner	MCBM Section 90, Physician Services; MCBM Section 14, Advanced Practice Registered Nurse; Section 91, Health Home Services; Section 31, Federally Qualified Health Center Services; Section 103, Rural Health Clinic Services, and Section 9, Indian Health Services

General Category of Service	Services*
Services for Children with Intellectual Disability or Autism	MCBM Section 28, Rehabilitative and Community Support Services for Children with Cognitive Impairments and Functional Limitations
Development and Behavioral Clinical Services	MCBM Section 23, Developmental and Behavioral Clinic Services
Substance Abuse Treatment	MCBM Section 65, Behavioral Health Services

*All services in the table are found in Chapter II of MCBM unless otherwise specified.

The following MaineCare categories of services and respective policies of the MCBM are ***not included*** in the "Enrollee" participant benefit package, which are included for the "Member" groups.

General Category of Service	Services*
Adult Family Care	MCBM Section 2, Adult Family Care Services
Consumer Directed Attendant	MCBM Section 12, Consumer Directed Attendant Services
Home and Community-Based Waiver Services for the Elderly and Adults with Disabilities	MCBM Section 19, Home and Community-Based Waiver Services for the Elderly and for Adults with Disabilities
Home and Community Benefits	MCBM Chapter II, Section 21, Home and Community Benefits for Persons with Intellectual Disabilities or Autistic Disorder; Section 29, Support Services for Adults with Intellectual Disabilities or Autistic Disorder; Section 20, Home and Community-Based Services for Adults with Other Related Conditions; Section 18, Home and Community-Based Services for Adults with Brain Injury
Private Non-Medical Institution	MCBM Section 97, Private Non-Medical Institution Services

General Category of Service	Services*
Day Health	MCBM Section26, Day Health Services
Home Health	MCBM Section 40, Home Health Services
Hospice	MCBM Section 43, Hospice Services
Medical Supplies and Durable Medical Equipment	MCBM Section 60, Medical Supplies and Durable Medical Equipment
Nursing Facility	MCBM Section 67, Nursing Facility Services
Optician, Optometrist	MCBM Section 75, Vision Services (Ophthalmologist services are covered if the services are provided by a qualified practitioner billing under MCBM Section 90, Physician Services)
Physical Therapy	MCBM Section 85, Physical Therapy Services; except when provided by a qualified provider billing under MBM, Section 90, Physician Services, Section 31, Federally Qualified Health Center Services, Section 9, Indian Health Services, or Section 45, Hospital Services
Private Duty Nursing and Personal Care	MCBM Section 96, Private Duty Nursing and Personal Care Services
Primary Care Case Management	MCBM Chapter VI, Section 1, Primary Care Case Management
Speech-Language Pathology	MCBM Section 109, Speech and Hearing Services, except when provided by a qualified provider billing under MCBM, Section 90, Physician Services, Section 31 Federally Qualified Health Center Services, Section 103 Rural Health Clinic Services or Section 45, Hospital Services
Speech and Hearing Services and Audiology	MCBM Section 109, Speech and Hearing Services
Chiropractic	MCBM Section 15, Chiropractic Services
Dental	MCBM Section 25, Dental Services

General Category of Service	Services*
Intermediate Care Facility for Persons with Intellectual Disability	MCBM Section 50, ICF-ID Services
Occupational Therapy	MCBM Section 68, Occupational Therapy Services; except when provided by a qualified provider billing under MCBM, Section 90, Physician Services, Section 31, Federally Qualified Health Center Services, Section 9, Indian Health Services, or Section 45, Hospital Services
Dialysis Services	MCBM Section 7, Free-standing Dialysis Services
Podiatric	MCBM Section 95, Podiatric Services
Rehabilitative Services	MCBM Section 102, Rehabilitative Services

*All services in the table are found in Chapter II of MCBM unless otherwise specified.

19. Minimum Essential Coverage (MEC). The Maine demonstration is limited to the provision of services as described in STC 18. Consequently, this demonstration is not recognized as Minimum Essential Coverage (MEC) with respect to enrollees, consistent with the guidance set forth in the State Health Official Letter #14-002, issued by CMS on November 7, 2014.

V. COST SHARING

20. Co-payments. Demonstration "Enrollees" pay a co-payment for physician services and pharmaceuticals that is higher than MaineCare "Member" participants. For all other services, "Enrollees" pay the same co-payments as MaineCare "Members" (see table below).

Demonstration Co-Payments

Services	Demonstration "Enrollees"	Demonstration "Members"
Prescription Drugs[b]	$10.00	$3.00, capped at $30 per month per member
Physician Visits	$10.00	None
Outpatient Hospital Services	$3.00	$3.00
Home Health Services	N/A	$3.00
Durable Medical Equipment	N/A	$3.00
Private Duty Nursing and Personal Care Services	N/A	$3.00
Ambulance Services	$3.00	$3.00
Physical Therapy Services	$2.00	$2.00
Occupational Therapy Services	$2.00	$2.00
Speech Therapy Services	N/A	$2.00
Podiatry Services	N/A	$2.00
Psychologist Services	$2.00	$2.00
Chiropractic Services	N/A	$2.00
Laboratory Services	$1.00	$1.00
Optical Services	N/A	$2.00
Optometric Services	N/A	$3.00
Mental Health Clinic Services	$2.00	$2.00
Substance Abuse Services	$2.00	$2.00
Hospital Inpatient Services	$3.00 per patient day	$3.00 per patient day
Federally Qualified Health Center Services	$3.00 per patient day	$3.00 per patient day
Rural Health Center Services	$3.00 per patient day	$3.00 per patient day

a. No co-payment may be imposed on either "Members" or "Enrollees" with respect to the following services and populations:

   i) Family planning;

   ii) Individuals under 21 years of age;

   iii) An individual who is an inpatient in a hospital, nursing facility, or other institution, and is required to spend all their income for costs of care, with the exception of a minimal amount of for personal needs;

   iv) Pregnant women, and services furnished during the post-partum phase of maternity care to the extent permitted by federal law;

   v) Emergency services, as defined by OMS;

   vi) Any other service or services required to be exempt under the provisions of the Social Security Act, Title XIX and successors to it.

b. The AIDS Drug Assistance Program (ADAP), funded by Title II, provides coverage for the co-payment of HIV related drugs for "Members" and "Enrollees" as well as provides premium assistance for certain "Enrollees" required to pay a premium under the demonstration. ADAP is considered a "wrap" around benefit for all demonstration participants. "Members" and "Enrollees" participate in both benefit programs and receive both a MaineCare card and an ADAP card.

21. Monthly Premiums. "Enrollees" are responsible for payment of a monthly premium dependent on their income level. These premiums when added to other payments made by the "enrollee's" family to CHIP or Medicaid will not exceed five percent of an "enrollee's" gross annual income.

Premiums have been inflated by five percent annually, and for the extension period the premiums will be:

Demonstration Year (DY)	**Actual Premium, Income level <150% FPL**	**Actual Premium, Income level 150-200% of FPL**	**Actual Premium, Income level 200-250% of FPL**
DY17 1/2019 – 12/2019	$0	$35.93	$71.85
DY18 1/2020 – 12/2020	$0	$37.73	$75.44
DY19 1/2021 – 12/2021	$0	$39.61	$79.22
DY20 1/2022 – 12/2022	$0	$41.59	$83.18
DY21 1/2023 – 12/2023	$0	$43.67	$87.34
DY22 1/2024 – 12/2024	$0	$45.85	$91.71
DY23 1/2025 – 12/2025	$0	$48.14	$96.30
DY24 1/2026 – 12/2026	$0	$50.55	$101.12
DY25 1/2027 – 12/2027	$0	$53.08	$106.18
DY26 1/2028 – 12/2028	$0	$55.73	$111.49

22. Cost Sharing Protections. In the event demonstration "enrollees" fail to pay premiums by the date on which they are due, the state will provide a reasonable grace period of no less than 60 days during which the "enrollee" may make the payment without termination from the program. During the grace period, the state will notify the "enrollee" of failure to make the required payment and may face termination from the program if the payment is not made. The state will give the individual the right to appeal any adverse actions for failure to pay premiums. In addition, before final disenrollment can occur, the state will perform a Medicaid eligibility determination to ensure that the participant is not eligible for the state plan. If the Medicaid eligibility determination finds that the demonstration "enrollee" is ineligible for Medicaid, the state will disenroll the participant. The individual may reenroll in the demonstration as soon as the individual is able to pay the required premium, subject to enrollment limitations.

VI. DELIVERY SYSTEMS

23. Service Delivery. Services for the demonstration are provided using the same mechanism as other MaineCare members, including services that require prior authorization and are ordered and prescribed by a physician. Participants will be permitted to choose among participating providers (agencies).

Individuals with other insurance may be members of this benefit. MaineCare Services may pay premiums/cost-sharing for this insurance according to current Medicaid state plan rules.

VII. GENERAL REPORTING REQUIREMENTS

24. Deferral for Failure to Submit Timely Demonstration Deliverables. CMS may issue deferrals in accordance with 42 CFR part 430 subpart C, in the amount of $1,000,000 per deliverable (federal share) when items required by these STCs (e.g., required data elements, analyses, reports, design documents, presentations, and other items specified in these STCs) (hereafter singly or collectively referred to as "deliverable(s)") are not submitted timely to CMS or are found to not be consistent with the requirements approved by CMS. A deferral shall not exceed the value of the federal amount for the current demonstration period. The state does not relinquish its rights provided under 42 CFR part 430 subpart C to challenge any CMS finding that the state materially failed to comply with the terms of this agreement.

The follow process will be used: 1) Thirty (30) days after the deliverable was due if the state has not submitted a written request to CMS for approval of an extension as described in subsection (b) below; or 2) Thirty days after CMS has notified the state in writing that the deliverable was not accepted for being inconsistent with the requirements of this agreement and the information needed to bring the deliverable into alignment with CMS requirements:

a) CMS will issue a written notification to the state providing advance notification of a pending deferral for late or non-compliant submissions of required deliverable(s). For each deliverable, the state may submit to CMS a written request for an extension to submit the required deliverable that includes a supporting rationale for the cause(s) of the delay and the state's anticipated date of submission. Should CMS agree to the state's request, a corresponding extension of the deferral process can be provided. CMS may agree to a corrective action as an interim step before applying the deferral, if corrective action is proposed in the state's written extension request.

b) If CMS agrees to an interim corrective process in accordance with subsection (b), and the state fails to comply with the corrective action steps or still fails to submit the overdue deliverable(s) that meets the terms of this agreement, CMS may proceed with the issuance of a deferral against the next Quarterly Statement of Expenditures reported in Medicaid Budget and Expenditure System/State Children's Health Insurance Program

Budget and Expenditure System (MBES/CBES) following a written deferral notification to the state.

c) If the CMS deferral process has been initiated for state non-compliance with the terms of this agreement for submitting deliverable(s), and the state submits the overdue deliverable(s), and such deliverable(s) are accepted by CMS as meeting the standards outlined in these STCs, the deferral(s) will be released.

d) As the purpose of a section 1115 demonstration is to test new methods of operation or service delivery, a state's failure to submit all required reports, evaluations and other deliverables will be considered by CMS in reviewing any application for an extension, amendment, or for a new demonstration.

25. Submission of Post-Approval Deliverables. The state must submit all deliverables as stipulated by CMS and within the timeframes outlined within these STCs.

26. Compliance with Federal Systems Updates. As federal systems continue to evolve and incorporate additional 1115 waiver reporting and analytics functions, the state will work with CMS to:

a. Revise the reporting templates and submission processes to accommodate timely compliance with the requirements of the new systems;

b. Ensure all 1115, T-MSIS, and other data elements that have been agreed to for reporting and analytics are provided by the state; and

c. Submit deliverables to the appropriate system as directed by CMS.

27. Monitoring Reports. No later than 90 days following the end of each demonstration year, the state must submit an annual progress report that represents the status of the demonstration's various operational areas and any state analysis of program data collected for the demonstration year. The Annual Monitoring Report will include all elements required by 42 CFR §431.428, and should not direct readers to links outside the report. Additional links not referenced in the document may be listed in a Reference/Bibliography section. The Annual Monitoring Report must follow the framework provided by CMS, which is subject to change as monitoring systems are developed and/or evolve, and will be provided in a structured manner that supports federal tracking and analysis. Each Annual Monitoring Report must minimally include the following:

a. Operational Updates - Per 42 CFR 431.428, the Monitoring Reports must document any policy or administrative difficulties in operating the demonstration. The reports shall provide sufficient information to document key challenges, underlying causes of challenges, how challenges are being addressed, as well as key achievements and to what conditions and efforts successes can be attributed. The discussion should also include any issues or complaints identified by beneficiaries; lawsuits or legal actions; unusual or

unanticipated trends; legislative updates; and descriptions of any public forums held. The Monitoring Report should also include a summary of all public comments received through post-award public forums regarding the progress of the demonstration.

b. Performance Metrics – Per 42 CFR 431.428, the Monitoring Reports must document the impact of the demonstration in providing insurance coverage to beneficiaries and the uninsured population, as well as outcomes of care, quality and cost of care, and access to care. This may also include the results of beneficiary satisfaction surveys, if conducted, grievances and appeals. The required monitoring and performance metrics must be included in writing in the Monitoring Reports, and will follow the framework provided by CMS to support federal tracking and analysis.

c. Budget Neutrality and Financial Reporting Requirements – Per 42 CFR 431.428, the Monitoring Reports must document the financial performance of the demonstration. The state must provide an updated budget neutrality workbook with every Monitoring Report that meets all the reporting requirements for monitoring budget neutrality set forth in the General Financial Requirements section of these STCs, including the submission of corrected budget neutrality data upon request. In addition, the state must report quarterly and annual expenditures associated with the populations affected by this demonstration on the Form CMS-64. Administrative costs for this demonstration should be reported separately on the CMS-64.

d. Evaluation Activities and Interim Findings. Per 42 CFR 431.428, the Monitoring Reports must document any results of the demonstration to date per the evaluation hypotheses. Additionally, the state shall include a summary of the progress of evaluation activities, including key milestones accomplished, as well as challenges encountered and how they were addressed.

28. Corrective Action. If monitoring indicates that demonstration features are not likely to assist in promoting the objectives of Medicaid, CMS reserves the right to require the state to submit a corrective action plan to CMS for approval. This may be an interim step to withdrawing waivers or expenditure authorities, as outlined in STC 11.

29. Close out Report. Within 120 calendar days after the expiration of the demonstration, the state must submit a draft Close Out Report to CMS for comments.

a. The draft report must comply with the most current guidance from CMS.

b. The state will present to and participate in a discussion with CMS on the Close-Out report.

c. The state must take into consideration CMS' comments for incorporation into the final Close Out Report.

d. The final Close Out Report is due to CMS no later than thirty (30) calendar days after receipt of CMS' comments.

e. A delay in submitting the draft or final version of the Close Out Report may subject the state to penalties described in STC 24.

30. Monitoring Calls. CMS will convene periodic conference calls with the state.

a. The purpose of these calls is to discuss ongoing demonstration operation, to include (but not limited to), any significant actual or anticipated developments affecting the demonstration. Examples include implementation activities, trends in reported data on metrics and associated mid-course adjustments, budget neutrality, and progress on evaluation activities.

b. CMS will provide updates on any pending actions, as well as federal policies and issues that may affect any aspect of the demonstration.

c. The state and CMS will jointly develop the agenda for the calls.

31. Post Award Forum. Pursuant to 42 CFR 431.420(c), within six (6) months of the demonstration's implementation, and annually thereafter, the state shall afford the public with an opportunity to provide meaningful comment on the progress of the demonstration. At least thirty (30) days prior to the date of the planned public forum, the state must publish the date, time and location of the forum in a prominent location on its website. The state must also post the most recent annual report on its website with the public forum announcement. Pursuant to 42 CFR 431.420(c), the state must include a summary of the comments in the Monitoring Report associated with the quarter in which the forum was held, as well as in its compiled Annual Report.

VIII. EVALUATION OF THE DEMONSTRATION

32. Cooperation with Federal Evaluators. As required under 42 CFR 431.420(f), the state shall cooperate fully and timely with CMS and its contractors' in any federal evaluation of the demonstration or any component of the demonstration. This includes, but is not limited to: commenting on design and other federal evaluation documents; providing data and analytic files to CMS; entering into a data use agreement that explains how the data and data files will be exchanged; and providing a technical point of contact to support specification of the data and files to be disclosed, as well as relevant data dictionaries and record layouts. The state shall include in its contracts with entities that collect, produce or maintain data and files for the demonstration, that they make data available for the federal evaluation as is required under 42 CFR 431.420(f) to support federal evaluation. The state may claim administrative

match for these activities. Failure to comply with this STC may result in a deferral being issued as outlined in STC 24.

33. **Independent Evaluator.** Upon approval of the demonstration, the state must begin to arrange with an independent party to conduct an evaluation of the demonstration to ensure that the necessary data is collected at the level of detail needed to research the approved hypotheses. The state must require the independent party to sign an agreement that the independent party will conduct the demonstration evaluation in an independent manner in accord with the CMS-approved Evaluation Design. When conducting analyses and developing the evaluation reports, every effort should be made to follow the approved methodology. However, the state may request, and CMS may agree to, changes in the methodology in appropriate circumstances.

34. **Draft Evaluation Design.** The draft Evaluation Design must be developed in accordance with attachment B (Developing the Evaluation Design) of these STCs. The state must submit, for CMS comment and approval, a draft Evaluation Design with implementation timeline, no later than one hundred twenty (120) calendar days after the effective date of these STCs. Any modifications to an existing approved Evaluation Design will not affect previously established requirements and timelines for report submission for the demonstration, if applicable. The state may choose to use the expertise of the independent party in the development of the draft Evaluation Design.

35. **Evaluation Design Approval and Updates.** The state must submit a revised draft Evaluation Design within sixty (60) calendar days after receipt of CMS' comments. Upon CMS approval of the draft Evaluation Design, the document will be included as an attachment to these STCs. Per 42 CFR 431.424(c), the state will publish the approved Evaluation Design within thirty (30) days of CMS approval. The state must implement the evaluation design and submit a description of its evaluation implementation progress in each of the Monitoring Reports. Once CMS approves the evaluation design, if the state wishes to make changes, the state must submit a revised evaluation design to CMS for approval.

36. **Evaluation Questions and Hypotheses.** Consistent with attachments B and C (Developing the Evaluation Design and Preparing the Evaluation Report) of these STCs, the evaluation documents must include a discussion of the evaluation questions and hypotheses that the state intends to test. Each demonstration component should have at least one evaluation question and hypothesis. The hypothesis testing should include, where possible, assessment of both process and outcome measures. Proposed measures should be selected from nationally-recognized sources and national measures sets, where possible. Measures sets could include CMS's Core Set of Health Care Quality Measures for Children in Medicaid and CHIP, Consumer Assessment of Health Care Providers and Systems (CAHPS), the Initial Core Set of Health Care Quality Measures for Medicaid-Eligible Adults and/or measures endorsed by National Quality Forum (NQF).

37. Evaluation Budget. A budget for the evaluation shall be provided with the draft Evaluation Design. It will include the total estimated cost, as well as a breakdown of estimated staff, administrative and other costs for all aspects of the evaluation such as any survey and measurement development, quantitative and qualitative data collection and cleaning, analyses and report generation. A justification of the costs may be required by CMS if the estimates provided do not appear to sufficiently cover the costs of the design or if CMS finds that the design is not sufficiently developed, or if the estimates appear to be excessive.

38. Interim Evaluation Report. The state must submit an Interim Evaluation Report for the completed years of the demonstration, and for each subsequent renewal or extension of the demonstration, as outlined in 42 CFR 431.412(c)(2)(vi). When submitting an application for renewal, the Evaluation Report should be posted to the state's website with the application for public comment.

a. The interim evaluation report will discuss evaluation progress and present findings to date as per the approved evaluation design.

b. For demonstration authority that expires prior to the overall demonstration's expiration date, the Interim Evaluation Report must include an evaluation of the authority as approved by CMS.

c. If the state is seeking to renew or extend the demonstration, the draft Interim Evaluation Report is due when the application for renewal is submitted. If the state made changes to the demonstration in its application for renewal, the research questions and hypotheses, and how the design was adapted should be included. If the state is not requesting a renewal for a demonstration, an Interim Evaluation report is due one (1) year prior to the end of the demonstration. For demonstration phase outs prior to the expiration of the approval period, the draft Interim Evaluation Report is due to CMS on the date that will be specified in the notice of termination or suspension.

d. The state must submit the final Interim Evaluation Report 60 calendar days after receiving CMS comments on the draft Interim Evaluation Report and post the document to the state's website.

e. The Interim Evaluation Report must comply with attachment C (Preparing the Evaluation Report) of these STCs.

39. Summative Evaluation Report. The draft Summative Evaluation Report must be developed in accordance with attachment C (Preparing the Evaluation Report) of these STCs. The state must submit a draft Summative Evaluation Report for the demonstration's current approval period within 18 months of the end of the approval period represented by these STCs. The Summative Evaluation Report must include the information in the approved Evaluation Design.

f. Unless otherwise agreed upon in writing by CMS, the state shall submit the final Summative Evaluation Report within 60 calendar days of receiving comments from CMS on the draft.

g. The final Summative Evaluation Report must be posted to the state's Medicaid website within 30 calendar days of approval by CMS.

40. Corrective Action Plan Related to Evaluation. If evaluation findings indicate that demonstration features are not likely to assist in promoting the objectives of Medicaid, CMS reserves the right to require the state to submit a corrective action plan to CMS for approval. These discussions may also occur as part of a renewal process when associated with the state's Interim Evaluation Report. This may be an interim step to withdrawing expenditure authorities, as outlined in STC 11.

41. State Presentations for CMS. CMS reserves the right to request that the state present and participate in a discussion with CMS on the Evaluation Design, the interim evaluation, and/or the summative evaluation.

42. Public Access. The state shall post the final documents (e.g., Monitoring Reports, Close Out Report, approved Evaluation Design, Interim Evaluation Report, and Summative Evaluation Report) on the state's Medicaid website within 30 calendar days of approval by CMS.

43. Additional Publications and Presentations. For a period of twelve (12) months following CMS approval of the final reports, CMS will be notified prior to presentation of these reports or their findings, including in related publications (including, for example, journal articles), by the state, contractor, or any other third party directly connected to the demonstration over which the state has control. Prior to release of these reports, articles or other publications, CMS will be provided a copy including any associated press materials. CMS will be given ten (10) business days to review and comment on publications before they are released. CMS may choose to decline to comment or review some or all of these notifications and reviews. This requirement does not apply to the release or presentation of these materials to state or local government officials.

IX. GENERAL FINANCIAL REQUIREMENTS UNDER TITLE XIX

44. Allowable Expenditures. This demonstration project is approved for expenditures applicable to services rendered during the demonstration approval period designated by CMS. CMS will provide FFP for allowable demonstration expenditures only so long as they do not exceed the pre-defined limits as specified in these STCs.

45. Standard Medicaid Funding Process. The standard Medicaid funding process will be used for this demonstration. The state will provide quarterly expenditure reports through the

Medicaid and CHIP Budget and Expenditure System (MBES/CBES) to report total expenditures for services provided under this Medicaid section 1115 demonstration following routine CMS-37 and CMS-64 reporting instructions as outlined in section 2500 of the State Medicaid Manual. The state will estimate matchable demonstration expenditures (total computable and federal share) subject to the budget neutrality expenditure limit and separately report these expenditures by quarter for each federal fiscal year on the form CMS-37 for both the medical assistance payments (MAP) and state and local administration costs (ADM). CMS shall make federal funds available based upon the state's estimate, as approved by CMS. Within 30 days after the end of each quarter, the state shall submit form CMS-64 Quarterly Medicaid Expenditure Report, showing Medicaid expenditures made in the quarter just ended. If applicable, subject to the payment deferral process, CMS shall reconcile expenditures reported on form CMS-64 with federal funding previously made available to the state, and include the reconciling adjustment in the finalization of the grant award to the state.

46. Extent of Federal Financial Participation for the Demonstration. Subject to CMS approval of the source(s) of the non-federal share of funding, CMS will provide FFP at the applicable federal matching rate for the demonstration as a whole for the following, subject to the budget neutrality expenditure limits described in section IX:

a. Administrative costs, including those associated with the administration of the demonstration;

b. Net expenditures and prior period adjustments of the Medicaid program that are paid in accordance with the approved Medicaid state plan; and

c. Medical assistance expenditures and prior period adjustments made under section 1115 demonstration authority with dates of service during the demonstration extension period; including those made in conjunction with the demonstration, net of enrollment fees, cost sharing, pharmacy rebates, and all other types of third party liability.

47. Sources of Non-Federal Share. The state certifies that its match for the non-federal share of funds for this section 1115 demonstration are state/local monies. The state further certifies that such funds must not be used to match for any other federal grant or contract, except as permitted by law. All sources of non-federal funding must be compliant with section 1903(w) of the act and applicable regulations. In addition, all sources of the non-federal share of funding are subject to CMS approval.

a. The state acknowledges that CMS has authority to review the sources of the non-federal share of funding for the demonstration at any time. The state agrees that all funding sources deemed unacceptable by CMS shall be addressed within the time frames set by CMS.

b. The state acknowledges that any amendments that impact the financial status of this section 1115 demonstration must require the state to provide information to CMS regarding all sources of the non-federal share of funding.

48. State Certification of Funding Conditions. The state must certify that the following conditions for non-federal share of demonstration expenditures are met:

a. Units of government, including governmentally operated health care providers, may certify that state or local monies have been expended as the non-federal share of funds under the demonstration.

b. To the extent the state utilizes certified public expenditures (CPE) as the funding mechanism for the state share of title XIX payments, including expenditures authorized under a section 1115 demonstration, CMS must approve a cost reimbursement methodology. This methodology must include a detailed explanation of the process by which the state would identify those costs eligible under title XIX (or under section 1115 authority) for purposes of certifying public expenditures.

c. To the extent the state utilizes CPEs as the funding mechanism to claim federal match for expenditures under the demonstration, governmental entities to which general revenue funds are appropriated must certify to the state the amount of such state or local monies that are allowable under 42 CFR §433.51 to satisfy demonstration expenditures. If the CPE is claimed under a Medicaid authority, the federal matching funds received cannot then be used as the state share needed to receive other federal matching funds under 42 CFR §433.51(c). The entities that incurred the cost must also provide cost documentation to support the state's claim for federal match.

d. The state may use intergovernmental transfers (IGT) to the extent that such funds are derived from state or local monies and are transferred by units of government within the state. Any transfers from governmentally operated health care providers must be made in an amount not to exceed the non-federal share of title XIX payments.

e. Under all circumstances, health care providers must retain 100 percent of the reimbursement for claimed expenditures. Moreover, consistent with 42 CFR §447.10, no pre-arranged agreements (contractual, voluntary, or otherwise) may exist between health care providers and state and/or local government to return and/or redirect to the state any portion of the Medicaid payments. This confirmation of Medicaid payment retention is made with the understanding that payments that are the normal operating expenses of conducting business, such as payments related to taxes, including health care provider-related taxes, fees, business relationships with governments that are unrelated to Medicaid and in which there is no connection to Medicaid payments, are not considered returning and/or redirecting a Medicaid payment.

49. Program Integrity. The state must have processes in place to ensure there is no duplication of federal funding for any aspect of the demonstration. The state must also ensure that the

state and any of its contractors follow standard program integrity principles and practices including retention of data. All data, financial reporting, and sources of non-federal share are subject to audit.

50. Medicaid Expenditure Groups (MEG). MEGs are defined for the purpose of identifying categories of Medicaid or demonstration expenditures subject to budget neutrality, components of budget neutrality expenditure limit calculations, and other purposes related to monitoring And tracking expenditures under the demonstration. The following table provides a master list of MEGs defined for this demonstration.

Table 1: Master MEG Chart

MEG	To Which BN Test Does This Apply?	WOW Per Capita	WOW Aggregate	WW	Brief Description
Enrollees	Hypo 1	X		X	Expenditures for medical assistance and case management services that coordinate care related to HIV/AIDS, not otherwise available under the state plan.

51. Reporting Expenditures and Member Months. The state must report all demonstration expenditures claimed under the authority of title XIX of the Act and subject to budget neutrality each quarter on separate forms CMS-64.9 WAIVER and/or 64.9P WAIVER, identified by the demonstration project number assigned by CMS (11-W-00128/1). Separate reports must be submitted by MEG (identified by Waiver Name) and Demonstration Year (identified by the two digit project number extension). Unless specified otherwise, expenditures must be reported by DY according to the dates of service associated with the expenditure. All MEGs identified in the Master MEG Chart as WW must be reported for expenditures, as further detailed in the MEG Detail for Expenditure and Member Month Reporting table below. To enable calculation of the budget neutrality expenditure limits, the state also must report member months of eligibility for specified MEGs.

a. Cost Settlements. The state will report any cost settlements attributable to the demonstration on the appropriate prior period adjustment schedules (form CMS-64.9P WAIVER) for the summary sheet line 10b, in lieu of lines 9 or 10c. For any cost settlement not attributable to this demonstration, the adjustments should be reported as otherwise instructed in the State Medicaid Manual. Cost settlements must be reported by DY consistent with how the original expenditures were reported.

b. Premiums and Cost Sharing Collected by the State. The state will report any premium contributions collected by the state from demonstration enrollees quarterly on the form CMS-64 Summary Sheet line 9D, columns A and B. In order to assure that these

collections are properly credited to the demonstration, quarterly premium collections (both total computable and federal share) should also be reported separately by demonstration year on form CMS-64 Narrative, and on the Total Adjustments tab in the Budget Neutrality Monitoring Tool. In the annual calculation of expenditures subject to the budget neutrality expenditure limit, premiums collected in the demonstration year will be offset against expenditures incurred in the demonstration year for determination of the state's compliance with the budget neutrality limits.

c. Pharmacy Rebates. Because pharmacy rebates are not included in the base expenditures used to determine the budget neutrality expenditure limit, pharmacy rebates are not included for calculating net expenditures subject to budget neutrality. The state will report pharmacy rebates on form CMS-64.9 BASE, and not allocate them to any form 64.9 or 64.9P WAIVER.

d. Administrative Costs. The state will separately track and report additional administrative costs that are directly attributable to the demonstration. All administrative costs must be identified on the forms CMS-64.10 WAIVER and/or 64.10P WAIVER. Unless indicated otherwise on the table below, administrative costs are not counted in the budget neutrality tests; however, these costs are subject to monitoring by CMS.

e. Member Months. As part of the Annual Monitoring Reports described in section VII, the state must report the actual number of "eligible member months" for all demonstration enrollees for all MEGs identified as WOW Per Capita, and as also indicated in the table below. The term "eligible member months" refers to the number of months in which persons enrolled in the demonstration are eligible to receive services. For example, a person who is eligible for three months contributes three eligible member months to the total. Two individuals who are eligible for two months, each contribute two eligible member months, for a total of four eligible member months. The state must submit a statement accompanying the annual report certifying the accuracy of this information.

f. Budget Neutrality Specifications Manual. The state will create and maintain a Budget Neutrality Specifications Manual that describes in detail how the state will compile data on actual expenditures related to budget neutrality, including methods used to extract and compile data from the state's Medicaid Management Information System, eligibility system, and accounting systems for reporting on the CMS-64, consistent with the terms of the demonstration. The Budget Neutrality Specifications Manual will also describe how the state compiles counts of Medicaid member months. The Budget Neutrality Specifications Manual must be made available to CMS on request.

Table 2: MEG Detail for Expenditure and Member Month Reporting								
MEG (Waiver Name)	**Detailed Description**	**Exclusions**	**CMS-64.9 Line(s) To Use**	**How Expend. Assigned to DY**	**MAP or ADM**	**Report Member Months (Y/N)**	**MEG Start Date**	**MEG End Date**
Enrollees	Refer to STC 16	*N/A*	Follow CMS-64.9 Base Category of Service Definitions	Date of service	MAP	Y	April 19, 2019	December 31, 2028

52. Demonstration Years. Demonstration Years (DY) for this demonstration are defined in the table below.

Table 3: Demonstration Years		
Demonstration Year 17	January 1, 2019 to December 31, 2019	12 months
Demonstration Year 18	January 1, 2020 to December 31, 2020	12 months
Demonstration Year 19	January 1, 2021 to December 31, 2021	12 months
Demonstration Year 20	January 1, 2022 to December 31, 2022	12 months
Demonstration Year 21	January 1, 2023 to December 31, 2023	12 months
Demonstration Year 22	January 1, 2024 to December 31, 2024	12 months
Demonstration Year 23	January 1, 2025 to December 31, 2025	12 months
Demonstration Year 24	January 1, 2026 to December 31, 2026	12 months
Demonstration Year 25	January 1, 2027 to December 31, 2027	12 months
Demonstration Year 26	January 1, 2028 to December 31, 2028	12 months

53. Budget Neutrality Monitoring Tool. The state must provide CMS with quarterly budget neutrality status updates, including established baseline and member months data, using the Budget Neutrality Monitoring Tool provided through the performance metrics database and analytics (PMDA) system. The tool incorporates the "Schedule C Report" for comparing

demonstration's actual expenditures to the budget neutrality expenditure limits described in section IX. CMS will provide technical assistance, upon request.[1]

54. Claiming Period. The state will report all claims for expenditures subject to the budget neutrality agreement (including any cost settlements) within two years after the calendar quarter in which the state made the expenditures. All claims for services during the demonstration period (including any cost settlements) must be made within two years after the conclusion or termination of the demonstration. During the latter two-year period, the state will continue to identify separately net expenditures related to dates of service during the operation of the demonstration on the CMS-64 waiver forms in order to properly account for these expenditures in determining budget neutrality.

55. Future Adjustments to Budget Neutrality. CMS reserves the right to adjust the budget neutrality expenditure limit:

a. To be consistent with enforcement of laws and policy statements, including regulations and letters, regarding impermissible provider payments, health care related taxes, or other payments. CMS reserves the right to make adjustments to the budget neutrality limit if any health care related tax that was in effect during the base year, or provider-related donation that occurred during the base year, is determined by CMS to be in violation of the provider donation and health care related tax provisions of section 1903(w) of the Social Security Act. Adjustments to annual budget targets will reflect the phase out of impermissible provider payments by law or regulation, where applicable.

b. To the extent that a change in federal law, regulation, or policy requires either a reduction or an increase in federal financial participation (FFP) for expenditures made under this demonstration. In this circumstance, the state must adopt, subject to CMS approval, a modified budget neutrality agreement as necessary to comply with such change. The modified agreement will be effective upon the implementation of the change. The trend rates for the budget neutrality agreement are not subject to change under this STC. The state agrees that if mandated changes in the federal law require state legislation, the changes shall take effect on the day such state legislation becomes effective, or on the last day such legislation was required to be in effect under the federal law.

c. If, after review and/or audit, the data supplied by the state to set the budget neutrality expenditure limit are if found to be inaccurate. The state certifies that the data it provided are accurate based on the state's accounting of recorded historical expenditures or the

[1] 42 CFR §431.420(a)(2) provides that states must comply with the terms and conditions of the agreement between the Secretary (or designee) and the state to implement a demonstration project, and §431.420(b)(1) states that the terms and conditions will provide that the state will perform periodic reviews of the implementation of the demonstration. CMS's current approach is to include language in STCs requiring, as a condition of demonstration approval, that states provide, as part of their periodic reviews, regular reports of the actual costs which are subject to the budget neutrality limit. CMS has obtained Office of Management and Budget (OMB) approval of the monitoring tool under the Paperwork Reduction Act (OMB Control No. 0938 – 1148) and in states agree to use the tool as a condition of demonstration approval.

next best available data, that the data are allowable in accordance with applicable federal, state, and local statutes, regulations, and policies, and that the data are correct to the best of the state's knowledge and belief.

X. MONITORING BUDGET NEUTRALITY FOR THE DEMONSTRATION

56. Limit on Title XIX Funding. The state will be subject to limits on the amount of federal Medicaid funding the state may receive over the course of the demonstration approval. The budget neutrality expenditure limits are based on projections of the amount of FFP that the state would likely have received in the absence of the demonstration. The limit may consist of a Main Budget Neutrality Test, and one or more Hypothetical Budget Neutrality Tests, as described below. CMS's assessment of the state's compliance with these tests will be based on the Schedule C CMS-64 Waiver Expenditure Report, which summarizes the expenditures reported by the state on the CMS-64 that pertain to the demonstration.

57. Risk. The budget neutrality expenditure limits are determined on either a per capita or aggregate basis. If a per capita method is used, the state is at risk for the per capita cost of state plan and hypothetical populations, but not for the number of participants in the demonstration population. By providing FFP without regard to enrollment in the for all demonstration populations, CMS will not place the state at risk for changing economic conditions; however, by placing the state at risk for the per capita costs of the demonstration populations, CMS assures that the demonstration expenditures do not exceed the levels that would have been realized had there been no demonstration. If an aggregate method is used, the state accepts risk for both enrollment and per capita costs.

58. Calculation of the Budget Neutrality Limits and How They Are Applied. To calculate the budget neutrality limits for the demonstration, separate annual budget limits are determined for each DY on a total computable basis. Each annual budget limit is the sum of one or more components: per capita components, which are calculated as a projected without-waiver PMPM cost times the corresponding actual number of member months, and aggregate components, which projected fixed total computable dollar expenditure amounts. The annual limits for all DYs are then added together to obtain a budget neutrality limit for the entire demonstration period. The federal share of this limit will represent the maximum amount of FFP that the state may receive during the demonstration period for the types of demonstration expenditures described below. The federal share will be calculated by multiplying the total computable budget neutrality expenditure limit by the appropriate Composite Federal Share.

59. Main Budget Neutrality Test. This demonstration does not include a Main Budget Neutrality Test. Budget neutrality will consist entirely of Hypothetical Budget Neutrality Tests. Any excess spending under the Hypothetical Budget Neutrality Tests must be returned to CMS.

60. Hypothetical Budget Neutrality. When expenditure authority is provided for coverage of populations or services that the state could have otherwise provided through its Medicaid state plan or other title XIX authority (such as a waiver under section 1915 of the Act), CMS considers these expenditures to be "hypothetical;" that is, the expenditures would have been eligible to receive FFP elsewhere in the Medicaid program. For these hypothetical expenditures, CMS makes adjustments to the budget neutrality test which effectively treats these expenditures as if they were for approved Medicaid state plan services. Hypothetical expenditures, therefore, do not necessitate savings to offset the otherwise allowable services. This approach reflects CMS's current view that states should not have to "pay for," with demonstration savings, costs that could have been otherwise eligible for FFP under a Medicaid state plan or other title XIX authority; however, when evaluating budget neutrality, CMS does not offset non-hypothetical expenditures with projected or accrued savings from hypothetical expenditures. That is, savings are not generated from a hypothetical population or service. To allow for hypothetical expenditures, while preventing them from resulting in savings, CMS currently applies a separate, independent Hypothetical Budget Neutrality Tests, which subject hypothetical expenditures to pre-determined limits to which the state and CMS agree, and that CMS approves, during negotiations. If the state's WW hypothetical spending exceeds the supplemental test's expenditure limit, the state agrees (as a condition of CMS approval) to offset that excess spending by savings elsewhere in the demonstration or to refund the FFP to CMS.

61. Hypothetical Budget Neutrality Test: Enrollees. The demonstration makes a limited benefits package, including medical assistance and case management services, available to individuals with HIV/AIDS. The table below identifies the MEGs that are used for Hypothetical Budget Neutrality Test. MEGs that are designated "WOW Only" or "Both" are the components used to calculate the budget neutrality expenditure limit. The Composite Federal Share for the Hypothetical Budget Neutrality Test is calculated based on all MEGs indicated as "WW Only" or "Both." MEGs that are indicated as "WW Only" or "Both" are counted as expenditures against this budget neutrality expenditure limit. Any expenditures in excess of the limit from Hypothetical Budget Neutrality Test are counted as WW expenditures under the Main Budget Neutrality Test.

Table 4: Hypothetical Budget Neutrality Test

MEG	PC or Agg*	WOW, WW, or Both	Base Year	Trend Rate	DY 17	DY 18	DY 19	DY 20	DY 21
Enrollees	PC	Both	$1,110.28	5%	$1,165.80	$1,224.09	$1,285.29	$1,349.55	$1,417.03
					DY 22	**DY 23**	**DY 24**	**DY 25**	**DY 26**
					$1,487.88	$1,562.27	$1,640.38	$1,722.40	$1,808.52

62. Composite Federal Share. The Composite Federal Share is the ratio that will be used to convert the total computable budget neutrality limit to federal share. The Composite Federal Share is the ratio calculated by dividing the sum total of FFP received by the state on actual demonstration expenditures during the approval period by total computable demonstration expenditures for the same period, as reported through MBES/CBES and summarized on Schedule C. Since the actual final Composite Federal Share will not be known until the end of the demonstration's approval period, for the purpose of interim monitoring of budget neutrality, a reasonable estimate of Composite Federal Share may be developed and used through the same process or through an alternative mutually agreed to method. Each Main or Hypothetical Budget Neutrality Test has its own Composite Federal Share, as defined in the paragraph pertaining to each particular test.

63. Exceeding Budget Neutrality. CMS will enforce the budget neutrality agreement over the life of the demonstration approval period, which extends from April 19, 2019 to December 31, 2028. If at the end of the demonstration approval period the budget neutrality limit has been exceeded, the excess federal funds will be returned to CMS. If the demonstration is terminated prior to the end of the demonstration period, the budget neutrality test will be based on the time period through the termination date.

64. Mid-Course Correction. If at any time during the demonstration approval period CMS determines that the demonstration is on course to exceed its budget neutrality expenditure limit, CMS will require the state to submit a corrective action plan for CMS review and approval. CMS will use the threshold levels in the tables below as a guide for determining when corrective action is required.

Hypothetical Budget Neutrality Test

Table 5: Hypothetical Budget Neutrality Test Mid-Course Correction Calculations		
Demonstration Year	**Cumulative Target Definition**	**Percentage**
DY 17	Cumulative budget neutrality limit plus:	2.0 percent
DY 17 through DY 18	Cumulative budget neutrality limit plus:	1.5 percent
DY 17 through DY 19	Cumulative budget neutrality limit plus:	1.0 percent
DY 17 through DY 20	Cumulative budget neutrality limit plus:	0.5 percent
DY 17 through DY 21	Cumulative budget neutrality limit plus:	0.0 percent
DY 17 through DY 22	Cumulative budget neutrality limit plus:	0.0 percent

DY 17 through DY 23	Cumulative budget neutrality limit plus:	0.0 percent
DY 17 through DY 24	Cumulative budget neutrality limit plus:	0.0 percent
DY 17 through DY 25	Cumulative budget neutrality limit plus:	0.0 percent
DY 17 through DY 26	Cumulative budget neutrality limit plus:	0.0 percent

ATTACHMENT A
Developing the Evaluation Design

Introduction

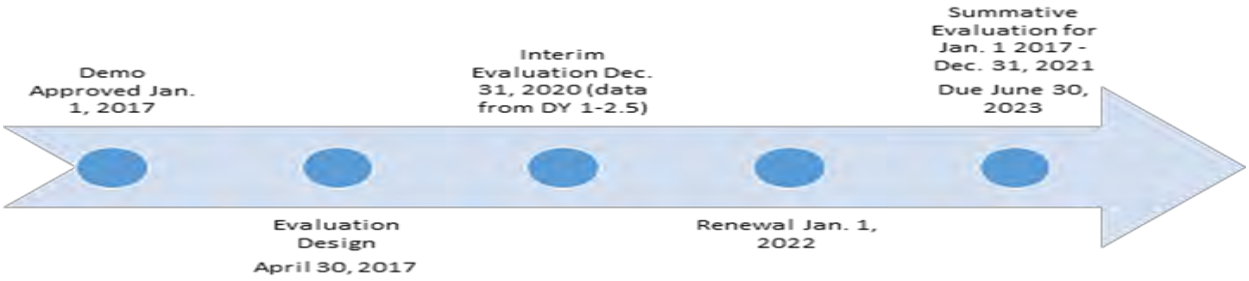
For states that are testing new approaches and flexibilities in their Medicaid programs through section 1115 demonstrations, evaluations are crucial to understand and disseminate what is or is not working and why. The evaluations of new initiatives seek to produce new knowledge and direction for programs and inform both Congress and CMS about Medicaid policy for the future. While a narrative about what happened during a demonstration provides important information, the principal focus of the evaluation of a section 1115 demonstration should be obtaining and analyzing data on the process (e.g., whether the demonstration is being implemented as intended), outcomes (e.g., whether the demonstration is having the intended effects on the target population), and impacts of the demonstration (e.g., whether the outcomes observed in the targeted population differ from outcomes in similar populations not affected by the demonstration). Both state and federal governments could benefit from improved quantitative and qualitative evidence to inform policy decisions.

Expectations for Evaluation Designs

All states with Medicaid section 1115 demonstrations are required to conduct an evaluation, and the Evaluation Design is the roadmap for conducting the evaluation. The roadmap begins with the stated goals for the demonstration followed by the measurable evaluation questions and quantifiable hypotheses, all to support a determination of the extent to which the demonstration has achieved its goals**.**

The format for the Evaluation Design is as follows:
General Background Information;
Evaluation Questions and Hypotheses;
Methodology;
Methodological Limitations;
Attachments.

Submission Timelines
There is a specified timeline for the state's submission of Evaluation Design and Reports. (The graphic below depicts an example of this timeline). In addition, the state should be aware that section 1115 evaluation documents are public records. The state is required to publish the Evaluation Design to the state's website within thirty (30) days of CMS approval, as per 42 CFR 431.424(e). CMS will also publish a copy to the Medicaid.gov website.



Required Core Components of All Evaluation Designs
The Evaluation Design sets the stage for the Interim and Summative Evaluation Reports. It is important that the Evaluation Design explain the goals and objectives of the demonstration, the hypotheses related to the demonstration, and the methodology (and limitations) for the evaluation. A copy of the state's Driver Diagram (described in more detail in paragraph B2 below) should be included with an explanation of the depicted information.

A. General Background Information – In this section, the state should include basic information about the demonstration, such as:

1) The issue/s that the state is trying to address with its section 1115 demonstration and/or expenditure authorities, the potential magnitude of the issue/s, and why the state selected this course of action to address the issue/s (e.g., a narrative on why the state submitted an 1115 demonstration proposal).

2) The name of the demonstration, approval date of the demonstration, and period of time covered by the evaluation;

3) A brief description of the demonstration and history of the implementation, and whether the draft Evaluation Design applies to an amendment, extension, renewal, or expansion of, the demonstration;

4) For renewals, amendments, and major operational changes: A description of any changes to the demonstration during the approval period; the primary reason or reasons for the change; and how the Evaluation Design was altered or augmented to address these changes.

5) Describe the population groups impacted by the demonstration.

B. Evaluation Questions and Hypotheses – In this section, the state should:

1) Describe how the state's demonstration goals are translated into quantifiable targets for improvement, so that the performance of the demonstration in achieving these targets could be measured.

2) Include a Driver Diagram to visually aid readers in understanding the rationale behind the cause and effect of the variants behind the demonstration features and intended outcomes. A driver diagram is a particularly effective modeling tool when working to improve health and health care through specific interventions. The diagram includes information about the goal of the demonstration, and the features of the demonstration. A driver diagram depicts the relationship between the aim, the primary drivers that contribute directly to achieving the aim, and the secondary drivers that are necessary to achieve the primary drivers for the demonstration. For an example and more information on driver diagrams: https://innovation.cms.gov/files/x/hciatwoaimsdrvrs.pdf

3) Identify the state's hypotheses about the outcomes of the demonstration:

4) Discuss how the evaluation questions align with the hypotheses and the goals of the demonstration;

5) Address how the research questions / hypotheses of this demonstration promote the objectives of Titles XIX and/or XXI.

C. Methodology – In this section, the state is to describe in detail the proposed research methodology.

The focus is on showing that the evaluation meets the prevailing standards of scientific and academic rigor, and the results are statistically valid and reliable, and that where appropriate it builds upon other published research (use references).

This section provides the evidence that the demonstration evaluation will use the best available data; reports on, controls for, and makes appropriate adjustments for the limitations of the data and their effects on results; and discusses the generalizability of results. This section should provide enough transparency to explain what will be measured and how. Specifically, this section establishes:

1) *Evaluation Design* – Provide information on how the evaluation will be designed. For example, will the evaluation utilize a pre/post comparison? A post-only assessment? Will a comparison group be included?

2) *Target and Comparison Populations* – Describe the characteristics of the target and comparison populations, to include the inclusion and exclusion criteria. Include information about the level of analysis (beneficiary, provider, or program level), and if populations will be stratified into subgroups. Additionally discuss the sampling methodology for the populations, as well as support that a statistically reliable sample size is available.

3) *Evaluation Period* – Describe the time periods for which data will be included.

4) *Evaluation Measures* – List all measures that will be calculated to evaluate the demonstration. Include the measure stewards (i.e., the organization(s) responsible for the evaluation data elements/sets by "owning", defining, validating; securing; and submitting for endorsement, etc.) Include numerator and denominator information. Additional items to ensure:

    a. The measures contain assessments of both process and outcomes to evaluate the effects of the demonstration during the period of approval.

    b. Qualitative analysis methods may be used, and must be described in detail.

    c. Benchmarking and comparisons to national and state standards, should be used, where appropriate.

    d. Proposed health measures could include CMS's Core Set of Health Care Quality Measures for Children in Medicaid and CHIP, Consumer Assessment of Health Care Providers and Systems (CAHPS), the Initial Core Set of Health Care Quality Measures for Medicaid-Eligible Adults and/or measures endorsed by National Quality Forum (NQF).

    f. Proposed performance metrics can be selected from nationally recognized metrics, for example from sets developed by the Center for Medicare and Medicaid Innovation or for meaningful use under Health Information Technology (HIT).

    g. Among considerations in selecting the metrics shall be opportunities identified by the state for improving quality of care and health outcomes, and controlling cost of care.

5) *Data Sources* – Explain where the data will be obtained, and efforts to validate and clean the data. Discuss the quality and limitations of the data sources.

    If primary data (data collected specifically for the evaluation) – The methods by which the data will be collected, the source of the proposed question/responses, the frequency and timing of data collection, and the method of data collection. (Copies of any proposed surveys must be reviewed with CMS for approval before implementation).

6) *Analytic Methods* – This section includes the details of the selected quantitative and/or qualitative measures to adequately assess the effectiveness of the demonstration. This section should:

    a. Identify the specific statistical testing which will be undertaken for each measure (e.g., t-tests, chi-square, odds ratio, ANOVA, regression). Table A is an example

of how the state might want to articulate the analytic methods for each research question and measure.

b. Explain how the state will isolate the effects of the demonstration (from other initiatives occurring in the state at the same time) through the use of comparison groups.

c. A discussion of how propensity score matching and difference in differences design may be used to adjust for differences in comparison populations over time (if applicable).

d. The application of sensitivity analyses, as appropriate, should be considered.

7) *Other Additions* – The state may provide any other information pertinent to the Evaluation Design of the demonstration.

Table A. Example Design Table for the Evaluation of the Demonstration

Research Question	Outcome measures used to address the research question	Sample or population subgroups to be compared	Data Sources	Analytic Methods
Hypothesis 1				
Research question 1a	-Measure 1 -Measure 2 -Measure 3	-Sample e.g. All attributed Medicaid beneficiaries -Beneficiaries with diabetes diagnosis	-Medicaid fee-for-service and encounter claims records	-Interrupted time series
Research question 1b	-Measure 1 -Measure 2 -Measure 3 -Measure 4	-sample, e.g., PPS patients who meet survey selection requirements (used services within the last 6 months)	-Patient survey	Descriptive statistics
Hypothesis 2				
Research question 2a	-Measure 1 -Measure 2	-Sample, e.g., PPS administrators	-Key informants	Qualitative analysis of interview material

D Methodological Limitations – This section provides detailed information on the limitations of the evaluation. This could include the design, the data sources or collection process, or analytic methods. The state should also identify any efforts to minimize the limitations. Additionally, this section should include any information about features of the demonstration that effectively present methodological constraints that the state would like CMS to take into consideration in its review. For example:

1) When the state demonstration is:

a. Long-standing, non-complex, unchanged, or
b. Has previously been rigorously evaluated and found to be successful, or
c. Could now be considered standard Medicaid policy (CMS published regulations or guidance)

2) When the demonstration is also considered successful without issues or concerns that would require more regular reporting, such as:
   a. Operating smoothly without administrative changes; and
   b. No or minimal appeals and grievances; and
   c. No state issues with CMS-64 reporting or budget neutrality; and
   d. No Corrective Action Plans (CAP) for the demonstration.

E. Attachments

1) **Independent Evaluator.** This includes a discussion of the state's process for obtaining an independent entity to conduct the evaluation, including a description of the qualifications that the selected entity must possess, and how the state will assure no conflict of interest. Explain how the state will assure that the Independent Evaluator will conduct a fair and impartial evaluation, prepare an objective Evaluation Report, and that there would be no conflict of interest. The evaluation design should include "No Conflict of Interest" signed by the independent evaluator.

2) **Evaluation Budget.** A budget for implementing the evaluation shall be provided with the draft Evaluation Design. It will include the total estimated cost, as well as a breakdown of estimated staff, administrative, and other costs for all aspects of the evaluation. Examples include, but are not limited to: the development of all survey and measurement instruments; quantitative and qualitative data collection; data cleaning and analyses; and reports generation. A justification of the costs may be required by CMS if the estimates provided do not appear to sufficiently cover the costs of the draft Evaluation Design or if CMS finds that the draft Evaluation Design is not sufficiently developed.

3) **Timeline and Major Milestones.** Describe the timeline for conducting the various evaluation activities, including dates for evaluation-related milestones, including those related to procurement of an outside contractor, if applicable, and deliverables. The Final Evaluation Design shall incorporate an Interim and Summative Evaluation. Pursuant to 42 CFR 431.424(c)(v), this timeline should also include the date by which the Final Summative Evaluation report is due.

ATTACHMENT B
Preparing the Interim and Summative Evaluation Reports

Introduction

For states that are testing new approaches and flexibilities in their Medicaid programs through section 1115 demonstrations, evaluations are crucial to understand and disseminate what is or is not working and why. The evaluations of new initiatives seek to produce new knowledge and direction for programs and inform Medicaid policy for the future. While a narrative about what happened during a demonstration provide important information, the principal focus of the evaluation of a section 1115 demonstration should be obtaining and analyzing data on the process (e.g., whether the demonstration is being implemented as intended), outcomes (e.g., whether the demonstration is having the intended effects on the target population), and impacts of the demonstration (e.g., whether the outcomes observed in the targeted population differ from outcomes in similar populations not affected by the demonstration). Both state and federal governments could benefit from improved quantitative and qualitative evidence to inform policy decisions.

Expectations for Evaluation Reports

Medicaid section 1115 demonstrations are required to conduct an evaluation that is valid (the extent to which the evaluation measures what it is intended to measure), and reliable (the extent to which the evaluation could produce the same results when used repeatedly). To this end, the already approved Evaluation Design is a map that begins with the demonstration goals, then transitions to the evaluation questions, and to the specific hypotheses, which will be used to investigate whether the demonstration has achieved its goals. States should have a well-structured analysis plan for their evaluation. As these valid analyses multiply (by a single state or by multiple states with similar demonstrations) and the data sources improve, the reliability of evaluation findings will be able to shape Medicaid policy in order to improve the health and welfare of Medicaid beneficiaries for decades to come. When submitting an application for renewal, the interim evaluation report should be posted on the state's website with the application for public comment. Additionally, the interim evaluation report must be included in its entirety with the application submitted to CMS.

Intent of this Guidance

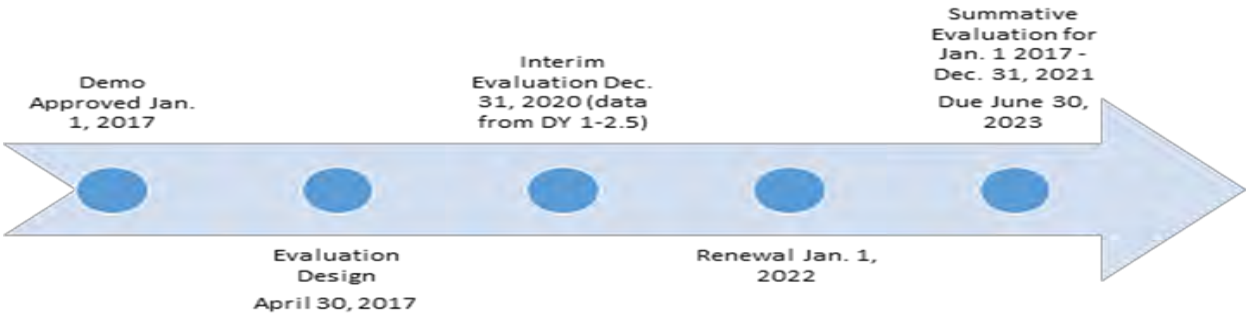
The Social Security Act (the Act) requires an evaluation of every section 1115 demonstration. In order to fulfill this requirement, the state's submission must provide a comprehensive written presentation of all key components of the demonstration, and include all required elements specified in the approved Evaluation Design. This Guidance is intended to assist states with organizing the required information in a standardized format and understanding the criteria that CMS will use in reviewing the submitted Interim and Summative Evaluation Reports.

The format for the Interim and Summative Evaluation reports is as follows:

A. Executive Summary;
B. General Background Information;
C. Evaluation Questions and Hypotheses;
D. Methodology;
E. Methodological Limitations;
F. Results;
G. Conclusions;
H. Interpretations, and Policy Implications and Interactions with Other State Initiatives;
I. Lessons Learned and Recommendations; and
J. Attachment(s).

Submission Timelines

There is a specified timeline for the state's submission of Evaluation Designs and Evaluation Reports. These dates are specified in the demonstration Special Terms and Conditions (STCs). (The graphic below depicts an example of this timeline). In addition, the state should be aware that section 1115 evaluation documents are public records. In order to assure the dissemination of the evaluation findings, lessons learned, and recommendations, the state is required to publish to the state's website the evaluation design within thirty (30) days of CMS approval, and publish reports within thirty (30) days of submission to CMS , pursuant to 42 CFR 431.424. CMS will also publish a copy to Medicaid.gov.



Required Core Components of Interim and Summative Evaluation Reports

The section 1115 Evaluation Report presents the research about the section 1115 Demonstration. It is important that the report incorporate a discussion about the structure of the Evaluation Design to explain the goals and objectives of the demonstration, the hypotheses related to the demonstration, and the methodology for the evaluation. A copy of the state's Driver Diagram (described in the Evaluation Design guidance) must be included with an explanation of the depicted information. The Evaluation Report should present the relevant data and an interpretation of the findings; assess the outcomes (what worked and what did not work); explain the limitations of the design, data, and analyses; offer recommendations regarding what (in hindsight) the state would further advance, or do differently, and why; and discuss the implications on future Medicaid policy. Therefore, the state's submission must include:

A. **Executive Summary** – A summary of the demonstration, the principal results, interpretations, and recommendations of the evaluation.

B. **General Background Information about the Demonstration** – In this section, the state should include basic information about the demonstration, such as:

    1) The issues that the state is trying to address with its section 1115 demonstration and/or expenditure authorities, how the state became aware of the issue, the potential magnitude of the issue, and why the state selected this course of action to address the issues.

    2) The name of the demonstration, approval date of the demonstration, and period of time covered by the evaluation;

    3) A brief description of the demonstration and history of the implementation, and if the evaluation is for an amendment, extension, renewal, or expansion of, the demonstration;

    4) For renewals, amendments, and major operational changes: A description of any changes to the demonstration during the approval period; whether the motivation for change was due to political, economic, and fiscal factors at the state and/or federal level; whether the programmatic changes were implemented to improve beneficiary health, provider/health plan performance, or administrative efficiency; and how the Evaluation Design was altered or augmented to address these changes.

    5) Describe the population groups impacted by the demonstration.

C. **Evaluation Questions and Hypotheses** – In this section, the state should:

    1) Describe how the state's demonstration goals were translated into quantifiable targets for improvement, so that the performance of the demonstration in achieving these targets could be measured. The inclusion of a Driver Diagram in the Evaluation

Report is highly encouraged, as the visual can aid readers in understanding the rationale behind the demonstration features and intended outcomes.

2) Identify the state's hypotheses about the outcomes of the demonstration;
   a. Discuss how the goals of the demonstration align with the evaluation questions and hypotheses;
   b. Explain how this Evaluation Report builds upon and expands earlier demonstration evaluation findings (if applicable); and
   c. Address how the research questions / hypotheses of this demonstration promote the objectives of Titles XIX and XXI.

D. Methodology – In this section, the state is to provide an overview of the research that was conducted to evaluate the section 1115 demonstration consistent with the approved Evaluation Design.

The evaluation design should also be included as an attachment to the report. The focus is on showing that the evaluation builds upon other published research (use references), and meets the prevailing standards of scientific and academic rigor, and the results are statistically valid and reliable.

An interim report should provide any available data to date, including both quantitative and qualitative assessments. The Evaluation Design should assure there is appropriate data development and collection in a timely manner to support developing an interim evaluation.

This section provides the evidence that the demonstration evaluation used the best available data and describes why potential alternative data sources were not used; reported on, controlled for, and made appropriate adjustments for the limitations of the data and their effects on results; and discusses the generalizability of results. This section should provide enough transparency to explain what was measured and how. Specifically, this section establishes that the approved Evaluation Design was followed by describing:

1. *Evaluation Design* – Will the evaluation be an assessment of: pre/post, post-only, with or without comparison groups, etc.?
2. *Target and Comparison Populations* – Describe the target and comparison populations; include inclusion and exclusion criteria.
3. *Evaluation Period* – Describe the time periods for which data will be collected
4. *Evaluation Measures* – What measures are used to evaluate the demonstration, and who are the measure stewards?
5. *Data Sources* – Explain where the data will be obtained, and efforts to validate and clean the data.
6. *Analytic methods* – Identify specific statistical testing which will be undertaken for each measure (t-tests, chi-square, odds ratio, ANOVA, regression, etc.).

7. *Other Additions* – The state may provide any other information pertinent to the evaluation of the demonstration.

    A. Methodological Limitations - This section provides sufficient information for discerning the strengths and weaknesses of the study design, data sources/collection, and analyses.

    B. Results – In this section, the state presents and uses the quantitative and qualitative data to show to whether and to what degree the evaluation questions and hypotheses of the demonstration were achieved. The findings should visually depict the demonstration results (tables, charts, graphs). This section should include information on the statistical tests conducted.

    C. Conclusions – In this section, the state will present the conclusions about the evaluation results.

1) In general, did the results show that the demonstration was/was not effective in achieving the goals and objectives established at the beginning of the demonstration?
2) Based on the findings, discuss the outcomes and impacts of the demonstration and identify the opportunities for improvements. Specifically:
    a. If the state did not fully achieve its intended goals, why not? What could be done in the future that would better enable such an effort to more fully achieve those purposes, aims, objectives, and goals?

    D. Interpretations, Policy Implications and Interactions with Other State Initiatives – In this section, the state will discuss the section 1115 demonstration within an overall Medicaid context and long range planning. This should include interrelations of the demonstration with other aspects of the state's Medicaid program, interactions with other Medicaid demonstrations, and other federal awards affecting service delivery, health outcomes and the cost of care under Medicaid. This section provides the state with an opportunity to provide interpretation of the data using evaluative reasoning to make judgments about the demonstration. This section should also include a discussion of the implications of the findings at both the state and national levels.

    E. Lessons Learned and Recommendations – This section of the Evaluation Report involves the transfer of knowledge. Specifically, the "opportunities" for future or revised demonstrations to inform Medicaid policymakers, advocates, and stakeholders is just as significant as identifying current successful strategies. Based on the evaluation results:

    1. What lessons were learned as a result of the demonstration?

    2. What would you recommend to other states which may be interested in implementing a similar approach?

F. Attachment - Evaluation Design: Provide the CMS-approved Evaluation Design

ATTACHMENT C
Approved Evaluation Design

General Background Information

Early treatment with anti-retroviral therapies for individuals with Human Immunodeficiency Virus (HIV) has been shown to delay disease progression, while comprehensive case management is an important tool in helping individuals maintain access to these critical treatments.[2,3] In 2002, Maine's Medicaid program, MaineCare, was granted a 1115 demonstration waiver from Centers for Medicare and Medicaid Services (CMS) entitled *Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS* to provide a broad range of healthcare services to Maine residents living with HIV infection that are designed to provide more effective, early treatment of HIV disease by making available a limited but comprehensive package of services, including antiretroviral therapies and comprehensive case management. Additional healthcare services include physician services, outpatient laboratory and radiology, prescription medications, inpatient and outpatient hospital services, behavioral health and substance abuse services, and transportation. The demonstration expanded Medicaid access to individuals with HIV/AIDS through a targeted benefits package, allowing them to avoid spending down income or resources.[4] Over the course of the seventeen years of this demonstration, the Office of MaineCare Services has continued to work to improve access to medical services for Maine residents with HIV/AIDS, providing medical services to 542 demonstration enrollees. In addition, 389 Medicaid members with HIV/AIDS received the benefit of enhanced care coordination.

. Under this extension of the original demonstration which was approved on April 19, 2019 and will continue until December 31, 2028, the state will continue to provide a comprehensive set of services to those who have HIV/AIDS and are at or below 250 percent of the federal poverty level (FPL). This demonstration works to expand access to individuals with HIV/AIDS who are otherwise ineligible for MaineCare. In this demonstration, there are two populations: Medicaid enrollees with HIV/AIDS who have incomes at or below 133 percent of the FPL, known as "members," and demonstration enrollees with HIV/AIDS who have incomes above 133 percent and at or below 250 percent of the FPL, known as "enrollees" (Exhibit 1). "Members" receive all of the medically necessary Medicaid state plan-covered services as well as case management services, while "enrollees" receive a targeted essential set of services. The demonstration requires co-payments of $10 for physician office visits and prescription drugs for the "enrollees" group with income above 150 percent up to and including 250 percent of the FPL. For the purposes of this evaluation, "members" and "enrollees" will be grouped together and

[1] INSIGHT START Study Group, Lundgren JD, Babiker AG, Gordin F, Emery S, Grund B, Sharma S, Avihingsanon A, Cooper DA, Fätkenheuer G, Llibre JM, Molina JM, Munderi P, Schechter M, Wood R, Klingman KL, Collins S, Lane HC, Phillips AN, Neaton JD. Initiation of Antiretroviral Therapy in Early Asymptomatic HIV Infection. N Engl J Med. 2015 Aug 27;373(9):795-807.
[2] Brennan-Ing M, Seidel L, Rodgers L, Ernst J, Wirth D, Tietz D, et al. (2016) The Impact of Comprehensive Case Management on HIV Client Outcomes. PLoS ONE 11(2).
[3] Office of MaineCare services. Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals with HIV/AIDS.

referred to collectively as participants since they are receiving many of the same benefits.

Exhibit 1. Demonstration eligibility criteria and benefits.

Demonstration Eligibility Groups	Federal Poverty Level (FPL) and qualifying criteria	Eligible Benefit
"Members" State Plan Groups*	HIV-positive individuals at or below 133 percent of FPL	Full Medicaid benefits offered under the state plan and case management services.
"Enrollees" Expansion Populations**	HIV-positive individuals at or below 250 percent of FPL	Targeted benefit

*These state plan eligible beneficiaries ("Members") are enrolled in the demonstration for the benefit of enhanced coordination.
** These eligible beneficiaries ("Enrollees") are expansion populations who would not otherwise be eligible for medical assistance.

Outreach under this demonstration will continue to include trainings and site visits with providers, including newly hired case managers. Posters and brochures continue to be distributed throughout the state to Office for Family Independence regional offices, pharmacies, physician offices, hospitals, municipalities, soup kitchens, schools, homeless shelters, and family planning agencies, in hopes to broaden awareness within communities and allow for timely access to coverage and care. The waiver has resulted in the provision of substantial health benefits for both members and enrollees, while associated costs have been well below the budget neutrality permitted under the waiver.

TARGET POPULATION

As shown in Exhibit 2, the majority of people living with HIV (PLWH) in Maine in 2015 were between the ages of 40 and 59 years (62%). New cases were more likely to occur among adults 20 to 39 years old (48%) compared with other age groups.

Exhibit 2. New and Existing HIV cases (PLWH) in Maine, by age, 2015

	New HIV diagnoses		Existing HIV cases (PLWH)	
Age group	**N**	**%**	**N**	**%**
Under 13	2	4%	13	1%
13-19	2	4%	8	<1%
20-29	10	21%	67	4%
30-39	13	27%	225	13%
40-49	9	19%	433	25%
50-59	7	15%	657	37%
60 and older	5	10%	363	21%
Total	**48**	**100%**	**1,766**	**100%**

Source: Maine Electronic HIV and AIDS Reporting System (eHARS)

While more than two-thirds of PLWH were non-Hispanic white (77%), the rate of infection among blacks or African-Americans was more than 10 times higher than for whites and nearly 5 times higher among Hispanics or Latinos compared with whites (Exhibit 3). These findings highlight the importance of reaching minority communities through demonstration activities.

Exhibit 3. Existing HIV cases (PLWH) in Maine, by race/ethnicity, 2015

Race/ethnicity	N	%	Rate per 100,000
White*	1356	77%	109.0
Black/African-American*	237	13%	1,296.1
Hispanic/Latino(a)	108	6%	516.2
Other or multi-race*	44	2	N/A
Asian*	10	1	N/A
American Indian/Alaska Native*	10	1	N/A
Native Hawaiian/Pacific Islander*	1	<1%	N/A

*Non-Hispanic, N/A- data not available
Source: Maine Electronic HIV and AIDS Reporting System (eHARS)

Evaluation Questions and Hypotheses

The goal of care management services provided by the waiver program is to delay the progression of HIV to AIDS. Its success is reflected in the percentage of patients who do not develop AIDS defining illness (i.e., remain asymptomatic HIV positive). Achieving this goal also means that medical costs are lower than they would have been in the absence of the program. The overall aim of the demonstration is to delay or prevent the progression of HIV for low-income PLWH in Maine and to meet the objectives of the Medicaid program. The primary drivers to achieve this aim are:

- Improving access to continuous healthcare services;
- Arresting progression of HIV status by providing early and optimal care coupled with high quality and cost efficiency; and
- Expanding coverage to additional low-income individuals living with HIV with the savings generated from disease prevention and the prevention of or delayed onset of AIDS.

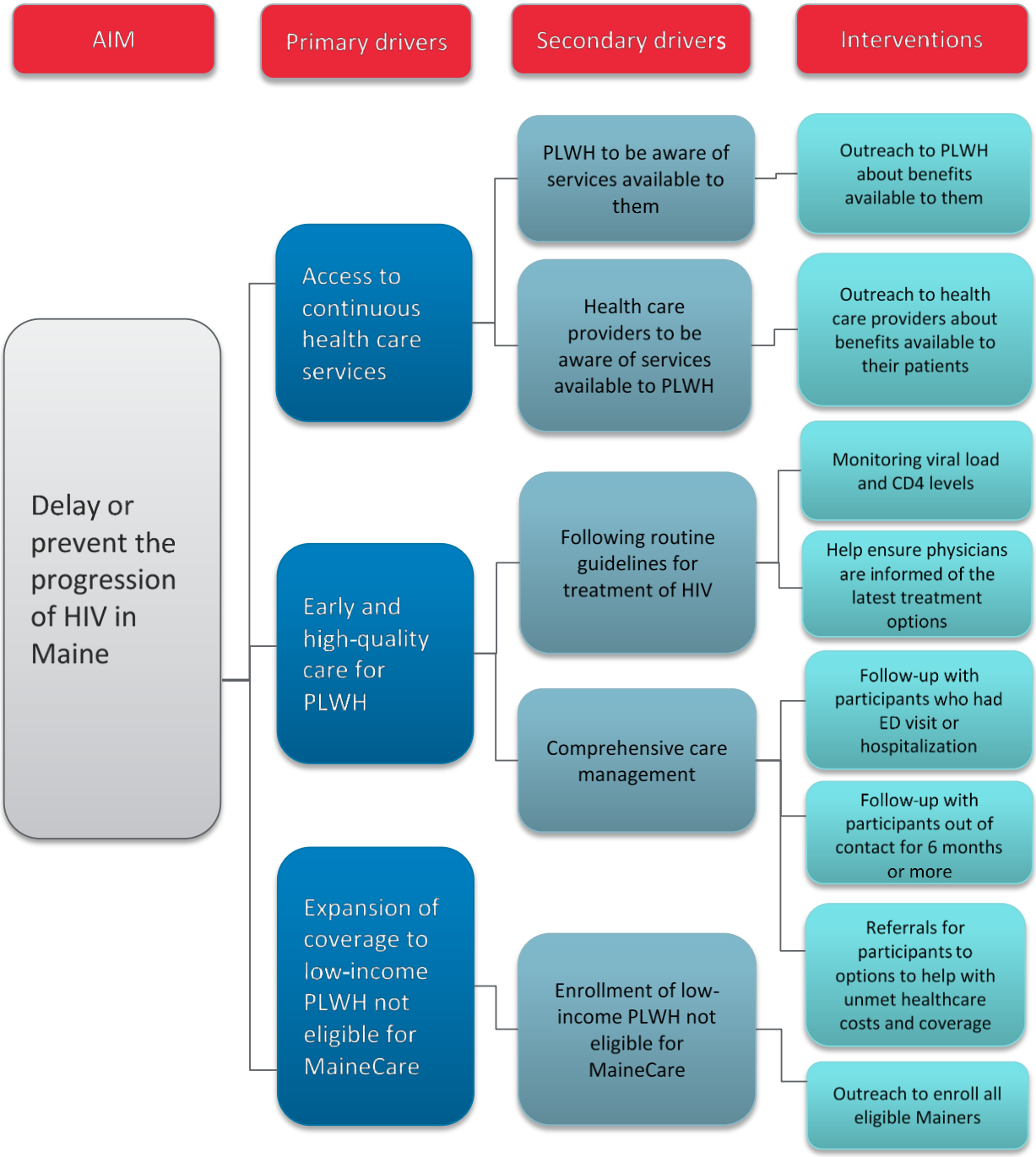
The State hypothesizes that:

- Improved access to continuous health care will lead more demonstration participants to seek routine care.
- Greater access to early, high quality care will slow disease progression in demonstration participants and improve overall health status.
- The prevention or delay of disease progression will allow more low-income individuals living with HIV access to high-quality care.

The driver diagram in Exhibit 4 displays the primary and secondary drivers, as well as the interventions that demonstrate the cause and effect of the variants behind the demonstration features and intended outcomes. Through administrative data, member and provider surveys, and comparison to national benchmarks, this evaluation will be able to assess overall trends and progress toward the goals of the demonstration in the following research questions:

- What is the relationship between patients' perception of access to care and routine medical visits?
- What percentage of demonstration participants are meeting the routine treatment guidelines?
    - What percentage of demonstration participants are meeting CDC recommendations for viral load monitoring?
    - What percentage of patients are meeting the recommendations for HIV RNA control?
    - What percentage of demonstration participants are meeting the threshold for medication adherence (Proportion of days covered)?
        - What is the relationship between medication adherence and self-efficacy for medication management?
- How have rates of emergency department (ED) visits and hospitalizations changed over time for demonstration participants?
    - What is the relationship between self-rated health status and acute health incidents, such as ED visits and hospitalizations?
    - Do those who meet treatment guidelines (routine visits, PDC threshold and HIV RNA control) have fewer acute health incidents (ED visits, hospitalizations)?
- How has enrollment of Mainers eligible for HIV services changed over time?
    - What is the relationship between self-rated health status and health-related quality of life and length of participation in the demonstration?

Exhibit 4. Driver Diagram for the Section 1115 Demonstration Waiver.



Methodology

EVALUATION DESIGN

The design of the Maine section 1115 demonstration evaluation will be a repeated cross-sectional design (also referred to as time-series design). Measures will be repeated each of the 10 years of the demonstration providing an opportunity to see long-term trends in outcomes for PLWH in Maine. Additionally, a longitudinal cohort analysis will be conducted with a subgroup of individuals tracked over the entire demonstration period. Since the demonstration has been in place since 2002, a pre-post design is not possible. Additionally, there are very few PLWH in Maine not receiving benefits, so obtaining a demographically similar comparison group is not feasible, precluding a quasi-experimental design.

TARGET AND COMPARISON POPULATIONS

The inclusion criteria for the HIV/AIDS demonstration, the target population, are as follows:

- Positive HIV status
- Financially eligible (at or below 250 percent of federal poverty level)
- Completed information form related to other insurance, i.e., third party liability (TPL)
- Payment of premiums (if applicable)
- Willingness to sign informed consent that indicates:
    - Understanding of requirements of the benefit
    - Willingness to comply with treatment recommendations

Those with a negative HIV status or those with HIV and income over 250 percent of the FPL are not eligible for benefits under the demonstration.

For evaluation purposes, the unit of analysis will be the individual and data will be aggregated yearly to provide population estimates. Due to the length of time the demonstration has been in place and a lack of a similar group not receiving benefits in Maine, obtaining a comparable comparison group will be a challenge.

Maine population rates will be compared to national CDC data on HIV/AIDS from the Medical Monitoring Project[5]; however, this will only be for reference purposes since the national cohort is not demographically similar to the Maine population in terms of income level and race/ethnicity. The Transformed Medicaid Statistical Information System (T-MSIS) may also be a source of comparison data for Maine demonstration enrollees.[6] The T-MSIS data set is evolving and currently contains enhanced

[4] Centers for Disease Control and Prevention. Behavioral and Clinical Characteristics of Persons with Diagnosed HIV Infection—Medical Monitoring Project, United States 2016 Cycle (June 2016–May 2017). Surveillance Special Report 21. Accessed on July 23, 2019 from https://www.cdc.gov/hiv/statistics/systems/mmp/resources.html.
[5] Transformed Medicaid Statistical Information System (T-MSIS). https://www.medicaid.gov/medicaid/data-and-systems/macbis/tmsis/index.html. Accessed December 9, 2019.

information about beneficiary eligibility, beneficiary and provider enrollment, service utilization, claims and managed care data, and expenditure data for Medicaid and CHIP. It is unclear what demographic characteristics and HIV status variables will be available for comparison with the Maine sample as the demonstration progresses. Given the 10-year period of performance for the demonstration, the state will explore data quality, completeness, and usability as T-MSIS matures further in the next 3-4 years. At that time, the state can provide CMS with an assessment of whether exploring T-MSIS still would seem to be a viable option for the state to pursue, and based on the state's assessment, CMS and the state can revisit the approach. When the demonstration is in the final years (Years 7 or 8), T-MSIS data will be requested and assessed for use as a comparison.

Within the Maine population, subgroup comparisons will be made where sufficient sample size is available to see if the rates of change over time differ by demographic characteristics such as age, gender, and mode of transmission. Given the length of time of the demonstration, it will allow for time series analysis to examine trends over time among PLWH in Maine. Newly diagnosed cases will be included each year and can be assessed separately to compare baseline to post-enrollment outcomes, however the sample size, approximately 40 newly diagnosed each year, will likely not allow for sufficient power to detect statistical differences. Finally, the state will identify a cohort of participants enrolled in the demonstration over an extended period of time to conduct a longitudinal analysis of within group changes in outcomes.

From the target population, a convenience sample of PLWH in Maine will be identified comprising those who have available data and respond to the member surveys each year. At the end of 2018, there were 774 demonstration participants and survey data were available for about half of these individuals (387 participants).[7] With sample sizes of 774 for administrative data outcomes and 387 for survey outcomes, sample proportions can be calculated with 4% and 5% margins of error and a 95% level of confidence (this assumes a population proportion of a given outcome is 50%, a conservative estimate). Based on the past five years of data, a growth rate for enrollees is estimated at 2.8% per year. Exhibit 5 displays the expected number of enrollees from which administrative data and survey data will be available, given 2.8% growth each year, which accounts for both newly enrolled as well as attrition.

Exhibit 5. Expected number of total expected demonstration participants each year.

Year	Number of total participants with administrative data (100% of enrollees)	Number of total participants with survey data (50% of enrollees)
2018	774	387
2019	796	398
2020	818	409
2021	841	421
2022	864	432
2023	888	444

[6] Office of Maine Care Services. Annual Report, HIV/AIDS 1115 Demonstration Project, (01/01/18 - 12/31/18).

2024	913	457
2025	938	469
2026	964	482
2027	991	496
2028	1019	510

EVALUATION PERIOD

The demonstration approval period is from April 19, 2019, through December 31, 2028. The demonstration evaluation will comprise data for each of the years from 2020 through 2028. An interim evaluation report comprising data through year 8 (April 2027) will be submitted in December 20, 2027 and the final report will be submitted 18 months after the end of the demonstration, June 30, 2029. See Appendix 3 for more details on the timeline of the demonstration and major milestones.

EVALUATION MEASURES

HIV is a mandatory reporting condition; therefore, the incidence and prevalence of positive test results are required to be reported to the CDC. The state accesses information from MaineCare claims and Maine CDC about primary care provider visits, emergency department (ED) visits, hospitalizations, prescription refills, HIV viral load and CD4 testing, opportunistic infections (OIs), and other items for demonstration participants. MaineCare also tracks contact with demonstration participants from nurse care managers and other staff and administers a member survey annually to demonstration participants via mail. This evaluation will include the examination of health outcomes as well as process measures to assess patients' access to routine care. Exhibit 6 describes the measures that will be used in the evaluation of the Maine HIV demonstration waiver including the type of measure, source, measure steward or reference, numerator and denominator.

Exhibit 6. Outcome and process measures for the evaluation of the Maine Section 1115 Demonstration Waiver

Measure Title	Description	Data Source	Numerator/ Denominator	Steward Ref# or code
Outcome measures				
All-cause emergency department (ED) visits[7]	Rate of emergency department (ED) visits per 1,000 enrollee months among enrollees. Each ED visit is counted once and visits that resulted in an inpatient stay are not included.	Administrative data	Number of all cause ambulatory ED Visits/ Eligible member months	NCQA AMB-HH
All-cause hospital admissions[7]	Rate of acute inpatient care and services (total, maternity, mental and behavioral disorders, surgery, and medicine) per 1,000 enrollee months.	Administrative data	Number of all cause hospital admissions/ Eligible member months	CMS IU-HH

Measure Title	Description	Data Source	Numerator/ Denominator	Steward Ref# or code
HIV viral load suppression[8]	Percentage of patients, regardless of age, with a diagnosis of HIV with a HIV viral load less than 200 copies/ml at last viral load test during the measurement year. Viral load is a marker of response to ART. The key goal of ART is to achieve and maintain durable viral suppression.	Administrative data	Number of enrollees with a HIV viral load less than 200 copies/mL at last HIV viral load test during the measurement year/ Number of enrollees with at least one medical visit in the measurement year	HRSA NQF #2082
General health status[9]	Self-assessed health status is a measure of how an individual perceives his or her health—rating it as excellent, very good, good, fair, or poor. Self-assessed health status has been validated as a useful indicator of health for a variety of populations and allows for broad comparisons across different conditions and populations.	Member survey	Number of enrollees in excellent or very good health/ All enrollees completing a survey in the measurement period	Healthy People 2020
Health-related Quality of Life [10,11]	The Healthy Days Measures are a brief set of survey-based questions designed to assess self-reported Health-related Quality of Life defined as "perceived physical and mental health over time." They include a core set of four questions that are scored to determine number of healthy and unhealthy days in a 30-day measurement period.	Member survey	Number of enrollees with more healthy days than unhealthy days in a given measurement period/ All enrollees completing a survey in the measurement period	Behavioral Risk Factor Surveillance System
Process measures				

[7] Core Set of Health Care Quality Measures for Medicaid Health Home Programs. https://www.medicaid.gov/state-resource-center/medicaid-state-technical-assistance/health-home-information-resource-center/downloads/FFY-19-HH-Core-Set-Manual.pdf. Accessed December 9, 2019.

[8] HIV/AIDS Bureau Performance Measures. 2019. https://hab.hrsa.gov/sites/default/files/hab/clinical-quality-management/coremeasures.pdf. Accessed December 9, 2019.

[9] Idler E, Benyamini Y. Self-rated health and mortality: A review of 28 studies. J Health Soc Behav. 1997;38(1):21–37.

[10] Moriarty D.G., Zack M.M., Kobau R. The Centers for Disease Control and Prevention's Healthy Days Measures-population tracking of perceived physical and mental health over time. Health Qual. Life Outcomes. 2003;1:37.

[11] Newschaffer CJ. *Validation of Behavioral Risk Factor Surveillance System (BRFSS) HRQOL measures in a statewide sample***.** Atlanta: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion; 1998

Measure Title	Description	Data Source	Numerator/ Denominator	Steward Ref# or code
HIV medical visit frequency[8]	Percentage of patients, regardless of age, with a diagnosis of HIV who had at least one medical visit in each 6-month period of the 24-month measurement period with a minimum of 60 days between medical visits. A medical visit is any visit in an outpatient/ambulatory care setting with a nurse practitioner, physician, and/or a physician assistant who provides comprehensive HIV care. Measurement period is 24 months.	Administrative data	Number of enrollees who had at least one medical visit in each 6-month period of the 24-month measurement period with a minimum of 60 days between first medical visit in the prior 6-month period and the last medical visit in the subsequent 6-month period/ Number of enrollees with at least one medical visit in the first 6 months of the 24-month measurement period	HRSA NQF#2079
Proportion of Days Covered (PDC) [12]	PDC is the percent of days in the measurement period "covered" by prescription claims for the same medication or medications in its therapeutic category. The antiretroviral medications measure requires a 90% threshold for ≥3 antiretroviral medications.	Administrative data	Percentage of enrollees who met the 90% threshold for medication adherence/ Enrollees dispensed at least 3 prescriptions for ART on 2 unique dates during the measurement year	Pharmacy Quality Alliance PDC-ARV2019
RNA Control for Patients with HIV (eCQM)	Percentage of patients aged 13 years and older with a diagnosis of HIV/AIDS, with at least two visits during the measurement year, with at least 90 days between each visit, whose most recent HIV RNA level is <200 copies/mL	Administrative data	Enrollees whose most recent HIV RNA level is <200 copies/mL during the measurement period/ All enrollees aged 13 years and older with at least two visits during the measurement year, with at least 90 days between each visit	CMS N/A

[12] PQA Measure Overview. 2019. https://pqa.memberclicks.net/assets/Measures/2019_PQA_Measure_Overview.pdf. Accessed July 25, 2019.

Measure Title	Description	Data Source	Numerator/ Denominator	Steward Ref# or code
Patient perception of accessibility of care[13]	Self-report of ability to obtain medical care, tests, or treatments they or a doctor believed were necessary, number of times they were unable to receive care, main barriers to care.	Member survey	Number of enrollees unable to receive necessary care/ All enrollees completing a survey in the measurement period	Medical Expenditure Panel Survey
Medication management[14]	The PROMIS measures assess self-efficacy for managing chronic conditions through 4 questions about the ability to obtain and comply with medication prescriptions.	Member survey	Number of enrollees unable to manage medications/ All enrollees completing a survey in the measurement period	Patient-Reported Outcomes Measurement Information System (PROMIS)

Provider Survey Data

To enhance the evaluation results, information gathered from health care providers will be assessed. A provider survey is administered annually via mail to infectious disease specialists and primary care providers who, at the time of the mailing, were treating demonstration participants. Questions ask about medical practice specialty, number of HIV/AIDS patients managed, provider awareness of current treatment guidelines and new recommendations for HIV/AIDS patients, barriers affecting adherence/compliance with medication, provider awareness of funding and training opportunities through the Maine AIDS Education and Training Center (MEAETC), provider awareness of the MaineCare HIV/AIDS waiver, provider awareness of the AIDS Drug Assistance Program (ADAP), and providers' preferences on receiving letters and updates via an HIV-specific listserv. These measures were developed by Maine and have been used for several years to assess programmatic data about the HIV demonstration waiver. These measures have not been validated and will therefore only be used for descriptive purposes.

Demographic and Other Characteristics

Demographic characteristics, including gender, primary mode of HIV transmission, race/ethnicity, housing stability and food security will be obtained either from administrative records or from member survey data for use in modeling to assess differences over time by demographic group. Differences will also be assessed based on other characteristics such as length of time since HIV diagnosis, length of time participating in the demonstration and whether or not the participant is a MaineCare member or waiver

[13] Zuvekas S et al, Validating Household Reports of Health Care Use in the Medical Expenditure Panel Survey Health Services Research 2009 oct 44(5 Pt1): 1679 – 1700.
[14] Gruber-Baldini AL et al Validation of the PROMIS measures of self-efficacy for managing chronic conditions, Quality of Life Research, 2017 Jul; 26(7) 1915 -1924.

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DATA SOURCES

All state-level administrative data will be obtained from the Maine Electronic HIV and AIDS Reporting System (eHARS) and MaineCare claims. The Ryan White Part B Program has been using CAREWare since 2004, including support of a statewide network that includes all Ryan White HIV/AIDS Program recipients in Maine since 2007. Additionally, member surveys are conducted each year. The member survey is sent to all demonstration participants who are enrolled at the time of the mailing and who have not previously opted out. The response rate for this survey is typically around 48%. If a 40% response rate is not achieved, a second survey is sent to members who did not respond to the first survey. Provider surveys are mailed to infectious disease specialists and primary care providers who, at the time of the mailing, are treating MaineCare and waiver members with HIV/AIDS. The response rate for this survey is typically around 37%.

All data will be inspected for consistency, missing values, and values outside of the expected ranges. Errors will be corrected, and clean datasets will be created for analysis using SAS Software for Windows Version 9.4.

National benchmarks will be determined based on the National Institute of Health's guidelines for treatment[15] and the CDC's Medical Monitoring Project[16] containing national surveillance data for HIV. Data will also be requested from the Transformed Medicaid Statistical Information System (T-MSIS) to potentially provide comparison data.

ANALYTIC METHODS

To compare outcomes from year to year in groups that may or may not contain the same population (repeated cross-sectional or time series design), regression modeling will be performed with year as a covariate. This type of modeling will allow for tracking changes over time cross-sectionally with different groups each year. The type of regression model (logistic, linear, Poisson) will depend on the format of the outcome variable. Demographic and other characteristics, such as length of time with HIV diagnosis and length of time in the demonstration will be included in the regression models and interactions with year will be examined to determine if the change over time varies based on certain characteristics. Relationships between measures, such as self-reported health status and routine medical visits will be analyzed with bi-variate methods appropriate for the data type (Chi-square tests, t-tests, Wilcoxon

[15] Panel on Antiretroviral Guidelines for Adults and Adolescents. Guidelines for the Use of Antiretroviral Agents in Adults and Adolescents with HIV. Department of Health and Human Services. Available at http://aidsinfo.nih.gov/contentfiles/lvguidelines/AdultandAdolescentGL.pdf. Section accessed July 25, 2019.

[16] Centers for Disease Control and Prevention. Behavioral and Clinical Characteristics of Persons with Diagnosed HIV Infection—Medical Monitoring Project, United States, 2016 Cycle (June 2016–May 2017). HIV Surveillance Special Report 21. https://www.cdc.gov/hiv/library/reports/hiv-surveillance.html. Published February 2019. Accessed July 1, 2019.

signed rank tests) and using regression modeling to control for demographic or other factors. To track changes over time within a cohort of individuals enrolled in the demonstration for an extended period, longitudinal modeling techniques, such as mixed models or generalized estimating equations will be used depending on the format of the outcome variable (discrete, continuous, non-normal). Complete case analysis will be used, therefore, any individuals missing data for one or more of the model variables will be excluded from analysis. This will provide the most conservative estimates; however, it cannot be assumed that data are missing completely at random (MCAR) and those with missing data may be different in other ways from those with complete data. Analyses will be performed using SPSS and SAS Software. For this evaluation, alpha levels of 0.05 or less will be considered significant. Exhibit 7 displays the overall evaluation design, including the research questions for each hypothesis, the outcome measures, sample population, data sources and analytic methods that will be used to evaluate each question.

Evaluation Design Table

Research Question	Outcome measures used to address the research question	Sample or population subgroups to be compared	Data Sources	Analytic Methods
Hypothesis 1 Improved access to continuous health care will lead more HIV waiver enrollees to seek routine care.				
1.1 What is the relationship between patients' perception of access to care and routine medical visits?	• Patient perception of accessibility of care • HIV medical visit frequency	Demonstration participants: Comparisons made between years and demographic characteristics	• Member survey • Administrative data	• Descriptive statistics • Time series modeling • Repeated measures modeling
1.2a. What percentage of demonstration participants are meeting CDC recommendations for viral load monitoring?	HIV viral load suppression	Demonstration participants: Comparisons made between years and demographic characteristics as well as to National Benchmarks	• Administrative data • CDC Medical Monitoring Project report	• Descriptive statistics • Time series modeling • Repeated measures modeling
1.2b. What percentage of patients are meeting the recommendations for HIV RNA control?	RNA Control for Patients with HIV (eCQM)	Demonstration participants: Comparisons made between years and demographic characteristics as well as to National Benchmarks	• Administrative data • CDC Medical Monitoring Project report	• Descriptive statistics • Time series modeling • Repeated measures modeling
1.2c. What percentage of demonstration participants are	Proportion of Days Covered (PDC)	Demonstration participants: Comparisons made between years and	• Administrative data	• Descriptive statistics • Time series modeling

Research Question	Outcome measures used to address the research question	Sample or population subgroups to be compared	Data Sources	Analytic Methods
meeting the threshold for medication adherence (Proportion of days covered)?		demographic characteristics as well as to National Benchmarks	• CDC Medical Monitoring Project report	• Repeated measures modeling
1.2d. What is the relationship between medication adherence and self-efficacy for medication management?	• Proportion of Days Covered (PDC) • Medication management	Demonstration participants: Comparisons made between years and demographic characteristics	• Administrative data • Member survey	• Descriptive statistics • Time series modeling • Repeated measures modeling
Hypothesis 2 Greater access to early, high quality care will slow disease progression in HIV waiver enrollees and improve overall health status.				
2.1 How have rates of emergency department (ED) visits and hospitalizations changed over time for demonstration participants?	• All-cause emergency department (ED) visits • All-cause hospital admissions	Demonstration participants: Comparisons made between years and demographic characteristics	Administrative data	• Descriptive statistics • Time series modeling • Repeated measures modeling
2.1a. What is the relationship between self-rated health status and acute health incidents, such as ED visits and hospitalizations?	• All-cause emergency department (ED) visits • All-cause hospital admissions • General health status	Demonstration participants: Comparisons made between years and demographic characteristics	• Administrative data • Member survey	• Descriptive statistics • Time series modeling • Repeated measures modeling

Research Question	Outcome measures used to address the research question	Sample or population subgroups to be compared	Data Sources	Analytic Methods
2.1b. Do those who meet treatment guidelines (routine visits, PDC threshold and HIV RNA control) have fewer acute health incidents (ED visits, hospitalizations)?	• All-cause emergency department (ED) visits • All-cause hospital admissions • HIV viral load suppression • RNA Control for Patients with HIV (eCQM) • Proportion of Days Covered (PDC)	Demonstration participants: Comparisons made between years and demographic characteristics	Administrative data	• Descriptive statistics • Time series modeling • Repeated measures modeling
Hypothesis 3 Decreased costs associated with disease prevention will allow more low-income individuals living with HIV access to high-quality care.				
3.1. How has enrollment of Mainers eligible for HIV services changed over time?	Enrollment numbers	Demonstration participants	Administrative data	• Descriptive statistics • Time series modeling • Repeated measures modeling
3.1a. What is the relationship between self-rated health status and health-related quality of life and length of participation in the demonstration?	• Length of time of participation • Health-related Quality of Life • General health status	Demonstration participants	• Member survey • Administrative data	• Descriptive statistics • Time series modeling

Methodological Limitations

Since the demonstration has been ongoing in Maine since 2002, a pre-post evaluation will not be possible among those already enrolled, however, newly diagnosed enrollees will be assessed to compare their baseline to post-enrollment outcomes, although the sample size may not allow sufficient power to detect differences. Additionally, almost all of the PLWH in Maine that are eligible to receive services under the demonstration are receiving services, therefore a reliable comparison group is not available in the state of Maine. Any PLWH who are eligible and not receiving benefits are likely the hardest to reach; therefore, they will not be available to provide reliable data. Furthermore, the

demographic characteristics of Maine (rural, predominately white) make it difficult to compare to national estimates, although options for data comparisons, including to T-MSIS data will be explored toward the end of the demonstration. Without a comparison group, it will not be possible to isolate the effect of the demonstration waiver from other programs present in Maine over the demonstration period. However, since Maine will have over 25 years of data by the end of the demonstration, it will be an excellent opportunity to longitudinally assess changes in disease progression among PLWH in Maine.

Attachments

1. Independent Evaluator
2. Evaluation Budget
3. Timeline
4. Member and provider surveys and sampling method

ATTACHMENT 1. INDEPENDENT EVALUATOR

Independent Evaluator Qualifications

Though there are no specific staffing requirements or qualifications, the following applies:

- Potential evaluation entities will be assessed on their relevant work experience, staff expertise, data management and analytic capacity, experience working with state agency program and research staff, proposed resource levels and availability of key staff, and the overall quality of their proposal.

Process for Obtaining an Independent Evaluator

DHHS has written procedures for purchasing services, which includes consulting and evaluation. As with other programmatic needs, the Department may contract for these services when there is a lack of expertise with existing resources or when there is sufficient urgency such that the existing staff cannot fit within their workload. Written procedures for purchasing provide guidance for all stages of the purchasing processing, including:

- Competitive procurement requirements;
- Waiver to competitive bids;
- General polices and guidance; and
- Detailed procedures for putting contracts into place and for making payments.

The procedures consider business need, availability of Department resources, value (fair and reasonable costs), competition, and sourcing nature.

Consultants are required to sign contracts, detailing services to be performed, dates of service, any deliverables including reports, and a payment schedule. Consultants may be required to sign no conflict of interest statements, if required. Consultants are also required to sign special agreements, called Business Associate Agreements, when they are viewing confidential department data, such as Protected Health Information (PHI). This additional document outlines the consultant's responsibilities should the

data be compromised.

Independent Capacity: In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider, shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

Employment and Personnel: The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 M.R.S.A. § 18 or 17 M.R.S.A. § 3104. The Provider shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

State Employees not to Benefit: No individual employed by the State at the time this Agreement is executed, or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise there from directly or indirectly that would constitute a violation of 5 M.R.S.A. § 18 or 17 M.R.S.A. § 3104. No other individual employed by the State at the time this Agreement is executed, or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise there from directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

Conflict of Interest: The Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Provider further covenants that in the performance of this Agreement, no person having any such known interests shall be employed.

ATTACHMENT 2. EVALUATION BUDGET

Listed below are the proposed tasks, staffing and costs for the evaluation budget. The budget is based on estimated costs to be incurred by the State of Maine and an external evaluator selected to assist with evaluation efforts.

Evaluation Budget Tasks

Project Management: External evaluator activities for this task include at least quarterly meetings with the State of Maine, operational support for administering the evaluation contract, emails and phone conferences, and additional duties as needed. A total of 100 hours annually for this task are estimated in years 2020 through 2026 while 200 hours annually are planned in years 2027 through 2030.

Instrument Design and Data Collection: In years 2020 through 2028, the State of Maine will spend an estimated 150 hours annually on instrument design and data collection. This estimate includes the design and data collection related to the annual member and provider surveys.

IRB Approval: The research-based approach of this evaluation requires review and approval by an Institutional Review Board (IRB). Approval is typically granted at the start of the project and renewed annually until data collection is completed. The cost for the annual IRB review is estimated at $2,000 in the first year and external evaluator time to assemble IRB packages is estimated at 80 hours in 2020 and 40 hours in years 2021 through 2028.

Data Cleaning / Analysis: In years 2020 through 2026, the external evaluator will spend an estimated 60 hours annually to compile clean and analyze data collected during that year for an annual monitoring report for the State of Maine. In years 2027 through 2029, the external evaluator will be cleaning and analyzing data for the interim and final reports to be submitted to CMS; 200 hours per year are estimated for the external evaluator to complete these activities.

Reporting: In years 2020 through 2026, the external evaluator will spend an estimated 50 hours annually to complete an annual monitoring report for the State of Maine. In years 2027 through 2030, the external evaluator will be writing and revising interim and final reports to be submitted to CMS; 150 hours per year are estimated for the external evaluator to complete these activities.

Staffing

The external evaluator would utilize the following general staff classifications during the course of the project:

- Project Manager
- Subject Matter Expert Consultant
- Senior Analyst
- Junior Analyst
- Operations Manager

Evaluation Budget Costs

Grand total for entire demonstration over 10 years: $660,993

There is a 3% increase from year-to-year to accommodate cost-of-living / inflation costs over time.

Task	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Project Management	$13,000	$13,390	$13,792	$14,206	$14,632	$15,071	$15,523	$31,978	$32,938	$33,926	$34,944
Instrument Design and Data Collection	$5,631	$5,799	$5,973	$6,153	$6,337	$6,527	$6,723	$6,925	$7,133		
IRB Approval	$12,400	$7,416	$7,639	$7,868	$8,105	$8,348	$8,599	$8,858	$9,124		
Data Cleaning and Analysis	$7,800	$8,034	$8,275	$8,524	$8,779	$9,043	$9,314	$31,978	$32,938	$33,926	
Reporting	$6,500	$6,695	$6,896	$7,103	$7,316	$7,536	$7,762	$19,986	$20,586	$21,204	$21,840
Total	**$45,331**	**$41,334**	**$42,575**	**$43,854**	**$45,169**	**$46,525**	**$47,921**	**$99,725**	**$102,719**	**$89,056**	**$56,784**

ATTACHMENT 3. TIMELINE AND MAJOR MILESTONES

The demonstration approval period is from April 19, 2019, through December 31, 2028. The demonstration evaluation will comprise data for each of the years from 2020 through 2028. Exhibit 8 displays the timeline for the demonstration period including data collection, evaluation, reporting and demonstration milestones.

Timeline and Major Milestones.

	2019	2020-2026	2027	2028	2029	2030
Data collection	• Provider survey • Member survey • Administrative data	• Annual Provider survey • Annual Member survey • Administrative data	• Provider survey • Member survey • Administrative data	• Provider survey • Member survey • Administrative data		
Evaluation activities	• Creation of the evaluation design • State to begin process for procurement of an outside contractor	• Cross-sectional analysis of Annual data • State to execute and award contract with outside contractor	Longitudinal analysis of years 2019-2026		Longitudinal analysis of years 2019-2028	
Reporting	Submission of evaluation design to CMS	Annual Monitoring report	**Dec 20: Interim evaluation report**			**Jun 30: Final evaluation report submitted to CMS**
Demonstration milestones	**Apr: Section 1115 HIV waiver Demonstration extension begins**			**Dec: Section 1115 HIV waiver Demonstration ends**		

ATTACHMENT 4. MEMBER AND PROVIDER SURVEYS AND SAMPLING METHOD

Member Survey

Annually, MaineCare sends a survey to all members and enrollees who are part of the demonstration. The purpose of this survey is to gain feedback on members' ability to obtain services, their experiences and satisfaction with MaineCare and other providers (specifically their targeted case manager), their health status, living situation, food, and access to care and medications. These surveys are coded so MaineCare can identify members who may need follow up to address concerns, remove barriers, and linked to needed services.

Provider Survey

Annually, MaineCare sends a survey to all infectious disease specialists and primary care providers who, at the time of the mailing, are treating demonstration members and enrollees. This survey is used as a tool to determine areas of weakness within the delivery of healthcare services. Survey questions address topics such as awareness of current treatment guidelines and new recommendations, barriers affecting medication adherence and compliance, awareness of the Maine AIDS Education and Training Center, the MaineCare waiver, and the AIDS Drug Assistance Program.

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 18-0008 Approved: 09/28/2018 Effective: 01/01/2019	**STATE**: New Hampshire Cost Sharing, Granite Advantage
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G2c - Cost Share Targeting, Page 1 G3 - Cost Sharing Limitations, Pages 1-5	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If applicable):** G2c-Cost Share Targeting, Pages 1-2, TN 18-0003 G3-Cost Sharing Limitations, Pages 1-5, TN 16-0002

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 18-0003 Approved 06-01-2018 Effective 01/01/2018	**STATE:** New Hampshire Medicaid Premiums Cost Share SPAs
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G2c – Cost Sharing Amounts – Targeted – Pages G2c-1 to 2	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:** G2c – Cost Sharing Amounts –Targeted – Pages G2c-1 to 2, TN 17-0002

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 17-0002 Approved 05/26/2017 Effective 01/01/2017	**STATE:** New Hampshire Medicaid Premiums Cost Share SPAs
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G2c-1 to G2c-2	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:** SS G2c-1 and G2c-2, TN 16-0002

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 16-0002 Approved 09/27/2016 Effective 01/01/2016	**STATE:** New Hampshire Medicaid Premiums Cost Share SPAs
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G2a-1 G2a-2 - NEW G2c-1 to G2c-2 G3-1 to G3-5	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:** G2a-1, TN 14-0006 G2c-a to G2c-2, TN 14-0015, G2c-3 to G2c-6 TN 14-0015 Removed. Pages G3-1 to G3-5, TN 14-0006

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 14-0015 Approved 03/20/2015 Effective 11/01/2014	**STATE:** New Hampshire Medicaid Premiums Cost Share SPAs
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G2c, Pages G2c-1 to G2c-2 Pages G2c-3 to G2c-6 NEW	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:** G2c Pages G2c-1 to G2c-2, TN 14-0006

SUPERSEDING PAGES OF STATE PLAN MATERIAL	
TRANSMITTAL NUMBER: 14-0006 Approved 07/01/2014 Effective 07/01/2014	**STATE:** New Hampshire Medicaid Premiums Cost Share SPAs
PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: G1- Cost Sharing Requirements – Pages G1-1 to G1-2 G2a – Cost Sharing Amounts – Cat Needy – Page G2a-1 G2b – Cost Sharing Amounts – Med Needy – Page G2b-1 G2c – Cost Sharing Amounts – Targeted – Pages G2c-1 to 2 G3 – Cost Sharing Limitations – Pages G3-1 to G3-5 Section 4 – Pages 54, 55, 56, 56a, reserved TN 14-0006 Section 5 – Pages 56c, 56d, 56e, 56f, reserved TN 14-0006	**PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:** Attachment 4.18-A, Pages 1-3, TN 04-002, 85-12, 85-12 Attachment 4.19-C, Pages 1-3, TN 04-002, 85-12, 86-12 Section 4 – Pages 54-56a, TN 91-23 Section 4 – Pages 56c-56f, TN 91-23

Medicaid Premiums and Cost Sharing

State Name: New Hampshire

Transmittal Number: NH - 14 - 0006

OMB Control Number: 0938-1148

Expiration date: 10/31/2014

Cost Sharing Requirements — G1

1916
1916A
42 CFR 447.50 through 447.57 (excluding 447.55)

The state charges cost sharing (deductibles, co-insurance or co-payments) to individuals covered under Medicaid. Yes

☑ The state assures that it administers cost sharing in accordance with sections 1916 and 1916A of the Social Security Act and 42 CFR 447.50 through 447.57.

General Provisions

☑ The cost sharing amounts established by the state for services are always less than the amount the agency pays for the service.

■ No provider may deny services to an eligible individual on account of the individual's inability to pay cost sharing, except as elected by the state in accordance with 42 CFR 447.52(e)(1).

■ The process used by the state to inform providers whether cost sharing for a specific item or service may be imposed on a beneficiary and whether the provider may require the beneficiary to pay the cost sharing charge, as a condition for receiving the item or service, is (check all that apply):

☒ The state includes an indicator in the Medicaid Management Information System (MMIS)

☐ The state includes an indicator in the Eligibility and Enrollment System

☒ The state includes an indicator in the Eligibility Verification System

☐ The state includes an indicator on the Medicaid card, which the beneficiary presents to the provider

☐ Other process

■ Contracts with managed care organizations (MCOs) provide that any cost-sharing charges the MCO imposes on Medicaid enrollees are in accordance with the cost sharing specified in the state plan and the requirements set forth in 42 CFR 447.50 through 447.57.

Cost Sharing for Non-Emergency Services Provided in a Hospital Emergency Department

The state imposes cost sharing for non-emergency services provided in a hospital emergency department. No

Cost Sharing for Drugs

The state charges cost sharing for drugs. Yes

The state has established differential cost sharing for preferred and non-preferred drugs. Yes

■ The state identifies which drugs are considered to be non-preferred.

Medicaid Premiums and Cost Sharing

☑ The state assures that it has a timely process in place to limit cost sharing to the amount imposed for a preferred drug in the case of a non-preferred drug within a therapeutically equivalent or similar class of drugs, if the individual's prescribing provider determines that a preferred drug for treatment of the same condition either will be less effective for the individual, will have adverse effects for the individual, or both. In such cases, reimbursement to the pharmacy is based on the appropriate cost sharing amount.

Beneficiary and Public Notice Requirements

☑ Consistent with 42 CFR 447.57, the state makes available a public schedule describing current cost sharing requirements in a manner that ensures that affected applicants, beneficiaries and providers are likely to have access to the notice. Prior to submitting a SPA which establishes or substantially modifies existing cost sharing amounts or policies, the state provides the public with advance notice of the SPA, specifying the amount of cost sharing and who is subject to the charges, and provides reasonable opportunity for stakeholder comment. Documentation demonstrating that the notice requirements have been met are submitted with the SPA. The state also provides opportunity for additional public notice if cost sharing is substantially modified during the SPA approval process.

Other Relevant Information

V.20140114

Medicaid Premiums and Cost Sharing

State Name: New Hampshire

Transmittal Number: NH - 16 - 0002

OMB Control Number: 0938-1148

Expiration date: 10/31/2014

Cost Sharing Amounts - Categorically Needy Individuals — G2a

1916
1916A
42 CFR 447.52 through 54

The state charges cost sharing to all categorically needy (Mandatory Coverage and Options for Coverage) individuals. Yes

Services or Items with the Same Cost Sharing Amount for All Incomes

	Service or Item	Amount	Dollars or Percentage	Unit	Explanation	
+						X

Services or Items with Cost Sharing Amounts that Vary by Income

Service or Item: Prescription Drugs — Remove Service or Item

Indicate the income ranges by which the cost sharing amount for this service or item varies.

	Incomes Greater than	Incomes Less than or Equal to	Amount	Dollars or Percentage	Unit	Explanation	
+	100 percent FPL		1.00	$	Prescription	Preferred Prescriptions fills	X
+	100 percent FPL		2.00	$	Prescription	Non-preferred prescription fills	X

Add Service or Item

Cost Sharing for Non-preferred Drugs Charged to Otherwise Exempt Individuals

If the state charges cost sharing for non-preferred drugs (entered above), answer the following question:

The state charges cost sharing for non-preferred drugs to otherwise exempt individuals. No

Cost Sharing for Non-emergency Services Provided in the Hospital Emergency Department Charged to Otherwise Exempt Individuals

If the state charges cost sharing for non-emergency services provided in the hospital emergency department (entered above), answer the following question:

The state charges cost sharing for non-emergency services provided in the hospital emergency department to otherwise exempt individuals. No

Medicaid Premiums and Cost Sharing

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

V.20140415

Medicaid Premiums and Cost Sharing

State Name: New Hampshire

Transmittal Number: NH - 14 - 0006

OMB Control Number: 0938-1148

Expiration date: 10/31/2014

Cost Sharing Amounts - Medically Needy Individuals	G2b
1916 1916A 42 CFR 447.52 through 54	
The state charges cost sharing to all medically needy individuals.	No

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

V.20140116

Medicaid Premiums and Cost Sharing

State Name: New Hampshire

OMB Control Number: 0938-1148

Transmittal Number: NH - 18 - 0008

Cost Sharing Amounts - Targeting	G2c
1916 1916A 42 CFR 447.52 through 54	
The state targets cost sharing to a specific group or groups of individuals.	No

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

V.20160722

Medicaid Premiums and Cost Sharing

State Name: New Hampshire

OMB Control Number: 0938-1148

Transmittal Number: NH - 18 - 0008

Cost Sharing Limitations — G3

42 CFR 447.56
1916
1916A

☑ The state administers cost sharing in accordance with the limitations described at 42 CFR 447.56, and 1916(a)(2) and (j) and 1916A(b) of the Social Security Act, as follows:

Exemptions

Groups of Individuals - Mandatory Exemptions

The state may not impose cost sharing upon the following groups of individuals:

■ Individuals ages 1 and older, and under age 18 eligible under the Infants and Children under Age 18 eligibility group (42 CFR 435.118).

■ Infants under age 1 eligible under the Infants and Children under Age 18 eligibility group (42 CFR 435.118), whose income does not exceed the higher of:

- ■ 133% FPL; and
- ■ If applicable, the percent FPL described in section 1902(l)(2)(A)(iv) of the Act, up to 185 percent.

■ Disabled or blind individuals under age 18 eligible for the following eligibility groups:

- ■ SSI Beneficiaries (42 CFR 435.120).
- ■ Blind and Disabled Individuals in 209(b) States (42 CFR 435.121).
- ■ Individuals Receiving Mandatory State Supplements (42 CFR 435.130).

■ Children for whom child welfare services are made available under Part B of title IV of the Act on the basis of being a child in foster care and individuals receiving benefits under Part E of that title, without regard to age.

■ Disabled children eligible for Medicaid under the Family Opportunity Act (1902(a)(10)(A)(ii)(XIX) and 1902(cc) of the Act).

■ Pregnant women, during pregnancy and through the postpartum period which begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends, except for cost sharing for services specified in the state plan as not pregnancy-related.

■ Any individual whose medical assistance for services furnished in an institution is reduced by amounts reflecting available income other than required for personal needs.

■ An individual receiving hospice care, as defined in section 1905(o) of the Act.

■ Indians who are currently receiving or have ever received an item or service furnished by an Indian health care provider or through referral under contract health services.

■ Individuals who are receiving Medicaid because of the state's election to extend coverage to the Certain Individuals Needing Treatment for Breast or Cervical Cancer eligibility group (42 CFR 435.213).

Medicaid Premiums and Cost Sharing

Groups of Individuals - Optional Exemptions

The state may elect to exempt the following groups of individuals from cost sharing:

The state elects to exempt individuals under age 19, 20 or 21, or any reasonable category of individuals 18 years of age or over.	No
The state elects to exempt individuals whose medical assistance for services furnished in a home and community-based setting is reduced by amounts reflecting available income other than required for personal needs.	Yes

Services - Mandatory Exemptions

The state may not impose cost sharing for the following services:

- ■ Emergency services as defined at section 1932(b)(2) of the Act and 42 CFR 438.114(a).
- ■ Family planning services and supplies described in section 1905(a)(4)(C) of the Act, including contraceptives and pharmaceuticals for which the state claims or could claim federal match at the enhanced rate under section 1903(a)(5) of the Act for family planning services and supplies.
- ■ Preventive services, at a minimum the services specified at 42 CFR 457.520, provided to children under 18 years of age regardless of family income, which reflect the well-baby and well child care and immunizations in the Bright Futures guidelines issued by the American Academy of Pediatrics.
- ■ Pregnancy-related services, including those defined at 42 CFR 440.210(a)(2) and 440.250(p), and counseling and drugs for cessation of tobacco use. All services provided to pregnant women will be considered pregnancy-related, except those services specificially identified in the state plan as not being related to pregnancy.
- ■ Provider-preventable services as defined in 42 CFR 447.26(b).

Enforceability of Exemptions

The procedures for implementing and enforcing the exemptions from cost sharing contained in 42 CFR 447.56 are (check all that apply):

- ■ To identify that American Indians/Alaskan Natives (AI/AN) are currently receiving or have ever received an item or service furnished by an Indian health care provider or through referral under contract health services in accordance with 42 CFR 447.56(a)(1)(x), the state uses the following procedures:
  - ☒ The state accepts self-attestation
  - ☐ The state runs periodic claims reviews
  - ☐ The state obtains an Active or Previous User Letter or other Indian Health Services (IHS) document
  - ☐ The Eligibility and Enrollment and MMIS systems flag exempt recipients
  - ☐ Other procedure

  Additional description of procedures used is provided below (optional):

  The state will rely on the following question in the single streamlined application: "Has this person ever gotten a service from the Indian Health Service, a tribal health program, or urban Indian Health Program, or through a referral from one of these programs?" Any individual who answers "yes" will be exempt from cost-sharing.

- ■ To identify all other individuals exempt from cost sharing, the state uses the following procedures (check all that apply):

☒ The MMIS system flags recipients who are exempt

☐ The Eligibility and Enrollment System flags recipients who are exempt

☐ The Medicaid card indicates if beneficiary is exempt

☒ The Eligibility Verification System notifies providers when a beneficiary is exempt

☐ Other procedure

Additional description of procedures used is provided below (optional):

Members that have cost sharing are flagged with an indicator which includes the date span to which the cost sharing applies. It is possible for a member to have multiple cost sharing spans with different dates due to tracking of cost sharing, which occurs quarterly. This indicator and date spans are sent from the New HEIGHTS eligibility system to the MMIS. The MMIS stores this information and sends it to out managed care organizations and to our PBM for use in claims payment. Through EVS (electronic verification), providers are able to identify if the member has a cost sharing responsibility.

Payments to Providers

☑ The state reduces the payment it makes to a provider by the amount of a beneficiary's cost sharing obligation, regardless of whether the provider has collected the payment or waived the cost sharing, except as provided under 42 CFR 447.56(c).

Payments to Managed Care Organizations

The state contracts with one or more managed care organizations to deliver services under Medicaid. Yes

☑ The state calculates its payments to managed care organizations to include cost sharing established under the state plan for beneficiaries not exempt from cost sharing, regardless of whether the organization imposes the cost sharing on its recipient members or the cost sharing is collected.

Aggregate Limits

☑ Medicaid premiums and cost sharing incurred by all individuals in the Medicaid household do not exceed an aggregate limit of 5 percent of the family's income applied on a quarterly or monthly basis.

■ The percentage of family income used for the aggregate limit is:

◉ 5%

○ 4%

○ 3%

○ 2%

○ 1%

○ Other: ____ %

■ The state calculates family income for the purpose of the aggregate limit on the following basis:

◉ Quarterly

○ Monthly

The state has a process to track each family's incurred premiums and cost sharing through a mechanism that does not rely on beneficiary documentation. Yes

■ Describe the mechanism by which the state tracks each family's incurred premiums and cost sharing (check all that apply):

☒ As claims are submitted for dates of services within the family's current monthly or quarterly cap period, the state applies the incurred cost sharing for that service to the family's aggregate limit. Once the family reaches the aggregate limit, based on incurred cost sharing and any applicable premiums, the state notifies the family and providers that the family has reached their aggregate limit for the current monthly or quarterly cap period, and are no longer subject to premiums or cost sharing.

☒ Managed care organization(s) track each family's incurred cost sharing, as follows:

For members enrolled in an MCO subject to copayment, cost sharing is limited to prescriptions. As claims are submitted for prescriptions filled within the family's current quarterly cap period, the MCO's PBM applies the incurred cost sharing for those prescriptions to the family's aggregate limit. The MCOs transmit weekly data files with the quarterly copayment information by member through fiscal agent's Electronic Data Interchange Gateway, a secure file transfer protocol (SFTP) server. The New Heights application produces a weekly report identifying household members and mailing addresses which is also sent via SFTP. Copayment and member data from all sources are uploaded into an Access database, which consolidates copayments by member and by household. Members and households that exceed the quarterly out of pocket limit are identified through Access queries.

☐ Other process:

■ Describe how the state informs beneficiaries and providers of the beneficiaries' aggregate family limit and notifies beneficiaries and providers when a beneficiary has incurred premiums and cost sharing up to the aggregate family limit and individual family members are no longer subject to premiums or cost sharing for the remainder of the family's current monthly or quarterly cap period:

The eligibility and enrollment system, New Heights, will remove the signifier of copay from the member files when the family's aggregate limit has been reached. This information is sent to MMIS and then to the FFS PBM and to the MCOs to suppress copayment for the remainder of the quarter. Providers will continue to check MMIS for eligibility and will see that there is no copay for that member during the remainder of the quarter. Since copay tracking is being performed by the MCO's PBM to incurred cost sharing for prescriptions to the family's aggregate limit, if the MCO PBM identifies a member reaching the quarterly cap limit, the PBM will suppress copay, and DHHS will notify the member that the copay quarterly cap has been reached. DHHS' Access Database receives reports from the MCOs and the FFS PBM and will notify New Heights to suppress copay when the member has reached the aggregate limit. DHHS' Access Database also sends a notification to members who reach the family's aggregate limit.

The state has a documented appeals process for families that believe they have incurred premiums or cost sharing over the aggregate limit for the current monthly or quarterly cap period. No

■ Describe the process used to reimburse beneficiaries and/or providers if the family is identified as paying over the aggregate limit for the month/quarter:

The beneficiary may bring receipts to the Medicaid agency to demonstrate that they paid cost-sharing in excess of the aggregate limit for the quarter. The Medicaid agency will review the receipts and reimburse beneficiaries for any amount above the aggregate limit.

■ Describe the process for beneficiaries to request a reassessment of their family aggregate limit if they have a change in circumstances or if they are being terminated for failure to pay a premium:

At any time, enrollees may notify the Medicaid agency of a change in income or other circumstances that might change their aggregate cost-sharing limit. Once a beneficiary notifies the Medicaid agency of such change, the Medicaid agency will review the updated information and change aggregate limits, if necessary.	
The state imposes additional aggregate limits, consistent with 42 CFR 447.56(f)(5).	No

PRA Disclosure Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-1148. The time required to complete this information collection is estimated to average 40 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

V.20160722

State/Territory: New Hampshire

(Reserved)

State/Territory: New Hampshire

(Reserved)

State/Territory: New Hampshire

(Reserved)

State/Territory: New Hampshire

(Reserved)

State/Territory: New Hampshire

(Reserved)

State/Territory: New Hampshire

(Reserved)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New Hampshire

A. The following charges are imposed on the categorically needy for services other than those provided under Section 1905(a)(1) through (5) and (7) of the Act:

Service	Type of Charge			Amount and Basis for Determination
	Deductible	Coinsurance	Copayment	

Attachment 4.18-A, Page 1- to be removed from state plan, supersedes 04-002

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: New Hampshire

Attachment 4.18-A, Page 2 - to be removed from state plan, supersedes 85-12

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: New Hampshire

Attachment 4.18-A, Page 3 - to be removed from state plan, supersedes 85-12

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: New Hampshire

A. The following charges are imposed on the categorically needy for services other than those provided under Section 1905(a)(1) through (5) and (7) of the Act:

Service	Type of Charge			Amount and Basis for Determination
	Deductible	Coinsurance	Copayment	

Attachment 4.18-C, Page 1 - to be removed from state plan, supersedes 04-002

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: New Hampshire

Attachment 4.18-C, Page 2 - to be removed from state plan, supersedes 85-12

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: New Hampshire

Attachment 4.18-C, Page 3 - to be removed from state plan, supersedes 85-12

TABLE OF CONTENTS

7.100.1 Developmental Disabilities Services Purpose and Scope (03/01/2023, GCR 23-024)

(a) The purpose of these regulations is to fulfill the requirements of the Developmental Disabilities Act of 1996 (DD Act) (18 V.S.A Chapter 204A) to include specific details for implementation of the Act. These rules are adopted pursuant to 18 V.S.A. § 8726.

(b) The Developmental Disabilities Services program operates within the State's Global Commitment to Health 1115 Waiver, providing long-term services and supports to individuals with developmental disabilities.

(c) The Program is subject to approval by the Centers for Medicare and Medicaid Services (CMS) and is managed in compliance with CMS terms and conditions of participation.

7.100.2 Definitions

The following terms are defined for the purpose of these regulations.

(a) **"Adult"** means a person age 18 or older. The term includes people age 18 or older who attend school.

(b) **"Agency"** means the responsible designated agency or specialized service agency.

(c) **"Applicant"** means a person who files a written application for services, supports or benefits in accordance with 7.100.5 of these regulations. If the applicant is a guardian or family member or a designated agency, the term "applicant" also includes the person with a developmental disability.

(d) **"Authorized Funding Limit"** (AFL) means all funding related to an individual's home and community-based services budget, including the administration amount available to transfer (as specified in division policy), but does not include: funding for state and local crisis services, the employment program base and statewide communication resources.

(e) "**Authorized Representative"** means an individual or organization, either appointed, by an applicant or beneficiary, or authorized under State or other applicable law, to act on behalf of the applicant or beneficiary in assisting with the application and renewal of eligibility, the internal appeal, grievance, or State fair hearing processes, and in all other matters with the Department, as permitted under 42 CFR § 435.923. Unless otherwise stated in law, the authorized representative has the same rights and responsibilities as the applicant or beneficiary in obtaining a benefit determination and in dealing with the internal appeal, grievance, and State fair hearing processes.

(f) **"Certification"** means the process by which the Department of Disabilities, Aging, and Independent Living determines whether a provider meets minimum standards for receiving funds it administers to provide services or supports to people with developmental disabilities.

(g) **"Certified provider"** means an agency that has as one of its primary purposes to deliver services and supports for people who have developmental disabilities and that currently is certified by the Department of Disabilities, Aging and Independent Living in accordance with 7.100.11 of these regulations.

(h) **"Clinical Services"** means assessment; individual, family and group therapy; and medication or medical services provided by clinical or medical staff, including a qualified clinician, therapist, psychiatrist, or nurse. Clinical Services are medically necessary services and equipment (such as dentures, eyeglasses, assistive technology) that cannot be accessed through the Medicaid State Plan.

(i) **"Commissioner"** means the Commissioner of the Department of Disabilities, Aging, and Independent Living.

(j) **"Community Supports"** means support provided to assist individuals to develop skills and social connections. The supports may include teaching and/or assistance in daily living, support to participate in community activities, and building and sustaining healthy personal, family and community relationships. Community Supports may involve individual supports or group supports (two or more people). Community supports includes transportation to access the community. Supports must be provided in accordance with the desires of the individual and their Individual Support Agreement and take place within settings that afford opportunities for choice and inclusion that are consistent with federal home and community-based services rules.

(k) **"Crisis Services"** means time-limited, intensive supports provided for individuals who are currently experiencing, or may be expected to experience, a psychological, behavioral, or emotional crisis. Crisis Services may include crisis assessment, support and referral or crisis beds and may be individualized, regional, or statewide.

(l) **"Day"** means calendar day, not business day, unless otherwise specified.

(m) **"Department"** means the Department of Disabilities, Aging, and Independent Living.

(n) **"Designated Agency"** (DA) means an agency designated by the Department, pursuant to 18 V.S.A. § 8907, and the regulations implementing that law, to oversee, provide and ensure the delivery of services and/or service authorizations for eligible individuals with developmental disabilities in an identified geographic area of the state. The requirements for being a DA are explained in the Department's *Administrative Rules on Agency Designation*.

(o) **"Developmental Disability"** (DD) means an intellectual disability or an autism spectrum disorder which occurred before age 18 and which results in significant deficits in adaptive behavior that manifested before age 18 (See 7.100.3). Temporary deficits in cognitive functioning or adaptive behavior as the result of severe emotional disturbance before age 18 are not a developmental disability. The onset after age 18 of impaired intellectual or adaptive functioning due to drugs, accident, disease, emotional disturbance, or other causes is not a developmental disability.

(p) **"Division"** means the Developmental Disabilities Services Division (DDSD) within the Department.

(q) **"Employment Supports"** means support provided to assist transition age youth and adults in Establishing and achieving work and career goals. Employment supports include assessment, employer and job development, job training and ongoing support to maintain a job, and may include environmental modification, adaptive equipment, and transportation, as necessary.

(r) **"Family"** means a group of individuals that includes a person with a developmental disability and that is related by blood, marriage, or adoption or that considers itself a family based upon bonds of affection, which means enduring ties that do not depend upon the existence of an economic relationship.

(s) **"Fiscal/Employer Agent"** (F/EA**)** means an organization that is:

(1) Qualified under Internal Revenue Service rules to pay taxes and provide payroll services for employers as a fiscal agent; and

(2) Under contract with the Department to handle payroll duties for shared living providers who hire workers and recipients or families who choose to self/family-manage or share-manage services.

(t) **"Global Commitment to Health Section 1115 Demonstration ("Demonstration")"** means the Section 1115 Demonstration under which the Federal government waives certain Medicaid coverage and eligibility requirements found in Title XIX of the Social Security Act.

(u) **"Home and Community-Based Services"** (HCBS) means an array of long term services developed to support individuals to live and participate in their home and community rather than in an institutional setting, consistent with Centers for Medicare and Medicaid Services (CMS) federal HCBS Rules.

(v) **"Home Supports"** means services, supports and supervision provided for individuals in and around their residences up to 24 hours a day, seven days a week (24/7). Services include support for individuals to acquire and retain life skills and improve and maintain opportunities and experiences for individuals to be as independent as possible in their home and community. Services include maintaining health and safety and home modifications required for accessibility related to an individual's disability, including cost-effective technology that promotes safety and independence in lieu of paid direct support. Home supports must be in compliance with HCBS rules which emphasize choice, control, privacy, tenancy rights, autonomy, independence and inclusion in the community.

(w) **"Individual"** means a young child, a school-age child or an adult with a developmental disability.

(x) **"Individual Support Agreement"** (ISA) means the agreement between an individual and an agency or Supportive Intermediary Service Organization that describes the plan of services and supports.

(y) **"In-service training"** means training that occurs after a worker has been employed or is under contract. In-service training is intended to promote professional development and increase skills and knowledge.

(z) **"Network"** means providers enrolled in the Vermont Medicaid program who are designated by the Commissioner to provide or arrange developmental disabilities services and who provide services on an ongoing basis to recipients.

(aa) **"Pre-service training"** means training that occurs before workers are alone with a person with developmental disabilities.

(bb) **"Provider"** means a person, facility, institution, partnership, or corporation licensed, certified or authorized by law to provide health care service to a recipient during that individual's medical care, treatment or confinement. A provider cannot be reimbursed by Medicaid unless they are enrolled with Medicaid; however, a provider may enroll to serve only a specific recipient. A shared living provider, employee of a shared living provider, or an individual or family that self/family-manages services is not a provider for purposes of these regulations.

(cc) **"Psychologist"** means a person licensed to practice psychology in the state where the evaluation occurred.

(dd) **"Qualified Developmental Disabilities Professional"** (QDDP) means a person who meets the Department's qualifications as specified in Department policy for education, knowledge, training, and experience in supporting people with developmental disabilities and their families.

(ee) **"Recipient"** means a person who meets the criteria contained in these regulations, and who has been authorized to receive funding or services, or a family that has been approved to receive funding or services under criteria specified in these regulations.

(ff) **"Resident"** means a person who is physically present in Vermont and intends to remain in Vermont and to make his or her home in Vermont, except a resident may also be:

(1) A person placed in an out of state institution, as defined by Health Benefits Eligibility and Enrollment (HBEE) Rule 3.00, by a department of the State of Vermont, or

(2) A person placed and supported in an unlicensed home in an adjoining state by a Vermont agency, or

(3) A person who meets criteria listed in 7.100.4 (b).

(gg) **"Respite Supports"** means alternative caregiving arrangements for family members or shared living providers/foster families and the individual being supported, on an intermittent or time limited basis, because of the absence of or need for relief of those persons normally providing the care to the individual, when the individual needs the support of another caregiver.

(hh) **School-age child"** means a child age 6 and younger than age 18.

(ii) **"Self/family-managed"** services means the recipient or his or her family plans, establishes, coordinates, maintains, and monitors all developmental disabilities services and manages the recipient's budget within federal and state guidelines.

(jj) **"Self/family-managed worker"** means a person who is employed or contracted and directed by a recipient or by a family member and paid with Department funds to provide supports or services for the recipient.

(kk) **"Service"** means a benefit:

(1) Covered under the Global Commitment to Health Section 1115 Demonstration as set out in the Special Terms and Conditions approved by CMS,
(2) Included in the State Medicaid Plan if required by CMS,
(3) Authorized by state regulation or law, or
(4) Identified in the Intra-governmental Agreement (IGA) between DVHA and the Agency of Human Services (AHS), DVHA and the departments within AHS, or DVHA and the Agency of Education for the administration and operation of the Global Commitment to Health Section 1115 Demonstration.

(ll) **"Service Coordination"** means assistance to recipients in planning, developing, choosing, gaining access to, coordinating and monitoring the provision of needed services and supports for a specific individual. Service Coordination responsibilities include:

(1) Developing, implementing and monitoring the ISA
(2) Coordinating medical and clinical services
(3) Establishing and maintaining a case record
(4) Reviewing and signing off on critical incident reports
(5) Providing general oversight of services and supports

The provision of Service Coordination will be consistent with the HCBS requirements for conflict-free case management.

(mm) **"Shared management of services"** means that the recipient or his or her family manages some but not all Medicaid-funded developmental disabilities services, and an agency manages the remaining services.

(nn) **"Special care procedure"** means nursing procedures that a lay individual (a person who is not a qualified health professional) does not typically have the training and experience to perform.

(oo) **"Specialized service agency"** (SSA) means an agency designated by the Department that meets criteria for contracting with the Department as an SSA, as described in the Department's *Administrative Rules on Agency Designation*, and that contracts with the Department to provide services to individuals with developmental disabilities.

(pp) **"Supportive Intermediary Service Organization"** (Supportive ISO) means an organization under contract with the Department to provide support to individuals and families to learn and understand the responsibilities of self/family-managed services.

(qq) **"Supportive Services"** means therapeutic services that cannot be accessed through State Plan Medicaid. These are therapeutically or medically appropriate services that include behavior support and consultation; assessment, consultation and training for communication supports; skills-based training such as dialectical behavior therapy skills groups or sexuality groups. This includes other therapeutic or medically appropriate services not covered under State Plan Medicaid when provided by licensed or certified individuals (such therapeutic horseback riding).

(rr) **"System of Care Plan"** means the plan required by 18 V.S.A. §8725 describing the nature, extent, allocation and timing of services that will be provided to people with developmental disabilities and their families.

(ss) **"Transportation Services"** means acquisition and maintenance of accessible transportation for an individual living with a home provider or family member or reimbursement for mileage for transportation to access Community or Employment Supports.

(tt) **"Worker"** means any employee or contractor compensated with funds paid or administered by the Department to provide services to one or more people with a developmental disability. Professionals, such as nurses or psychologists practicing under a license granted by the State of Vermont are not included within this definition. Family-hired respite workers paid by Flexible Family Funding are not included within this definition.

(uu) **"Young child"** means a person who is under age 6.

7.100.3 Criteria for determining developmental disability

(a) Young child with a developmental disability defined.

A young child with a developmental disability is a child who has one of the three following conditions:

(1) A diagnosed physical or mental condition so severe that it has a high probability of resulting in intellectual disability. This includes conditions such as:

Anoxia
Congenital or degenerative central nervous system disease (such as Tay Sachs syndrome)
Encephalitis
Fetal alcohol syndrome
Fragile X syndrome
Inborn errors of metabolism (such as untreated PKU)
Traumatic brain injury
Shaken baby syndrome
Trisomy 21, 18, and 13
Tuberous sclerosis

(2) A condition of clearly observable and measurable delays in cognitive development and significant, observable and measurable delays in at least two of the following developmental domains:

Communication
Social/emotional Motor
(physical)
Self-help skills

(3) An autism spectrum disorder (7.100.3(h)-(j)) resulting in significant, observable and measurable delays in at least two of the following developmental domains:

Communication
Social/emotional Motor
(physical)
Self-help skills.

(b) Criteria for assessing developmental disability in a young child.

(1) The diagnosis of a condition which has a high probability of resulting in intellectual disability (7.100.3(a)(1)) must be made by a physician.

(2) The documentation of delays in cognitive and other developmental domains (7.100.3(a) (2)-(3)) must be made through a family-centered evaluation process which includes the family. The evaluation process must include:

(A) Observations and reports by the family and other members of the assessment team, such as a physician, behavior consultant, psychologist, speech therapist, audiologist, physical therapist, occupational therapist, childcare provider, representative from the Children's Integrated Services - Early Intervention (CIS-EI) Team, representative from Early Childhood

Special Education (ECSE), representative from Children with Special Health Needs, representative from an agency;

(B) A review of pertinent medical/educational records, such as assessments used to determine eligibility for CIS-EI and ECSE, as needed; and

(C) Appropriate screening and assessment instruments.

(3) The diagnosis of autism spectrum disorder must be made according to 7.100.3(h)-(j).

(c) School-age child or adult with developmental disability defined.

(1) A school-age child (age 6 and younger than age 18) or adult with a developmental disability is an individual who:

(A) Has intellectual disability (7.100.3(d)-(f)) or autism spectrum disorder (7.100.3(h)-(j)) which manifested before age 18 (7.100.3(m)); and

(B) Has significant deficits in adaptive behavior (7.100.3(k)-(l)) which manifested before age 18 (7.100.3(m)).

(2) Temporary deficits in cognitive functioning or adaptive behavior as the result of severe emotional disturbance before age 18 are not a developmental disability. The onset after age 18 of impaired intellectual or adaptive functioning due to drugs, accident, disease, emotional disturbance, or other causes is not a developmental disability.

(d) Intellectual disability defined.

(1) **"Intellectual disability"** means significantly sub-average cognitive functioning that is at least two standard deviations below the mean for a similar age normative comparison group. On most tests, this is documented by a full-scale score of 70 or below, or up to 75 or below when taking into account the standard error of measurement, on an appropriate norm-referenced standardized test of intelligence and resulting in significant deficits in adaptive behavior manifested before age 18.

(2) **"Intellectual disability"** includes severe cognitive deficits which result from brain injury or disease if the injury or disease resulted in deficits in adaptive functioning before age 18. A person with a diagnosis of "learning impairment" has intellectual disability if the person meets the criteria for determining "intellectual disability" outlined in 7.100.3(e).

(e) Criteria for determining whether a school-age child or adult has intellectual disability.

(1) The determination of whether a school-age child or adult has intellectual disability for the purpose of these regulations requires documentation of the following components:

(A) Significantly sub-average cognitive functioning (7.100.3(d) and (f));

(B) Resulting in significant deficits in adaptive behavior; and (7.100.3(k)-(l))

(C) Manifested before age 18 (7.100.3(m)).

(2) The criteria for determining whether a school-aged child or adult has an intellectual disability is as defined in these regulations as outlined in 7.100.3(e-f) and not as described in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(f) Process for determining whether a school-aged child or adult has an intellectual disability.

(1) To determine whether or not a school-age child or adult has intellectual disability, a psychologist must:

(A) Personally perform, supervise, or review assessments that document significantly sub-average cognitive functioning and deficits in adaptive behavior manifested before age 18; and

(B) Integrate current and past test results with other information about the individual's abilities in arriving at a determination.

(2) The most universally used standardized intelligence test for school-aged children up to age 16 is the Wechsler Intelligence Scale for Children (WISC), current edition. The most universally used measure for children over age 16 and adults is the Wechsler Adult Intelligence Scale (WAIS), current edition. For people with language, motor, or hearing disabilities, a combination of assessment methods must be used, and the psychologist must use clinical judgment to determine the best tests to use for the individual. Diagnosis based on interpretation of test results takes into account a standard error of measurement for the test used.

(3) A determination that a person has intellectual disability for the purpose of these regulations must be based upon current assessment of cognitive functioning *and* a review of any previous assessments of cognitive functioning. It is the responsibility of the psychologist to decide whether new cognitive testing is needed. In general, for school-aged children, "current" means testing conducted within the past three years. For adults, "current" means cognitive testing conducted in late adolescence or adulthood. Situations where new testing may be indicated include the following:

(A) There is reason to believe the original test was invalid (e.g., the person was sick, was not wearing glasses, was in the midst of a psychiatric crisis, etc.).

(B) The individual has learned new skills which would significantly affect performance (such as improved ability to communicate).

(C) The individual had mild intellectual disability on a previous test and has since made gains in adaptive behavior.

(4) If IQ testing of the person has resulted in some Full-Scale IQ (FSIQ) scores above 70 and some FSIQ scores below 70, taking into account the standard error of measurement, it is the responsibility of the psychologist to determine which FSIQ scores are the best estimate of the person's cognitive ability. When there is a wide variation between test scores, the psychologist should render his/her clinical opinion, including the rationale, regarding which FSIQ scores are the best estimate of the person's cognitive ability. A determination that a person has intellectual disability for the purpose of these regulations cannot be made if all of the person's FSIQ test scores are greater than75.

(5) The diagnosis in questionable cases should be based upon scores over time and multiple sources of measurement.

(6) The diagnosis of intellectual disability must not be based upon assessments conducted when the individual was experiencing a short-term psychiatric, medical, or emotional crisis which could affect performance. Cognitive testing should not ordinarily be performed when a person is in the midst of a hospital stay.

(7) If the psychologist determines that standardized intellectual testing is inappropriate or unreliable for the person, the psychologist can make a clinical judgment based on other information, including an adaptive behavior instrument.

(g) Criteria for determining whether a school-age child or adult has an autism spectrum disorder and is a person with a developmental disability.

The determination of whether a school-age child or adult has an autism spectrum disorder and is a person with a developmental disability for the purpose of these regulations requires documentation of the following components:

(1) Diagnosis of an autism spectrum disorder made according to process outlined in 7.100.3(h)-(j)

(2) Resulting in significant deficits in adaptive behavior (7.100.3(k)-(l)); and

(3) Manifested before age 18 (7.100.3(m)).

(h) Autism spectrum disorder defined.

Autism spectrum disorder means the same as it is defined in the current DSM. People receiving services as of October 1, 2017, who were found eligible with a diagnosis of pervasive developmental disorder under previous versions of the DSM continue to be eligible for services if they continue to present the symptoms that resulted in the diagnosis. Autism spectrum disorder means the same as the term "autism" in the Developmental Disabilities Act.

(i) Criteria for determining whether a person has autism spectrum disorder.

(1) The diagnostic category of autism spectrum disorder includes considerable variability in the presence and intensity of symptoms. Many of the symptoms of autism spectrum disorder overlap with other childhood diagnoses. Because of the complexity in differentially diagnosing autism spectrum disorder, it is essential that clinicians rendering these diagnoses have specific training and experience in child development, autism spectrum disorder, other developmental disorders, and other childhood psychiatric disorders.

(2) Preferably a comprehensive diagnostic evaluation is conducted by an interdisciplinary team of professionals with specific experience and training in diagnosing autism spectrum disorder. In the absence of an interdisciplinary team, a single clinician with the qualifications listed below may conduct a multidisciplinary assessment integrating information from other professionals.

(3) At a minimum, an evaluation must be performed by a single clinician who has the following qualifications or an interdisciplinary team that includes:

(A) A board certified or board eligible psychiatrist; or

(B) A psychologist; or

(C) A board certified or board eligible neurologist or developmental-behavioral or neurodevelopmental disabilities pediatrician.

(4) The psychiatrist, psychologist, neurologist, or pediatrician must have the following additional experience and training:

(A) Graduate or post-graduate training encompassing specific training in child development, autism spectrum disorder, and other developmental and psychiatric disorders of childhood, and a process for assessment and differential diagnosis of autism spectrum disorder; or supervised clinical experience in the assessment and differential diagnosis of autism spectrum disorder;

(B) Training and experience in the administration, scoring and interpreting of psychometric tests, or training in understanding and utilizing information from psychometric testing in the diagnosis of autism spectrum disorder; and

(C) Experience in the evaluation of individuals with the age range of the person being evaluated.

(5) Clinicians must follow the ethical guidelines for their profession regarding practicing within their area of expertise and referring to other professionals when needed. When a single clinician is conducting the assessment, he or she should determine whether other professionals need to evaluate the person to gain additional information before rendering a diagnosis. Additional evaluators may include psychologists, speech language pathologists, medical sub-specialists, developmental-behavioral or neurodevelopmental disabilities pediatricians, occupational therapists, psychiatrists, and neurologists.

(6) In the event a shortage of qualified assessors prevents timely evaluations, the state will assist agencies to identify available qualified assessors or may, in its discretion, waive the provision of rule(i)(4).

(j) Essential components of an assessment to determine autism spectrum disorder.

New applicants must be assessed using the DSM criteria in effect at the time of application. An assessment to determine whether an individual has an autism spectrum disorder must include all of the following components:

(1) Comprehensive review of history from multiple sources, including developmental history, medical history, psychiatric history with clarification of prior diagnoses, educational history, and family history;

(2) Systematic autism spectrum disorder diagnostic interview with primary caregivers;

(3) A systematic observation with the individual to assess social interaction, social communication, and presence of restricted interests and behaviors;

(4) For older children and adults who can report symptoms, a systematic clinical interview;

(5) Referral for multidisciplinary assessment, as indicated;

(6) Comprehensive clinical diagnostic formulation, in which the clinician weighs all the information from (7.100.3(j)(1) through (5), integrates findings and provides a well-formulated differential diagnosis using the criteria in the current version of the DSM; and

(7) Current assessments based upon the individual's typical functioning.

(A) A determination of autism spectrum disorder for the purpose of these regulations must be based upon current assessment. It is the responsibility of the clinician or team performing the assessment to decide whether new observations or assessments are needed. In general, for school-age children, "current" means a comprehensive assessment conducted within the past three years. However, for school-age children applying for limited services such as Flexible Family Funding, Targeted Case Management, the Bridge Program, or Family Managed Respite, "current" means a comprehensive assessment conducted any time prior to age 18; for such children, a new assessment is required if the DA believes the child may not have autism spectrum disorder or when applying for HCBS.

(B) The initial diagnosis of autism spectrum disorder must not be based upon assessments and observations conducted when the individual is experiencing a psychiatric, medical or emotional crisis or when a person is in the midst of a hospital stay. Further assessment should be completed when the person stabilizes and/or returns to the community.

(C) For adults, "current" means a comprehensive assessment conducted in late adolescence or adulthood and adaptive testing within the past three years. Situations where new testing may be indicated include the following:

(i)The individual has learned new skills which would significantly affect performance (such as improved ability to communicate).

(ii)New information indicates that an alternate diagnosis better explains the individual's functioning and behavior.

(k) Significant deficits in adaptive behavior defined.

Significant deficits in adaptive behavior means deficits in adaptive functioning which result in an overall composite score on a standardized adaptive behavior scale at least two standard deviations below the mean for a similar age normative comparison group. On most tests, this is documented by an overall composite score of 70 or below, taking into account the standard error of measurement for the assessment tool used.

(l) Criteria for assessing adaptive behavior in a school-age child or adult.

(1) Adaptive functioning must be measured by the current version of a standardized norm-referenced assessment instrument. The assessment tool must be standardized with reference to people of similar age in the general population. Adaptive functioning must not be measured with an instrument that is norm-referenced only to people in institutions or people with intellectual disability or autism spectrum disorder.

(2) The assessment instrument must be completed by a person qualified to administer, score, and interpret the results as specified in the assessment tool's manual. The administration of the tool must follow the protocol for administration specified in the assessment tool's manual.

(3) The assessment must be current. A current assessment is one which was completed within the past three years, unless there is reason to think the individual's adaptive functioning has changed.

(4) Based upon the assessment, the evaluator must determine whether the person is performing two or more standard deviations below the mean with respect to adaptive functioning, compared to a national sample of similar-aged people.

(5) Ordinarily, assessments must be based upon the person's usual level of adaptive functioning. Assessments should not ordinarily be performed when the individual is in the midst of an emotional, behavioral or health crisis, or must be repeated once the individual stabilizes. An assessment performed while the individual was in a nursing facility or residential facility must be repeated when the individual is in a community setting.

(6) It is the responsibility of the psychologist to ensure that the adaptive behavior assessment is based upon information from the most accurate and knowledgeable informant available. It may be necessary to integrate information on adaptive functioning from more than one informant.

(m) Manifested before age 18

Manifested before age 18 means that the impairment and resulting significant deficits in adaptive behavior were observed before age 18. Evidence that the impairment and resulting significant deficits in adaptive behavior occurred before the age 18 may be based upon records, information provided by the individual, and/or information provided by people who knew the individual in the past.

(n) Nondiscrimination in assessment

Assessment tools and methods must be selected to meet the individual needs and abilities of the person being assessed.

(1) People whose background or culture differs from the general population must be assessed with methods and instruments that take account of the person's background.

(2) A person must be assessed in the language with which he or she communicates most comfortably.

(3) People with language, motor, and hearing disabilities must be assessed with tests which do not rely upon language, motor ability, or hearing.

(4) If a person uses hearing aids, glasses, or other adaptive equipment to see, hear, or communicate, the evaluator must ensure that the individual has access to the aids or adaptive equipment during the evaluation.

(5) If a person uses a language interpreter or a method of augmentative and alternative communication and or needs a personal assistant for communication, the evaluator (e.g., the psychologist) is responsible for deciding how best to conduct the overall assessment in order to achieve the most authentic and valid results. However, scores for standardized tests are valid only if testing was performed in accordance with the criteria set forth in the test manual.

(o) Missing information to document developmental disability

There may be circumstances in which considerable effort is made to obtain all the required history and documentation to determine whether a person has a developmental disability, but the required information cannot be obtained. This may include situations in which there are no available informants to document a person's functioning prior to age 18, previous records cannot be obtained, or do not exist. In these circumstances, the determination of whether the person meets the criteria for having a developmental disability should be based upon the current assessment and all available information, including other life factors that occurred after age 18 that could potentially impact cognitive, adaptive, or other functioning.

7.100.4 Recipient Criteria

(a) Who can be a recipient

(1) A recipient is an individual with a developmental disability, as defined in 7.100.2 (o) and (ee), who has been authorized to receive funding or services, or a family that has been approved to receive funding or services under criteria specified in these regulations.

(2) Services or supports to a family member of a recipient must be in the context of supporting the recipient and are for the purpose of assisting the family to provide care and support for their family member with a developmental disability.

(b) Recipients must be Vermont residents

(1) A recipient must be a resident of Vermont as defined in 7.100.2(ff). In the case of a minor child, at least one custodial parent of the child must be a resident of Vermont.

(2) A person or family who leaves Vermont for a vacation, visit, temporary move, or trial move may continue to be a recipient for a period not to exceed six months.

(c) Exceptions

The Commissioner may make exceptions to the requirements of the program access criteria in 7.100.4(a), in order to promote the purposes of the Developmental Disabilities Act, if the exception will not deprive other people who meet the criteria for being recipients of needed services or benefits (e.g., when funds are provided by another state, or by another Vermont state agency or department).

(d) People receiving services on July 1, 1996

People with developmental disabilities who were receiving services on July 1, 1996, may continue to receive services consistent with their needs and the System of Care Plan and these regulations.

(e) Eligibility after leave of service

Any person who leaves services for one year or longer for any reason and later reapplies for services must be assessed based upon the eligibility criteria in effect on the date of the person's reapplication.

7.100.5 Application, Assessment, Funding Authorization, Programs and Funding Sources, Notification, Support Planning and Periodic Review

(a) Who may apply

(1) Any person who believes he or she has a developmental disability or is the family member or authorized representative of such a person may apply for services, supports, or benefits. In addition, the guardian of the person may apply.

(2) Any other person may refer a person who may need services, supports, or benefits.

(3) An agency or a family member may initiate an application for a person with a developmental disability or a family member but must obtain the consent of the person or guardian to proceed with the application.

(b) Application form

(1) Department will adopt an application form to be completed by or on behalf of all applicants. The DA must provide a copy of the application to all people who contact the DA saying they wish to apply for services.

(2) Copies of the application form will be available from the Department, on the Department's website, and from every office of a DA. A person may request an application form in person, by mail, by electronic format, by facsimile (FAX), or by telephone.

(3) The DA must provide assistance to an applicant who needs or wants help to complete the application form.

(c) Where to apply

(1) An application must be filed at an office of the DA for the geographic area where the person with a developmental disability lives.

(2) An application for a person, who is new to services, who is incarcerated or living in a residential school, facility or hospital must be filed at an office of the DA for the geographic area where the person was living before going to the school, facility or hospital. For individuals who were receiving

services just prior to being in one of these facilities, an application must be filed at the DA which was last responsible prior to the individual entering the facility.

(3) An application for a person who is in the custody of the Department for Children and Families (DCF) must be filed at an office of the DA for the region in which the individual was placed in DCF custody. Applications for children under 18 who are in the custody of their parents should be filed at the DA where a custodial parent lives.

(4) An application may be submitted by mail, facsimile (FAX), secure electronic format, or in person.

(d) Screening

(1) Within five (5) business days of receiving an application, the DA must complete the application screening process. If there are extenuating circumstances that prevent completion in five (5) business days, the agency must document those in the individual's record. The screening process includes all of these steps:

(A) Explaining to the applicant the application process, potential service options, how long the process takes, how and when the applicant is notified of the decision, and the rights of applicants, including the right to appeal decisions made in the application process;

(B) Notifying the applicant of the rights of recipients in plain language, including the procedures for filing a grievance or appeal and their rights as outlined in the federal CMS HCBS rules;

(C) Discussing options for information and referral; and

(D) Determining whether the person with a developmental disability or the person's family is in crisis or will be in crisis within 60 days. If the DA determines that the person or family is facing an immediate crisis, the DA must make a temporary or expedited decision on the application.

(2) At the point of initial contact with an applicant, the DA must inform the applicant of all certified providers in the region and the options to:

(A) Receive services and supports through any certified provider in the region,

(B) Share the management of those services with the DA or SSA, or

(C) Self/family-manage their services through the Supportive ISO.

(3) Contact and referral information for options for services outside of the DA must be provided to each applicant and referral assistance provided to ensure the applicant is informed of his or her choice of all the service options listed in 7.100.5(d)(2). The DA must have documentation that the applicant was informed of all of these options.

(4) If the applicant wants more information about options or chooses to pursue services outside the DA, then the DA must contact the SSA or Supportive ISO on behalf of the applicant.

(e) Assessment

(1) The DA is responsible for conducting the assessment or assuring that it is conducted. The assessment process must involve consultation with the applicant, and, with the consent of the applicant, other organizations which support the applicant.

(2) The DA must offer information and referral to the applicant at any time that it may be helpful.

(3) Assessment consists of in-depth information-gathering to answer the four following questions:

(A) Is this a person with a developmental disability, as defined in 7.100.2(o) of these regulations, and a person eligible to be a recipient, as defined in 7.100.4? If so,

(B) What does the person or his or her family need? This question is answered through a uniform needs assessment and process approved by the Department, which determines with each person or family their service or support needs, including identification of existing supports and family and community resources.

(C) Does the situation of the person or family meet the criteria for receiving any services or funding defined as a funding priority in the *System of Care Plan*? If so,

(D) What are the financial resources of the person with a developmental disability and his or her family to pay for some or all of the services?

(f) Authorization of funding for services

Based on the answers to the questions in 7.100.5 (e), the DA will seek or authorize funding for services to meet identified needs or will determine that the individual is not eligible for the requested funding for services. The procedures for authorizing funding or services are described in the *System of Care Plan.* Services and the funding amount authorized must be based upon the most cost-effective method of meeting an individual's assessed needs, the eligibility criteria listed in the *System of Care Plan*, as well as guidance in the *System of Care Plan* and current *Medicaid Manual for Developmental Disabilities Services.* When determining cost effectiveness, consideration will be given to circumstances in which less expensive service methods have proven to be unsuccessful or there is compelling evidence that other methods would be unsuccessful.

(g) Available Programs and Funding Sources

The Department's programs reflect its current priorities for providing services for Vermont residents with developmental disabilities. The availability of the Department's current programs is subject to the limits of the funding appropriated by the Legislature on an annual basis. The nature, extent, allocation and timing of services are addressed in the *System of Care Plan (*SOCP) as specified in the DD Act. Additional details, eligibility criteria, limitations and requirements for each program are included in the SOCP, the current *Medicaid Manual for Developmental Disabilities Services,* and in specific Division guidelines. Programs will be continued, and new programs will be developed, based on annual demographic data obtained regarding Vermont residents with developmental disabilities, the use of existing services and programs, the identification of the unmet needs in Vermont communities and for individual residents of Vermont, and the reasons for any gaps in service.

(h) Special Initiatives

The Division may invest in initiatives that enhance the overall system of support for people with

developmental disabilities and their families. The Division may use funding to support initiatives that will enhance choice and control and increase opportunities for individuals receiving developmental disabilities services and their families. The timing and amount of funding for any initiative will be identified in the *System of Care Plan*. For all special initiatives, specific outcome measures will be required, and results will be reported by DDSD.

(i) Notification of decision on application

(1) Timing of the notices

(A) Within 45 days of the date of the application, the DA must notify the applicant in writing of the results of the assessment and the amount of funding, if any, which the applicant will receive.

(B) If the assessment and authorization of funding is not going to be completed within 45 days of the date of application, the DA must notify the applicant in writing of the estimated date of completion of the assessment and authorization of services or funding. A pattern of failure to complete the process within 45 days will be considered in determining whether to continue the designation of an agency.

(2) Content of notices

(A) If some or all of the services requested by the applicant are denied, or the applicant is found not eligible, the written notice must include the right to appeal the decision, the procedures for doing so, and the content of notices as specified in 7.100.9 and 8.100). Denials of eligibility must follow the procedures outlined in Health Benefit Eligibility and Enrollment Rules (HBEE) 68.00. If a decision constitutes an adverse benefit determination, including a denial of a requested service, a reduction, suspension, or termination of a service, or a denial, in whole or in part, of payment for a service, HCAR 8.100 must be followed regarding the timing and content of those notices.

(B) If the assessment determines the applicant has a developmental disability and has needs that fit within the funding priorities outlined in the *System of Care Plan*, the notice must state the amount of funding and services the applicant will receive. The notice must also state what costs, if any, the recipient is responsible to pay (7.100.7).

(C) If the assessment determines the applicant does not have a developmental disability, the notice must state that the DA will continue to offer information and referral services to the applicant.

(D) If the assessment determines the person has a developmental disability but does not meet a funding priority to receive Home and Community-Based Services funding, the notice must state that the DA will continue to offer information and referral services and will place the person's name on a waiting list (7.100.5 (q)).

(j) Choice of provider

(1) The DA must help a recipient learn about service options, including the option of self/family-managed services.

(A) It is the DA's responsibility to ensure the individual is informed of his or her choice of all services options listed in 7.100.5(d)(2), so that the individual can make an informed decision

when choosing between and among management options/service providers. The DA must document options discussed and information shared as part of this process. The DA must provide the choices in an unbiased manner to reduce the potential for conflict of interest.

(B) If the recipient is not self/family-managing services, the DA will ensure that at least one provider within the geographic area offers the authorized services at or below the amount of funding authorized at the DA.

(C) If no other provider is available to provide the authorized services and the recipient or family does not wish to self/family-manage services, the DA must provide the authorized services in accordance with its Provider Agreement.

(D) The recipient or family may receive services from any willing agency in the state.

(E) A recipient or family may request that an agency sub-contract with a non-agency provider to provide some or all of the authorized services; however, the decision to do so is at the discretion of the agency.

(2) If the recipient's needs are so specialized that no provider in the geographic area can provide the authorized services, the DA may, with the consent of the recipient, contract with a provider outside the geographic region to provide some or all of the authorized services.

(3) The recipient may choose to receive services from an agency other than the DA if the agency agrees to provide the authorized services at or below the amount of funding authorized for the DA to provide services.

(A) When requesting new funding, if an individual chooses to receive services from an agency other than the DA, or an agency agrees to subcontract with a provider, the provider will submit a budget to the DA and the DA will determine its costs to serve the individual and must submit the lower of the two budgets to the funding committee. If an alternative provider is not able to provide the services at the lower approved budget, the DA must do so at the amount of funding authorized for the DA to provide services.

(B) If at any time a recipient chooses or consents to receive some or all authorized services or supports from a different agency, the agency currently serving the recipient must promptly transfer the individual's authorized funding limit to the agency selected according to the procedures outlined in Division guidelines.

(C) When an individual chooses to transfer to another agency or to self/family-manage, the receiving agency or Supportive ISO must fully inform the recipient and the individual's authorized representative, if applicable, prior to the transfer, of the impact on the amount of services that can be provided within the approved budget based upon the agency or Supportive ISO's costs for services.

(D) Any disputes about the amount of funding to be transferred will be resolved by the director of the Division.

(4) The recipient may choose to self/family-manage services (See 7.100.6).

(k) Individual support agreement (ISA)

(1) Once a recipient has received written authorization of services or funding (7.100.5 (f)), the recipient, together with the agency or Supportive ISO, writes an ISA that defines the services and supports to be provided. The recipient may ask any person to support him or her in establishing a person-centered process, making decisions, and choosing services, supports and/or providers.

(2) The agency or, in the case of self/family-managed services, the Supportive ISO, has ultimate responsibility to ensure that an initial ISA is developed within thirty (30) days of the first day of billable services/supports or authorized start date for HCBS. This timeline may be extended at the request of the recipient, as specified in the *ISA Guidelines*.

(3) Initial and ongoing ISAs must be written and reviewed in accordance with the Department's *ISA Guidelines*. A written ISA is required even if the recipient chooses to self/family-manage services.

(4) The ISA is a contract between the recipient and provider(s) who provides the service or support.

(5) An ISA may be revised at any time.

(l) Periodic review of needs

(1) The needs of each individual currently receiving services must be re-assessed annually by the agency or Supportive ISO, together with the individual and his or her team, using the needs assessment to assure the individual's budget reflects current needs, strengths and progress toward personal goals. An Annual Periodic Review will take place as part of the planning for the individual's next ISA or ISA review. This will include an examination of the utilization of services in the past year as compared to the authorized funding limit. The individual's budget must be adjusted to reflect current needs.

(2) The agency or Supportive ISO must make adjustments in a recipient's budget and/or services, if indicated, based upon the following:

(A) Changes in the recipient's needs;

(B) Changes in use of funded services;

(C) Changes in the cost of services to meet the needs;

(D) Changes in the *System of Care Plan* or these regulations; or

(E) Changes in funds available due to insufficient or reduced appropriation or an administrative arithmetic error.

(3) As part of the periodic review, the agency or Supportive ISO must ask each recipient about his or her satisfaction with services and provide each recipient and individual's authorized representative with an explanation of the rights of recipients, including those outlined in the federal CMS HCBS rules, and how to initiate a grievance or appeal (See 7.100.9 and 8.100).

(4) If a periodic review results in a determination that services or funding should be reduced, changed, suspended or terminated, the agency or Supportive ISO must notify the recipient as provided in Section 7.100.5 (p)and Part 7.100.9 and 8.100.

(m) Full reassessment of a young child

(1) The agency or Supportive ISO must conduct or arrange for a full clinical reassessment of a child

at the time he or she turns six to determine whether the child is a person with a developmental disability. Assessments conducted by schools or other organizations should be used whenever possible to avoid duplication.

(2) *Exception:* A child receiving limited services as the result of a diagnosis of autism spectrum disorder does not need to be reassessed to confirm the diagnosis of ASD at the time he or she turns six. An adaptive behavior assessment is required at this time to confirm the child continues to have significant deficits in adaptive behavior as defined in 7.100.3.

(3) If the reassessment determines that the child is no longer a person with a developmental disability, benefits for the child and family must be phased out as provided in 7.100.5 (o)(2) of these regulations.

(n) Full reassessment (transition from high school to adulthood)

(1) The agency or Supportive ISO must conduct or arrange for a full clinical reassessment and a reassessment of needs of a recipient one year prior to his or her last month of high school. If the agency or Supportive ISO has less than one year's prior notice of the person's leaving high school, it must conduct the reassessment as soon as it learns that the person is going to leave high school or has left high school. The reassessment must consider: (A) whether the young adult is a person with a developmental disability; and (B) the future service and support needs of the person and his or her family. The needs assessment should be reviewed and updated prior to requesting funding if there have been significant changes in circumstances that impact services and supports needed. Any assessments conducted by schools or other organizations should be used whenever possible to avoid duplication.

(2) If the reassessment determines that the young adult is no longer a person with a developmental disability, services to the young adult and his or her family must be phased out as provided in 7.100.5(o)(2) of these regulations.

(3) If the reassessment determines that the support needs of the person or family will change or increase when the young adult is no longer in school, the ISA and budget must be reviewed in accordance with this section.

(o) Full reassessment

(1) The agency or Supportive ISO must conduct or arrange for full clinical reassessment of an adult or child if there is reason to believe the person may no longer have substantial deficits in adaptive behavior or may no longer have a developmental disability.

(2) If the reassessment determines that the individual is no longer a person with a developmental disability, services to the person must be phased out within twelve months or less, unless the individual is eligible to continue to receive services based on 7.100.4 (d). Upon the determination of ineligibility, the agency or Supportive ISO must provide timely notice of the decision to the recipient and the individual's authorized representative, if applicable, and as provided for in 7.100.5 (p), 7.100.9, and 8.100.

(p) Notification of results of reassessment or periodic review

If a reassessment or review results in a determination that the recipient is no longer eligible, or services should be reduced, suspended, or terminated, the agency or Supportive ISO must notify the recipient and individual's authorized representative, if applicable, in writing of the results of the review or reassessment, and of the right to appeal the decision and the procedures for doing so. The notice will include the content as specified in 7.100.9 and 8.100. Denials of eligibility should follow the procedures outlined in Health Benefit Eligibility and Enrollment Rules (HBEE) 68.00. If a decision constitutes an adverse benefit determination, including a denial of a requested service, a

reduction, suspension, or termination of a service, or a denial, in whole or in part, of payment for a service, HCAR 8.100 would be followed regarding the timing and content of those notices.

(q) Waiting list

A person with a developmental disability whose application for Home and Community-Based Services, Flexible Family Funding or Family Managed Respite is denied must be added to a waiting list maintained by the Designated Agency. The Designated Agency must notify an applicant that his or her name has been added to the waiting list and explain the rules for periodic review of the needs of people on the waiting list.

(1) The Division will provide instructions to the Designated Agency for reporting waiting list information to the Division.

(2) Each Designated Agency must notify individuals when they have been placed on a waiting list and review needs of all individuals on the waiting list, as indicated below, to see if the individual meets a funding priority, and if so, to submit a funding proposal and/or refer the individual to other resources and services. A review of the needs of all individuals on the waiting list must occur:

(A) When there are changes in the funding priorities or funds available; or

(B) When notified of significant changes in the individual's life situation.

(3) Waiting list information will be included the DDS Annual Report and will be reviewed annually by the DDS State Program Standing Committee.

7.100.6 Self/Family-Managed Services

Many individuals receiving services, or a family member of an individual receiving services, may be eligible to manage the services instead of having the services managed by an agency. Individuals may manage their services either independently or with the help of their families. An individual or a family member may manage up to 12 hours a day of In-home Family Supports or Supervised Living, but may not self/family manage Staffed Living, Group Living or Shared Living.

Self/family-management is a service option that is designed to provide choice and control to an individual or family. Self/family-management requires individuals or their family members to hire and oversee their own employees and function as the employer of record. Except for supportive services, clinical services provided by licensed professionals, or camps that provide respite, individuals and families may not purchase services from a non-certified entity or organization.

In order to self/family-manage services, the individual or family member must be capable of fulfilling the responsibilities set forth in 7.100.6(b). A Supportive ISO, in making this determination, must consider the reasons set forth in 7.100.6(f)(2), as well as any and all criteria established by the Department. An individual or a family member also has the option of managing *some, but not all,* of the services and have an agency manage some of them. This arrangement is called shared-managing. 7.100.6(g) explains how shared-managing works.

(a) Self/Family-Management Agreement

An individual or family member who is allowed to manage services must sign an agreement with a Supportive ISO. The Department will provide an approval form for agreements. The agreement must set out the responsibilities of the individual or family member and the responsibilities of the Supportive ISO.

(b) Responsibilities of an individual or family member who manages services

An individual or family member who manages services must be capable of and carry out the following functions:

(1) Maintain Medicaid eligibility for the individual receiving services. Immediately notify the Supportive ISO of any circumstances that affect Medicaid eligibility.

(2) Develop an ISA that reflects what services the individual needs and how much money the individual has been provided in their budget to spend for those services. Follow the Department's *ISA Guidelines* to ensure that all required information is included and completed according to specified timelines. The plan must specify what each service is supposed to be and how much each service will cost on an annual basis. The ISA must also identify the individual's service provider(s) and explain how the services received must be documented.

(3) Ensure that services and supports are provided to the individual in accordance with the ISA and the budget.

(4) Maintain a complete and up-to-date case record that reflects details regarding the delivery of services. Follow the *Guide to Self/Family Management* regarding what needs to be included in the case record. Retain case records in accordance with the record retention schedule adopted by the Department.

(5) Follow the rules regarding all services and supports. Those rules are called the Department's *Quality Standards for Services*. They are set forth in 7.100.11(e).

(6) Understand the individual's ISA and their budget. Make necessary changes based on the individual's needs. Follow these regulations and the Department's *ISA Guidelines* regarding what to do when there is a change.

(7) Follow the Department's *Health and Wellness Guidelines* to take care of the individual's health and safety.

(8) Follow the rules about reporting critical incidents to the Supportive ISO. Make sure the reports are filed in accordance with the specific timeline required by the Department's *Critical Incident Reporting Guidelines*.

(9) Make a report to DCF any time abuse or neglect of a child is suspected to have occurred or is occurring. Make a report to APS any time abuse, neglect, or exploitation of a vulnerable adult is suspected to have occurred or is occurring. File the reports in accordance with the specific timeframes required by law.

(10) Provide behavior supports to the individual in accordance with the Department's *Behavior Support Guidelines*. Ensure that all strategies used by workers paid to provide supports are consistent with these guidelines.

(11) Prepare written back-up plans for when the plan cannot be followed (e.g., a worker gets sick and/or does not show up for work). Include in the plan who will come and work and what will

happen if there is an emergency. It is the individual's or family member's responsibility to find workers or back-up if the plan cannot be followed. It is not the responsibility of a Supportive ISO or an agency to ensure staffing.

(12) Take part in the Department's quality review process and fiscal audits according to the procedures for these reviews. Make any changes that the Department indicates need to be made after it does a quality review or audit. Participate in Department-sponsored surveys regarding services.

(13) Take the following steps when hiring workers:

(A) Write a job description. Complete reference checks before allowing the worker to start work;

(B) Interview and hire workers that meet the requirements of the Department's Background Check Policy, or who receive a variance when there is an issue with the background check;

(C) Sign up with the state contracted F/EA. Give the F/EA all requested information to complete the background checks, carry out payroll and tax responsibilities, and report financial and service data to the Supportive ISO;

(D) Train or have someone else train all workers in accordance with these regulations. The rules are in the Department's pre-service and in-service standards in 7.100.10;

(E) Supervise and monitor workers to make sure they provide the services and supports they are hired to provide. Confirm the accuracy of workers' timesheets to verify they reflect the actual hours worked. Sign and send accurate timesheets to the F/EA;

(F) Suspend or fire workers as necessary; and

(G) Follow all Department of Labor rules required of employers, including paying overtime as required.

(14) Manage services in accordance with the Department's *Guide to Self/Family Management*.

(15) Only submit requests for payment of non-payroll goods and services that are allowed by these regulations, the *System of Care Plan* or current *Medicaid Manual for Developmental Disabilities Services*. Seek guidance from the Supportive ISO for assistance in determining what expenses are reimbursable. Ensure that requests for payment of non-payroll goods and services are accurate and consistent with goods and services received.

(c) Role of the Designated Agency

For existing recipients who are self/family managing who have a new need as determined by a new needs assessment and need an increase in services and funding, the Supportive ISO develops and submits proposals to the Supportive ISO funding committee and then to the appropriate statewide funding committee. For complex situations, the Supportive ISO may consult with an independent evaluator, the Division or the local DA to determine strategies regarding how an individual's needs may best be met. This may include a collaborative effort between the Supportive ISO and DA regarding assessments and funding proposals as needed.

(d) Role of Qualified Developmental Disability Professional (QDDP)

(1) An individual or family member who manages services must choose someone to be his or her independent QDDP or must ask the Supportive ISO to find a QDDP for him or her.

(2) All QDDP's must meet the criteria specified in the Division's *Vermont Qualified Developmental Disabilities Professional Protocol.* For QDDPs employed by an agency, the agency is responsible for ensuring that the QDDP meets those criteria. QDDPs not employed by an agency, including those working for the Supportive ISO, must be endorsed by the Department as an independent QDDP, before being paid as a QDDP.

(3) The QDDP must:

(A) Approve the individual's ISA and ensure that it is signed by the individual and guardian, if there is one;

(B) Confirm that the ISA is being carried out the way it is supposed to be and that it meets the needs of the individual;

(C) Confirm that services and supports are delivered the way the Department and Medicaid regulations and guidelines require;

(D) Contribute to the periodic review of the individual's needs conducted by the Supportive ISO;

(E) Confirm the ISA is updated to show the changes in the individual's needs and goals;

(F) Approve any changes to the ISA;

(G) Inform the individual about his or her rights as outlined in the Developmental Disabilities Act of 1996 and the rights outlined in the federal CMS HCBS rules; and

(H) Review and sign off on all critical incident reports according to the *Critical Incident Reporting Guidelines.*

(e) Responsibilities of a Supportive ISO when an individual or family member manages services

When an individual or family member manages services, the Supportive ISO must:

(1) Provide support and assistance to the individual or family member to ensure he or she understands the responsibilities of managed services including following all policies and guidelines for the Division. Explain managed services and the individual's or family member's employer role and responsibilities;

(2) Conduct periodic reviews with contributions from the QDDP, make adjustments to budgets as needed and notify the individual of his or her rights under these regulations;

(3) Confirm the individual's Medicaid eligibility on an annual basis;

(4) Help the individual or family member to develop an authorized funding limit (AFL), provide guidance in self-managing the AFL, ensure the AFL is not managed by a third party, as well as provide assistance in determining whether a service is reimbursable under Department rules.

Provide the F/EA with the individual's AFL;

(5) Bill Medicaid according to the procedures outlined in the provider agreement between the Supportive ISO and the Department;

(6) Review requests for more money and seek funding according to the process outlined in 7.100.5 of these regulations and the *System of Care Plan*. Requests for short term increases in funding will be addressed internally by the Supportive ISO. Requests for long term increases will be sent to the appropriate statewide funding committee;

(7) Confirm that the individual has a current ISA that reflects the areas of support funded in the budget and identifies and addresses any known health and safety concerns; Nofify the individual/family that funding may need to be suspended if there is not a current signed ISA, according to the timelines outlined in the ISA guidelines;

(8) Provide QDDP services when requested. QDDP services are a separately purchased service;

(9) Maintain a minimum case record in accordance with the requirements outlined in the *Guide to Self/Family Management*. Make sure that the individual or family member responsible for managing services understands that the individual must have a complete case record in accordance with the requirements outlined in the *Guide to Self/Family Management*. Retain case records in accordance with the record retention schedule adopted by the Department;

(10) Review and appropriately manage all reported critical incidents. If applicable, report the critical incidents to the Department in accordance with requirements in the *Critical Incident Reporting Guidelines*;

(11) Provide information about the Division's crisis network to the individual or family member responsible for managing services;

(12) Determine that the individual or family member who is managing the services is capable of carrying out the duties by conducting an initial assessment and providing ongoing monitoring;

(13) Provide required pre-service and in-service training to the individual's support workers if the individual or family member does not provide that training. The training requirements are located in Part 7.100.10 of these regulations; and

(14) Form and consult with an advisory committee.

(f) Determination that the individual or family member is unable to manage services

(1) The Supportive ISO may deny a request to self- or family-manage, or may terminate the management agreement, if it decides that the individual or family member is not capable of carrying out the functions listed in 7.100.6(b). If the individual's or family member's request is denied, or a management agreement is terminated, then the individual's services must be provided by the individual's DA or from a SSA willing to provide services. Unless it is an emergency, the Supportive ISO has to inform the individual or family member at least thirty (30) days before terminating the agreement.

(2) The Supportive ISO may decide that the individual or family member is not capable of carrying out the functions listed in 7.100.6(b) for reasons which include the following:

(A) The managed services put the individual's health or safety at risk (the agreement can be terminated immediately if the individual is in imminent danger);

(B) The individual or family member is not able to consistently arrange or provide the necessary services;

(C) The individual or family member refuses to participate in the Division's quality assurance reviews; or

(D) Even after receiving training and support, the individual or family member is not substantially or consistently performing his or her responsibilities for self/family-management as outlined in Section 7.100.6 (b). This includes not following policies, regulations, guidelines, or funding requirements or not maintaining and/or ensuring proper documentation for developmental disabilities services. The Supportive ISO must document substantial non-performance as follows:

(i) When the Supportive ISO discovers an issue, they must notify the individual or family member in writing of the issue and what is needed to correct the issue along with a timeline to do so; and offer support and training to the individual or family member as needed;

(ii) If the individual or family member has not corrected the issue according to the required timeframe, the Supportive ISO must send written notice to the individual or family member indicating that if the issues are not corrected in 30 days, the agreement for self/family-management may be terminated.

(iii) Repeated documented failures to follow requirements will be evidence to justify termination of the self/family-management agreement.

(3) If the Supportive ISO decides an individual or family member is not able to manage services, the individual or family member may file a request for a fair hearing with the Human Services Board, as provided in 3 V.S.A. § 3091. The Supportive ISO must provide written notice to the individual or family member at least 30 days prior to terminating a self/family-management agreement and the Supportive ISO's notice must include the individual or family member's right to request a fair hearing within 30 days of the date of the notice.

(g) Responsibilities of an individual or family member who share-manages services

An individual or family member may manage some services and let an agency manage some services. That is called shared-managing. The agency is responsible for providing information and guidance to the individual or family member regarding his or her responsibilities for share-management. An individual or family member who share-manages with an agency must do all of the following:

(1) Ensure services and supports are provided to the individual in accordance with the ISA and his or her budget.

(2) Follow the rules regarding all services and supports. Those rules are called the Department's *Quality Standards for Services*. They are in 7.100.11(e).

(3) Make and keep all papers and records as required by the agency.

(4) Report critical incidents to the agency. Make sure the reports are filed in accordance with the specific timelines required by the Department's *Critical Incident Reporting Guidelines*.

(5) Make a report to DCF any time abuse or neglect of a child is suspected to have occurred or is occurring. Make a report to APS any time abuse, neglect, or exploitation of a vulnerable adult is suspected to have occurred or is occurring. File the reports in accordance with the specific timeframes required by law.

(6) Provide behavior supports to the individual in accordance with the Department's *Behavior Support Guidelines*. Ensure that all strategies used by workers paid to provide supports are consistent with these guidelines.

(7) Prepare written back-up plans for when the plan cannot be followed (e.g., the worker gets sick and/or does not show up for work). Include in the plan who will come and work and what will happen if there is an emergency. It is the individual's or family member's responsibility to find workers or back-up if the plan cannot be followed. It is not the responsibility of a Supportive ISO or an agency to ensure staffing.

(8) Take part in the Department's quality review process and fiscal audits according to the procedures for these reviews. Make any changes that the Department indicates need to be made after it does a quality review or audit. Participate in Department-sponsored surveys regarding services.

(9) Take the following steps when hiring workers:

(A) Write a job description. Complete reference checks before allowing the worker to start work;

(B) Interview and hire workers that meet the requirement of the Department's Background Check Policy, or upon receipt of a variance when there is an issue with the background check;

(C) Sign up with the state contracted F/EA. Give the F/EA all requested information to complete the background checks, carry out payroll and tax responsibilities, and report financial and service data to the Supportive ISO;

(D) Train or have someone else train all workers in accordance with these regulations. See the Department's pre-service and in-service standards in 7.100.10;

(E) Supervise and monitor workers to make sure they provide the services and supports they are hired to provide. Confirm the accuracy of workers' timesheets. Sign and send accurate timesheets to the F/EA;

(F) Suspend or fire workers as necessary; and

(G) Follow all Department of Labor rules required of employers, including paying overtime as required.

(10) Only submit requests for payment of non-payroll goods and services that are allowed by these regulations, the *System of Care Plan* or current *Medicaid Manual for Developmental Disabilities Services*. Seek guidance from the agency for assistance in determining what are reimbursable

expenses. Ensure that requests for payment of non-payroll goods and services are accurate and consistent with goods and services received.

7.100.7 Recipient Financial Requirements

(a) Income and resources; Medicaid-funded programs

For all supports and services funded by Medicaid, the income and resource rules of Department of Vermont Health Access (DVHA) governing eligibility for Medicaid programs apply and are incorporated here by reference.

(b) Room and board; personal spending money

Medicaid developmental disabilities funding does not cover room and board, clothing, or personal effects.

(1) At least annually, the Commissioner or the Commissioner's designee will publish a schedule of rates for room and board and rates for personal spending allowances for recipients. The personal spending allowance will not be less, and may be more, than the personal spending allowance for nursing home residents. The sum of the room and board rates and the personal spending allowance will be equal to the current Supplemental Security Income (SSI) rates, including state supplement.

(2) Payment of the rate set by the Commissioner's schedule will be considered payment in full for the recipient's room and board if the recipient receives residential services funded by the Department. Recipients who receive income from a source other than SSI will be charged the same rate for room and board as SSI recipients.

(3) In unusual circumstances the Division Director may permit non-Medicaid funds of the Department to be used to subsidize the excess costs of a recipient's room and board.

(4) Recipients who rent or own their own home or apartment and have room and board costs in excess of the Commissioner's schedule will receive assistance in accessing rent subsidy, low interest loans, fuel assistance, and other sources of housing assistance for low-income Vermonters. To the extent authorized by the *System of Care Plan*, the Commissioner may provide non-Medicaid funds to subsidize the excess costs of a recipient's rent or house payment, if the recipient is unable to afford the cost.

(5) Recipients who rent or own their own home or apartment and who work may elect to use their earnings to pay rent or mortgage or room and board costs in excess of the Commissioner's schedule.

(6) The recipient, in consultation with his or her representative payee, if any, will determine how to spend the personal spending allowance.

(c) Financial responsibility of parents

The parents of a child under age 18 with a developmental disability are financially responsible for costs not covered by any Medicaid program or funded by the Department, specifically: housing; food; clothing; non-medical transportation; personal items; and childcare necessary for a parent to work.

7.100.8 Special Care Procedures

(a) Purpose

The purpose of these regulations is to ensure that people with developmental disabilities who have specialized health care needs receive safe and competent care while living in home and community settings funded by the Department.

(b) Special Care Procedure

(1) The purpose of classifying a procedure as a "special care procedure" is to provide a system for ensuring that lay people who provide special care procedures in home or community settings have the training and monitoring they need to protect the health and safety of the people they care for. These regulations follow the Vermont State Board of Nursing Position Statement – The role of the nurse in delegating nursing interventions.

(2) Examples of special care procedures are as follows:

(A) Enteral care procedures. Procedures that involve giving medications, hydration, and/or nutrition through a gastrostomy or jejunostomy tube. Special care procedures include replacement of G and J tubes, trouble-shooting a blocked tube, care of site, checking for placement, checking for residuals, use, care and maintenance of equipment; follow up regarding dietitians' recommendations, obtaining and following up lab work, mouth care, and care of formula.

(B) Procedures to administer oxygen therapy. Use of O2 tanks, regulators, humidification, concentrators, and compressed gas. This may include need for O2 assistance through use of SaO2 monitor, use of cannulas, tubing, and masks.

(C) Procedures that require suctioning techniques. Oropharyngeal (using Yankeur), nasopharyngeal (soft flexi tube) and tracheal components, which may include suctioning; clean versus sterile suctioning, care and maintenance of equipment, including stationary and portable systems.

(D) Administration of respiratory treatments. Using nebulizer set-up, care and maintenance of equipment.

(E) Tracheotomy care. Including cleaning of site and replacement of trach.

(F) Procedures that include placement of suprapubic and urethral catheters, intermittent catheterization, use and care of leg bags, drainage bags, when and how to flush, clean versus sterile catheterization.

(G) Procedures that include care of colostomy or ileostomy. Care of the stoma and maintenance of equipment.

(H) Diabetes care, including medications, use of insulin, monitoring.

(c) Application and limitations

(1) These sections (7.100.8) apply to DAs and SSAs (including their staff and contractors).

(2) These sections (7.100.8) apply to managed services, but they do not apply to care provided by natural or adoptive family members unless the family member is compensated for providing the

care with funds administered or paid by the Department.

(3) These regulations do not apply to care provided by hospital or nursing home staff.

(d) Determining that a procedure is a special care procedure

The determination that a care procedure is a "special care procedure" has three components:

(1) The procedure requires specialized nursing skill or training not typically possessed by a lay individual;

(2) The procedure can be performed safely by a lay individual with appropriate training and supervision; and

(3) The individual needing the procedure is stable in the sense that outcomes are predictable.

(e) Who determines special care procedures

(1) The initial identification of the possible need for a special care procedure may be made by the agency that serves the individual, by nursing staff of the Department, or by any other health providers.

(2) A registered nurse must determine whether a procedure is a special care procedure.

(f) Who may perform a special care procedure

(1) A special care procedure may be performed only by a person over the age of 18 who receives training, demonstrates competence, and receives monitoring in accordance with these regulations.

(2) Competence in performing a special care procedure is individualized to the particular needs, risks, and characteristics of an individual. The fact that an employee or contractor may have been approved to perform a special care procedure for one individual does not create or imply approval for that person to perform a similar procedure for another individual.

(3) The agency responsible for the health needs of the individual must ensure that special care procedures are performed by lay people trained in accordance with the regulations, or by a qualified health professional.

(4) The agency is responsible for having a back-up plan for situations where the person or people trained to perform a special care procedure for an individual are unavailable. If a trained lay person is not available, the procedures must be performed by a qualified health professional. In the case of managed services, the services coordinator bears responsibility for having a back-up plan.

(g) Specialized care plan

(1) If a nurse has determined that an individual needs a special care procedure, the agency is responsible for ensuring that a specialized care plan is attached to the ISA and that every person who is authorized to perform a special care procedure has a copy of the specialized care plan.

(2) A registered nurse must complete an assessment of the person prior to developing the specialized care plan. The specialized care plan must be developed by the registered nurse and must identify the specialized care procedures and the nurse responsible for providing training,

determining competence, and reviewing competence. The specialized care plan must also include a schedule for the nurse to monitor the performance of specialized care procedures. (7.100.8(j)).

(h) Training

(1) Qualifications of trainer. Training must be provided by a nurse. The nurse must have a valid State of Vermont nursing license.

(2) Timeliness. Training must be provided before any caregiver who is not a health professional provides a special care procedure without supervision. Training must be provided in a timely manner so as not to impede services for an individual.

(3) Best practice. Training in special care procedures must conform to established best practice for performance of the procedure.

(4) Individual accommodations. Individuals with developmental disabilities have had unique experiences that may enhance or obstruct the ability to provide care. Within the framework of special care procedures, a combination of best practice and accommodation of individual characteristics will define the procedures to be used with a particular individual.

(5) Documentation of training. The agency responsible for the health needs of the individual is responsible for ensuring that the nurse provides a record of training for any person who is carrying out a special care procedure. The records must include information about who provided the training, when the training was provided, who received training, what information was provided during the training, and the conditions under which reassessment and retraining need to occur.

(6) Emergencies. The nurse must be notified of any changes in an individual's condition or care providers. The agency responsible for the health needs of the individual must ensure that special care procedures are performed by lay people trained in accordance with the regulations, or else by nursing personnel. If the nurse determines that, as a result of the emergency, a trained lay person cannot safely perform the procedure, the procedure must be performed by a qualified health professional.

(i) Competence

The determination of competence is a determination that a person demonstrates adequate knowledge to perform a task, including use of equipment and basic problem-solving skills. Competence includes capability, and adequate understanding.

(1) Determination of competence. Determination of competence must be made by a nurse. The specialized care plan must identify the nurse responsible for making this determination.

(2) Supervised practice. An individual who is working toward but has not yet achieved status of a competent special care provider must provide specialized care under the supervision of a nurse.

(3) Competence defined. Competence involves demonstrating safe performance of each step of the special care procedure and proper use and maintenance of equipment, basic problem-solving skills, consistency of performance, and sufficient theoretical understanding.

(4) Documentation of competence. The record must document which people are determined

competent to perform a special care procedure.

(5) Review of competence. A specialized care provider's competence must be reviewed by a nurse at least annually and also when that worker's competence is in question, or at any time when there is change in the condition of the individual.

(j) Monitoring

Ongoing monitoring by a nurse ensures that a special care provider's skills and knowledge continue to be current. The individual's specialized care plan must include monitoring requirements, including expectations for monitoring the performance of special care procedures and patient outcomes at least annually.

7.100.9 Internal Appeals, Grievances, Notices, and State Fair Hearings

Medicaid-funded services for eligible individuals with developmental disabilities are part of the Global Commitment to Health 1115(a) Medicaid Waiver, which is an 1115(a) Demonstration waiver program under which the Federal government waives certain Medicaid coverage and eligibility requirements found in Title 19 of the Social Security Act. As set forth in the Demonstration, the Agency of Human Services (AHS), as the state, and the Department of Vermont Health Access (DVHA), as if it were a non-risk prepaid in-patient health plan (PIHP), must comply with all aspects of 42 C.F.R. Part 438, Subpart F, regarding a grievance and internal appeal system for Medicaid beneficiaries seeking coverage for Medicaid services, including developmental disabilities services.

AHS has adopted Health Care Administrative Rule (HCAR) 8.100, which fully sets forth the responsibilities of the Vermont Medicaid Program, as required by 42 CFR Part 438, Subpart F. This rule details, among other things, the content and timing of notices of an Adverse Benefit Determination, the circumstances relating to continuing services pending appeal and potential beneficiary liability, and the State fair hearing and grievance processes.

For provisions that govern Medicaid applicant and beneficiary appeals regarding financial, non-financial, categorical, and clinical eligibility for developmental disabilities services, refer to Health Benefit Eligibility and Enrollment Rules (HBEE) Part 8 (State fair hearings/expedited eligibility appeals). HBEE Part 8 also sets forth the requirements for maintaining benefits/eligibility pending a State fair hearing. HBEE Part 7 (Section 68.00) contains the requirements for notices of an adverse action.

The Division will develop a plain language guide to the Internal Appeals, Grievances, Notices, and State Fair Hearings, in collaboration with stakeholders. The guide will be made available to all applicants and authorized representatives during the initial screening and all recipients during the annual periodic review, as well as whenever an applicant or recipient is notified of a decision regarding eligibility or service authorization. The plain language guide will include specifics related to how to file a grievance or appeal, to whom it should be directed, timelines and where to get assistance in filing.

7.100.10 Training

(a) Purpose

Training is an ongoing process that helps ensure safety and quality services and reflects the principles of services of the Developmental Disabilities Act of 1996, generally accepted best practices, and promising practices and the priorities of the *System of Care Plan* and these regulations.

(b) Standards

(1) The Division will develop training standards and periodically update them to ensure that workers:

(A) Understand the values and philosophy underlying services and supports;

(B) Acquire skills necessary to address the individual needs of the recipient for whom they provide services and support;

(C) Acquire skills to implement the principles and purposes of the Developmental Disabilities Act of 1996; and

(D) Are exposed to best and promising practices in supporting individuals with developmental disabilities.

(2) In developing the standards, the Division will endeavor to involve individuals with developmental disabilities and their families in the design, delivery, and evaluation of training.

(3) The minimum standards for training are outlined in (c) – (f).

(c) Agency and Supportive Intermediary Support Organization responsibilities

(1) Each agency must adopt and implement a training plan which ensures adherence to the following minimum standards:

(A) Workers compensated with funds paid or administered by the agency must receive pre-service and in-service training or have knowledge and skills in the areas addressed by pre-service and in-service training consistent with Department and Division standards and these regulations.

(B) Workers, on an ongoing basis, must have opportunities to broaden and develop their skills and knowledge in the following areas:

(i) Best and promising practices;

(ii)Values including:

The principles of supporting people to have valued roles in their community including:

(1) The dignity of valued roles

(2) Sharing ordinary places

(3) Making choices and the dignity of risk

(4) Relationships in living a full life

(5) Making contributions to others

The principles of person-centered thinking including:

(1) How to respectfully address significant issues of health or

safety while supporting choice

(2) How to sort what is important for people from what is important to the people we support

(3) How rituals and routines play a role in what is important to the people we support

(4) The importance of having power with rather than power over the people we support;

(iii) Current and emerging worker responsibilities; and

(iv) Current and emerging needs of the individual.

(2) The training plan must be written and based on the agency's assessment of its ability and capacity to meet the needs of the people it serves, the local *System of Care Plan*, and the training needs of its staff and board members.

(3) The training plan must be updated as needed but at least every three years.

(4) Each agency, and Supportive ISO must:

(A) Have a system to verify that all workers compensated with funds administered or paid by the organization have received pre-service and in-service training in accordance with these regulations or have knowledge and skills in the areas addressed by pre-service and in-service training.

(B) Make pre-service and in-service training available to all workers at no cost to the family or recipient.

(C) Involve people with disabilities and their families in the design, delivery, and evaluation of training and invite them to participate in training.

(D) Have a system to verify that all workers have been told about and understand the requirement to report abuse and neglect of children to the DCF, and abuse, neglect and exploitation of vulnerable adults to APS.

(5) Each agency and Supportive ISO must:

(A) Inform each person that self/family-manages services or share-manages services about the recipients or family's responsibility for ensuring that all workers receive pre-service and in-service training in accordance with these regulations.

(B) Inform each person that self/family-manages or share-manages services about the availability of pre-service and in-service training at no cost to the family.

(d) Pre-service training

Before working alone with an individual who receives support funded by the Department, each worker must be trained and demonstrate knowledge in (1) through (5) of this section. The employer of record, whether recipient, family, shared living provider, contractor, or agency, is responsible for providing or arranging for this training for their workers. The agency or Supportive ISO is responsible for verifying that the employer of record has provided or arranged for this training.

(1) Abuse reporting requirements:

(A) The requirements of Vermont law to report suspected abuse or neglect of children; and

(B) The requirements of Vermont law to report suspected abuse, neglect, or exploitation of vulnerable adults.

(2) Health and Safety:

(A) Emergency procedures, including where to locate the emergency fact sheet;

(B) What to do if the individual is ill or injured;

(C) Critical incident reporting procedures; and

(D) How to contact a supervisor or emergency on-call staff.

(3) Individual specific information. (The provisions of this subsection apply each time a worker works with a different individual or family.)

(A) Whether the individual has a guardian, and how to contact the guardian;

(B) The individual's behavior, including the individual's specific emotional regulation support requirements and behaviors which could place the person or others at risk;

(C) Health and safety needs of the individual;

(D) Methods of communication used by the individual including tools, technology and effective partner support strategies; and

(E) The individual's ISA, including the amount of supervision the individual requires.

(4) Values:

(A) Individual rights, as specified in 18 V.S.A. § 8728 and as outlined in the federal CMS HCBS rules;

(B) Confidentiality;

(C) Respectful interactions with individuals and their families; and

(D)Principles of service contained in the Developmental Disabilities Act of 1996.

(E) Respecting that people can make decisions for themselves, with support when needed.

(F) Presumption of Competence: a strength-based approach that assumes all people have abilities to learn, think, and understand.

(5) How to access additional support, training, or information.

(e) In-service training

(1) Within three months of being hired or entering into a contract, workers must be trained in and demonstrate the knowledge and skills necessary to support individuals in 7.100.10(e)(1)(A) and (B). Workers must be trained in or demonstrate knowledge and skills necessary to support individuals, in 7.100.10(e)(1)(C) and (D). The employer of record, whether recipient, family, shared living provider, contractor, or agency, is responsible for providing or arranging for this training for their workers. The agency or Supportive ISO is responsible for verifying that the employer of record has provided or arranged for this training.

(A) The worker's role in developing and implementing the ISA, including the role and purpose of the ISA, and working as part of a support team;

(B) The skills necessary to implement the recipient's ISA (including facilitating inclusion, teaching and supporting new skills, being an effective communication partner to support methods of communication used by the recipient, and supporting decision making). For self/family-managed services, the employer of record is responsible for providing or arranging for this training for their workers. For share-managed services and respite, the agency is responsible to ensure the employer of record has provided the training and the worker demonstrates knowledge in the areas trained;

(C) Vermont's developmental disabilities service system (including Department policies and procedures) and agency policies and procedures as relevant to their position in order to carry out their duties; and

(D) Basic first aid.

(2) Workers must be trained in blood-borne pathogens and universal precautions within time frames required by state and federal law.

(f) Exception for emergencies

(1) For the purposes of this section, "emergency" means an extraordinary and unanticipated situation of fewer than 72 consecutive hours.

(2) In an emergency, if the unavailability of a trained worker creates a health or safety risk for the individual, a worker who has not received pre-service training or demonstrated knowledge in all pre-service areas may be used for up to 72 hours after the worker first begins to work with the individual in response to the emergency, as long as essential information about the individual is communicated to the worker and he or she has immediate access to all the documents and information covering all areas of Pre-service training (see 7.100.10 (d)).

(3) This exception does not apply to workers performing special care procedures. All requirements in 7.100.8 of these regulations must be met prior to staff performing special care procedures.

7.100.11 Certification of Providers

(a) Purpose of certification

In order to receive funds administered by the Department to provide services or supports to people with developmental disabilities, providers must be certified to enable the Department to ensure that an agency can meet certain standards of quality and practice.

(b) Certification status

(1) To meet certification standards, an agency must:

(A) Meet the standards for designation as a DA or SSA (see *Administrative Rules on Agency Designation*);

(B) Meet the Department's *Quality Standards for Services* (7.100.11(e)); and

(C) Provide services and supports that foster and adhere to the Principles of Service (See 18 V.S.A. §8724) and the Rights guaranteed by the Developmental Disabilities Services Act (See 18 V.S.A. §8728) and the rights outlined in the federal CMS HCBS rules.

(2) Current providers. Any agency receiving Department funds on the effective date of these regulations is presumed to be certified.

(3) New provider. A new provider that wishes to be certified by the Department must first establish that it meets the standards for designation. Upon being designated, an organization must apply in writing to the Department for certification. The application must include policies, procedures, and other documentation demonstrating that the organization is able to meet the quality standards for certification contained in 7.100.11(e) and provide services and supports that foster and adhere to the Principles of Service (See 18 V.S.A. §8724) and the Rights guaranteed by the Developmental Disabilities Services Act (See 18 V.S.A. §8728).

(4) Providers that are not designated will not be certified.

(5) If a certified provider loses its designation status, the provider is automatically de-certified.

(6) The Department will send the applicant a written determination within 30 days after receiving an application for certification. In order to receive funds administered by the Department, an organization must be certified and have a Provider Agreement with the Department.

(c) Monitoring of certification

The Department will monitor certified providers through a variety of methods including quality reviews, other on-site visits, review of critical incident reports and mortality reviews, investigation of complaints from recipients and the public, input from Department staff and staff or employees of other departments of AHS.

(d) Services available regardless of funding source

(1) Any services or supports which are provided to people who are eligible for Medicaid must be made available on the same basis to people who are able to pay for the services or who have other sources of payment.

(2) The rate charged to recipients who are able to pay for services or who have payment sources other than Medicaid must be the same as the rate charged to Medicaid-eligible recipients, *except that* the rate may be discounted to reflect lower administrative or implementation costs, if any, for non-Medicaid recipients. If a provider establishes a sliding fee scale for such services, the provider must have a source of funding (such as United Way, state funds, donated services) for the difference between the cost of providing the service and the fee charged.

(3) Any services not funded by Medicaid may be made available in accordance with a sliding fee schedule.

(e) Quality standards for services

To be certified, an agency must provide or arrange for services that achieve the following outcomes as specified in *Guidelines for the Quality Review Process of Developmental Disabilities Services:*

(1) Respect: Individuals feel that they are treated with dignity and respect.

(2) Self Determination: Individuals direct their own lives and receive support in decision making when needed.

(3) Person Centered: Individuals' needs are met, and their strengths and preferences are honored.

(4) Independent Living: Individuals live and work as independently and interdependently as they choose.

(5) Relationships: Individuals experience positive relationships, including connections with family and their natural supports.

(6) Participation: Individuals participate in their local communities.

(7) Well-being: Individuals experience optimal health and well-being.

(8) Communication: Individuals communicate effectively with others.

(9) System Outcomes.

(f) Status of non-designated providers

(1) Any non-designated entity or organization that provides services or supports to individuals with funds administered by the Department must be a subcontractor of an agency. This requirement does not apply to persons employed as independent direct support providers. The decision to subcontract with an entity or organization is at the discretion of the agency.

(2) The Department quality service reviews will be responsible for including people served by subcontracted providers to verify that they meet quality review standards.

(3) Any subcontract must contain provision for operations in accordance with all applicable state and federal policies, rules, guidelines, and regulations that are required of agencies.

(4) Agencies must require the following through all of its subcontracts: reserve the right to conduct inquiries or investigations without prior notification in response to incidents, events or conditions that come to its attention that raise concerns as to person-specific allegations regarding safety, quality of supports, the well-being of people who receive services or any criminal action. Further, the Department may conduct audits without advanced notice.

(5) Having a subcontract does not terminate an agency receiving funds under Vermont's Medicaid program from its responsibility to ensure that all activities and standards under their Provider Agreement with the Department are carried out by their subcontractors.

7.100.12 Evaluation and Assessment of the Success of Programs

The Department will evaluate and assess the success of programs using the following processes:

(1) The review of services provision, as outlined in the *Guidelines for Quality Review of Developmental Disabilities Services,* as well as those processes outlined in Appendix B of the quality review guidelines *Sources of Quality Assurance and Protection for Citizens with Developmental Disabilities;*

(2) The designation process for DA and SSAs as outlined in the *Administrative Rules on Agency Designation;*

(3) Review of the data reported by agencies on required performance measures and monitoring of programs, as described in the agencies' Provider Agreements with the Department; and

(4) Review of performance measures submitted to AHS, as required by 2022 Acts and Resolves No. 186.

The information gathered will be used for informing the continuation of programs, quality improvement, innovations in service delivery and policy development.

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State of Vermont *Agency of Human Services*
Department of Disabilities, Aging and Independent Living
Adult Services Division
HC 2 South, 280 State Drive
Waterbury, VT 05671-2020
Phone: 802-241-0294
Fax: 802-241-0385
www.dail.vermont.gov

MEMO

To: **Licensed Level III and Assisted Living Providers**
Developmental Disabilities Services Providers
Brain Injury Program Service Providers
Adult Family Care Authorized Agencies

From: **Angela Smith-Dieng, ASD Director** A SD
Jennifer Garabedian, DDSD Director JLG

Date: **12/8/2022**

Re: **Room and Board Memo – 2023 Standards Update**

The Department of Disabilities, Aging and Independent Living (DAIL) has been notified that effective January 1, 2023, SSI benefits will increase by $73 per month to reflect an increase in the cost of living (COLA). This memo is to communicate the new room & board and minimum personal spending amounts allowed under the DAIL room & board standards. With the 2023 SSI increase on 1/1/23, the room and board standard will increase by $36.00, and the personal needs allowance will increase by $37.00. Please refer to the accompanying table for exact amount based on the setting.

As a reminder, providers must ensure that individuals retain the required minimum personal spending amount listed in the table. *However, providers may choose to charge a person less for room and board payment, so the resident may retain a greater personal needs spending allowance*.

See also Attachment A (page 4) of this memo, which provides clarification on items included in room and board. **All Shared Living Provider contracts must include a copy of this memo**.

Providers must also give residents proper notice of any change in room and board charges according to applicable licensing regulations and program standards.

Please contact your applicable state government program staff with questions.

C: ASD Staff
DDSD Staff
DLP Staff

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2023 Room and Board Table:

Developmental Services

Description	Total SSI 2023	Room & Board	Minimum Personal Spending
Unlicensed Residential Care Home (also called *Board and Care Home* or *Developmental Home* or *Shared Living)*	1012.69	796.69	216.00
Licensed Residential Care Home *Level III without ACCS*	1181.13	965.13	216.00
Licensed Residential Care Home *Level IV/TCR*	1137.94	921.94	216.00
Independent Living	966.04	n/a	n/a

Section 6.2 of the Developmental Services Regulations specifies that the above designation shall be full and complete payment for room and board for people receiving residential services funded through the home and community-based waiver. The same section governs individuals with private means to pay room and board.

TBI Services

Description	Total SSI 2023	Room & Board	Minimum Personal Spending
Unlicensed Residential Care Home (also called *Board and Care Home* or *Developmental Home* or *Shared Living)*	1012.69	796.69	216.00
Licensed Residential Care Home *Level III without ACCS*	1181.13	965.13	216.00
Licensed Residential Care Home *Level IV/TCR*	1137.94	921.94	216.00
Independent Living	966.04	n/a	n/a

Choices for Care – Adult Family Care

Description	Total SSI 2023	Room & Board	Minimum Personal Spending
Adult Family Care Home	1012.69	796.69	216.00

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Assistive Community Care Services (includes CFC Enhanced Residential Care)

Description	Total SSI 2023	Room & Board	Minimum Personal Spending
Licensed Level III Residential Care Home and Assisted Living Residences with ACCS **Residents living in a private room with income above SSI may be charged room & board up to 85% of their net income after Medicaid standard deductions and medical deductions.*	962.38	797.38	165.00

Medicaid Protected Income Limit	**2023**	**2022**
Outside Chittenden County	**$1258**	$1166
Inside Chittenden County	**$1358**	$1266

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Attachment A:

Below is a clarification of expenses that are included in Room and Board for people served by Developmental Services, Choices for Care and the Brain Injury Program in Licensed Level III Homes, Shared Living and Adult Family Care Homes.

Included in Room and Board:

- Person's bedroom and use of common living spaces and utilities within the home. No other individuals may use the person's bedroom when the person is away. Basic utilities include electricity, heat, water, sewer, trash removal, snow removal and 24-hour access to make and receive calls.

- Food with exceptions being purchases made in the community, such as restaurant meals and/or beverages *that have been arranged per the person's request.*

- Snack foods in the home, even if specific to the person.

- Laundry, laundry supplies, cleaning supplies, toothpaste, shampoo, soap, toilet paper, feminine hygiene products etc. If laundry facilities outside the home need to be utilized, this is a room and board cost.

Additional Notes:

- People in shared living/AFC should not be receiving economic services benefits related to food and shelter such as home delivered meal (meals on wheels), 3SquaresVT/EBT and fuel assistance.

- Personal Needs Allowance cannot be used for the following items:

    - Basic transportation. Basic transportation to the community and medical appointments is an expectation of a shared living contract.

    - Personal care items. On-going personal care items such as latex or vinyl gloves, wipes, or first aid supplies are the responsibility of the shared living provider.

Fees for Non- IV-D services as of Fall 2023:

State:	**Fee**
Texas	$3.00 monthly
Washington	None
Rhode Island	None
Iowa	None
Indiana	$55 annually
Louisiana	None
West Virginia	None
New Mexico	$25 annually (plus other IV-D fees)
Hawaii	None
Utah	None
Arizona	$8 monthly
Colorado	None
Massachusetts	None
Idaho	None
Virginia	None
Wisconsin	$65 annually
North Dakota	$5 monthly
Arkansas	$36 annually
California	None
Illinois	None
Minnesota	None
Maine	None
Kansas	None

Flood Resources

Important information and assistance

Vermont Spay Neuter Incentive Program

Helps eligible Vermonters afford to have their dogs and cats spayed or neutered.

SPECIAL NOTE: VSNIP is funded by a $4 fee added to the cost of getting a dog license in Vermont. It is the program's only source of funding. Available funds are therefore limited by the number of dogs licensed each year. Dogs are legally required to be licensed by the age of 6 months. They must have a rabies vaccine to get a license. They should get their first rabies vaccine between the age of 12 weeks and 6 months.

Who Is Eligible

To be eligible, you must:

- Live in Vermont.
- Have acquired your pet for free or just a small fee.
- Get certain public benefits or have household income at or below 185% of Federal Poverty Guidelines.

If Your Application Is Approved

You'll get vouchers that allow you to get your dogs/cats spayed or neutered for a $27 copay per animal.

How To Apply

1. Print the application or save it on your computer. *You don't have to print it in color.*
2. Complete it by hand or electronically and then sign it.
3. Mail your completed application, along with supporting documents and a self-addressed, stamped envelope, to the address below.
4. If your application is complete, it will be processed within five (5) business days.

If You Need A Paper Application

Send the following to the address at the bottom of this page:

- Your request for an application. Indicate if it's for a cat, dog, or both.
- An empty, unsealed envelope with your name & address written in the middle of it and a stamp pasted on the top right corner.

How The Program Works

- Your application is not approved until you get the voucher in the mail.
- Once you get your voucher, make an appointment with a participating vet right away.
- The voucher must be used within 60 days.
- If the surgery cannot be done within the 60 days, call VSNIP at (802) 672-5302 to get an extension.

What Your Copay Covers

Your copay covers a pre-surgical exam, pain management before and during surgery, the surgery, an overnight stay if needed, a distemper vaccine series, one rabies vaccination and suture removal after surgery.

What Your Copay Does Not Cover

It does not cover:

- Pain management after surgery
- Optional procedures such as a blood panel
- Procedures associated with complications that arise during or after surgery (e.g., animal in heat or pregnant, fleas & ticks, parasites, infection and incision repair)

Ask about all possible charges that are not covered by VSNIP, before the surgery. You may decline any recommended optional procedures and consult with other vets.

It’s Very Important That You

- Keep your appointment. Call right away if you need to reschedule.
- Bring the voucher and $27 copay to the vet's office —on or before the day of the surgery.
- Print this list of things to remember before the surgery.

Resources For Applicants

- Application Form
- List of Things to Remember
- List of Participating Vets

VSNIP, PO Box 104, Bridgewater, VT 05034 • 1-844-448-7647 • (802) 672-5302

3SquaresVT
3SquaresVT in a SNAP!
Child Care Financial Assistance
Child Support Services
Children's Integrated Services
Crisis Fuel Assistance
Emergency General Assistance
Emergency Heating System
Emergency Housing
Energy Assistance
Essential Person
Farm To Family
Fuel Assistance
ICAN
Micro Business Development
Post-Secondary Education
Reach Up
Reach Up Child Only

VSNIP

Water Assistance

Weatherization Assistance

Miranda Gray, Deputy Commissioner
Economic Services Division (ESD)
280 State Drive
Waterbury, VT 05671-1020

Public Records Requests To DCF

Benefit Applicants

ESD Benefits

MyBenefits Portal

Uploader

How To Reach Us

Contact ESD

District Offices

Report Benefits Fraud

What Guides Us

ESD Procedures

ESD Rules - Current

ESD Rules - Proposed/Adopted

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Attorney and VR Fees Subject To Annual Review/Increase By Rule				
Year	Consumer Price Index, CPI-U Percentage	WC Rule 20.1340 – Effective July 1		WC VR Rule 58.5500 – Effective July 1
		Attorney Fee	Paralegal Fee	
2017	2.2%	$205.00	$75.00	$95.00
2018	2.46%	$210.00	$75.00	$95.00
2019	2.00%	$215.00	$75.00	$95.00
2020	0.3%	$215.00	$75.00	$95.00
2021	4.16%	$225.00	$80.00	$100.00
2022	8.26%	$235.00	$85.00	$105.00
2023	4.93%	$245.00	$90.00	$110.00

Revised 6/13/2023

Public Law 105–394
105th Congress

An Act

To support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

Nov. 13, 1998
[S. 2432]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Assistive Technology Act of 1998.
29 USC 3001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Assistive Technology Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

29 USC 3001.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(2) Technology has become one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

(3) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of the more than 50,000,000 individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology would have profound implications for individuals with disabilities in the United States.

(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living, that significantly benefit individuals with disabilities of all ages. Such devices and adaptations increase the involvement of such individuals in, and reduce expenditures associated with, programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, and recreation programs and activities, and other aspects of daily living.

(5) All States have comprehensive statewide programs of technology-related assistance. Federal support for such programs should continue, strengthening the capacity of each State to assist individuals with disabilities of all ages with their assistive technology needs.

(6) Notwithstanding the efforts of such State programs, there is still a lack of—

(A) resources to pay for assistive technology devices and assistive technology services;

(B) trained personnel to assist individuals with disabilities to use such devices and services;

(C) information among targeted individuals about the availability and potential benefit of technology for individuals with disabilities;

(D) outreach to underrepresented populations and rural populations;

(E) systems that ensure timely acquisition and delivery of assistive technology devices and assistive technology services;

(F) coordination among State human services programs, and between such programs and private entities, particularly with respect to transitions between such programs and entities; and

(G) capacity in such programs to provide the necessary technology-related assistance.

(7) In the current technological environment, the line of demarcation between assistive technology and mainstream technology is becoming ever more difficult to draw.

(8) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities in the design, manufacture, and procurement of telecommunications and information technologies results in the exclusion of such individuals from the use of telecommunications and information technologies and results in unnecessary costs associated with the retrofitting of devices and product systems.

(9) There are insufficient incentives for Federal contractors and other manufacturers of technology to address the application of technology advances to meet the needs of individuals with disabilities of all ages for assistive technology devices and assistive technology services.

(10) The use of universal design principles reduces the need for many specific kinds of assistive technology devices and assistive technology services by building in accommodations for individuals with disabilities before rather than after production. The use of universal design principles also increases the likelihood that products (including services) will be compatible with existing assistive technologies. These principles are increasingly important to enhance access to information technology, telecommunications, transportation, physical structures, and consumer products. There are insufficient incentives for commercial manufacturers to incorporate universal design principles into the design and manufacturing of technology products, including devices of daily living, that could expand their immediate use by individuals with disabilities of all ages.

(11) There are insufficient incentives for commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of the perception that such individuals constitute a limited market.

(12) At the Federal level, the Federal Laboratories, the National Aeronautics and Space Administration, and other similar entities do not recognize the value of, or commit resources on an ongoing basis to, technology transfer initiatives that would benefit, and especially increase the independence of, individuals with disabilities.

(13) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. In addition, the Federal Government does not provide adequate assistance and information with respect to the quality and use of assistive technology devices and assistive technology services to targeted individuals.

(14) There are changes in the delivery of assistive technology devices and assistive technology services, including—

(A) the impact of the increased prevalence of managed care entities as payors for assistive technology devices and assistive technology services;

(B) an increased focus on universal design;

(C) the increased importance of assistive technology in employment, as more individuals with disabilities move from public assistance to work through training and on-the-job accommodations;

(D) the role and impact that new technologies have on how individuals with disabilities will learn about, access, and participate in programs or services that will affect their lives; and

(E) the increased role that telecommunications play in education, employment, health care, and social activities.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide financial assistance to States to undertake activities that assist each State in maintaining and strengthening a permanent comprehensive statewide program of technology-related assistance, for individuals with disabilities of all ages, that is designed to—

(A) increase the availability of, funding for, access to, and provision of, assistive technology devices and assistive technology services;

(B) increase the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, in the maintenance, improvement, and evaluation of such a program;

(C) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

(D) increase the provision of outreach to underrepresented populations and rural populations, to enable the two populations to enjoy the benefits of activities carried out under this Act to the same extent as other populations;

(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

(F)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, to obtain increased availability or provision of assistive technology devices and assistive technology services;

(G) increase the probability that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or

between settings of daily living (for example, between home and work);

(H) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

(I) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals;

(J) increase the awareness of the needs of individuals with disabilities of all ages for assistive technology devices and for assistive technology services; and

(K) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

(2) to identify Federal policies that facilitate payment for assistive technology devices and assistive technology services, to identify those Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment; and

(3) to enhance the ability of the Federal Government to—

(A) provide States with financial assistance that supports—

(i) information and public awareness programs relating to the provision of assistive technology devices and assistive technology services;

(ii) improved interagency and public-private coordination, especially through new and improved policies, that result in increased availability of assistive technology devices and assistive technology services; and

(iii) technical assistance and training in the provision or use of assistive technology devices and assistive technology services; and

(B) fund national, regional, State, and local targeted initiatives that promote understanding of and access to assistive technology devices and assistive technology services for targeted individuals.

SEC. 3. DEFINITIONS AND RULE. 29 USC 3002.

(a) DEFINITIONS.—In this Act:

(1) ADVOCACY SERVICES.—The term "advocacy services", except as used as part of the term "protection and advocacy services", means services provided to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and assistive technology services.

(2) ASSISTIVE TECHNOLOGY.—The term "assistive technology" means technology designed to be utilized in an assistive technology device or assistive technology service.

(3) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists an

individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(5) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term "capacity building and advocacy activities" means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services,

in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(6) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term "comprehensive statewide program of technology-related assistance" means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(7) CONSUMER-RESPONSIVE.—The term "consumer-responsive"—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect advocacy, capacity building, and capacity building and advocacy activities.

(8) DISABILITY.—The term "disability" means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

(9) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

(A) INDIVIDUAL WITH A DISABILITY.—The term "individual with a disability" means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) INDIVIDUALS WITH DISABILITIES.—The term "individuals with disabilities" means more than one individual with a disability.

(10) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), and includes a community college receiving

funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(11) PROTECTION AND ADVOCACY SERVICES.—The term "protection and advocacy services" means services that—

(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973; and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(12) SECRETARY.—The term "Secretary" means the Secretary of Education.

(13) STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and section 302, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) OUTLYING AREAS.—In sections 101(c) and 102(b):

(i) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) STATE.—The term "State" does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(14) TARGETED INDIVIDUALS.—The term "targeted individuals" means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) individuals who work for public or private entities (including insurers or managed care providers), that have contact with individuals with disabilities;

(C) educators and related services personnel;

(D) technology experts (including engineers);

(E) health and allied health professionals;

(F) employers; and

(G) other appropriate individuals and entities.

(15) TECHNOLOGY-RELATED ASSISTANCE.—The term "technology-related assistance" means assistance provided through capacity building and advocacy activities that accomplish the purposes described in any of subparagraphs (A) through (K) of section 2(b)(1).

(16) UNDERREPRESENTED POPULATION.—The term "underrepresented population" means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited-English proficiency, older individuals, or persons from rural areas.

(17) UNIVERSAL DESIGN.—The term "universal design" means a concept or philosophy for designing and delivering products and services that are usable by people with the widest

possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies.

(b) REFERENCES.—References in this Act to a provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 shall be considered to be references to such provision as in effect on the day before the date of enactment of this Act.

TITLE I—STATE GRANT PROGRAMS

SEC. 101. CONTINUITY GRANTS FOR STATES THAT RECEIVED FUNDING FOR A LIMITED PERIOD FOR TECHNOLOGY-RELATED ASSISTANCE. 29 USC 3011.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award grants, in accordance with this section, to eligible States to support capacity building and advocacy activities, designed to assist the States in maintaining permanent comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(2) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall be a State that received grants for less than 10 years under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any State that receives a grant under this section shall use the funds made available through the grant to carry out the activities described in paragraph (2) and may use the funds to carry out the activities described in paragraph (3).

(2) REQUIRED ACTIVITIES.—

(A) PUBLIC AWARENESS PROGRAM.—

(i) IN GENERAL.—The State shall support a public awareness program designed to provide information to targeted individuals relating to the availability and benefits of assistive technology devices and assistive technology services.

(ii) LINK.—Such a public awareness program shall have an electronic link to the National Public Internet Site authorized under section 104(c)(1).

(iii) CONTENTS.—The public awareness program may include—

(I) the development and dissemination of information relating to—

(aa) the nature of assistive technology devices and assistive technology services;

(bb) the appropriateness of, cost of, availability of, evaluation of, and access to, assistive technology devices and assistive technology services; and

(cc) the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living;

(II) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals; and

(III) the development and dissemination, to targeted individuals, of information about State efforts related to assistive technology.

(B) INTERAGENCY COORDINATION.—

(i) IN GENERAL.—The State shall develop and promote the adoption of policies that improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State and that result in improved coordination among public and private entities that are responsible or have the authority to be responsible, for policies, procedures, or funding for, or the provision of assistive technology devices and assistive technology services to, such individuals.

(ii) APPOINTMENT TO CERTAIN INFORMATION TECHNOLOGY PANELS.—The State shall appoint the director of the lead agency described in subsection (d) or the designee of the director, to any committee, council, or similar organization created by the State to assist the State in the development of the information technology policy of the State.

(iii) COORDINATION ACTIVITIES.—The development and promotion described in clause (i) may include support for—

(I) policies that result in improved coordination, including coordination between public and private entities—

(aa) in the application of Federal and State policies;

(bb) in the use of resources and services relating to the provision of assistive technology devices and assistive technology services, including the use of interagency agreements; and

(cc) in the improvement of access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State;

(II) convening interagency work groups, involving public and private entities, to identify, create, or expand funding options, and coordinate access to funding, for assistive technology devices and assistive technology services for individuals with disabilities of all ages; or

(III) documenting and disseminating information about interagency activities that promote coordination, including coordination between public and private entities, with respect to assistive technology devices and assistive technology services.

(C) TECHNICAL ASSISTANCE AND TRAINING.—The State shall carry out directly, or provide support to public or private entities to carry out, technical assistance and training activities for targeted individuals, including—

(i) the development and implementation of laws, regulations, policies, practices, procedures, or organizational structures that promote access to assistive technology devices and assistive technology services for individuals with disabilities in education, health care, employment, and community living contexts, and in other contexts such as the use of telecommunications;

(ii)(I) the development of training materials and the conduct of training in the use of assistive technology devices and assistive technology services; and

(II) the provision of technical assistance, including technical assistance concerning how—

(aa) to consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing any individualized plan or program authorized under Federal or State law;

(bb) the rights of targeted individuals to assistive technology devices and assistive technology services are addressed under laws other than this Act, to promote fuller independence, productivity, and inclusion in and integration into society of such individuals; or

(cc) to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

(iii) the enhancement of the assistive technology skills and competencies of—

(I) individuals who work for public or private entities (including insurers and managed care providers), who have contact with individuals with disabilities;

(II) educators and related services personnel;

(III) technology experts (including engineers);

(IV) health and allied health professionals;

(V) employers; and

(VI) other appropriate personnel.

(D) OUTREACH.—The State shall provide support to statewide and community-based organizations that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services, including a focus on organizations assisting individuals from underrepresented populations and rural populations. Such support may include outreach to consumer organizations and groups in the State to coordinate efforts to assist individuals with disabilities of all ages and their family members, guardians, advocates, or authorized representatives, to obtain funding for, access to, and information on evaluation of assistive technology devices and assistive technology services.

(3) DISCRETIONARY ACTIVITIES.—

(A) ALTERNATIVE STATE-FINANCED SYSTEMS.—The State may support activities to increase access to, and funding for, assistive technology devices and assistive technology services, including—

(i) the development of systems that provide assistive technology devices and assistive technology services to individuals with disabilities of all ages, and that pay for such devices and services, such as—

(I) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; or

(II) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

(aa) a low-interest loan fund;

(bb) an interest buy-down program;

(cc) a revolving loan fund;

(dd) a loan guarantee or insurance program;

(ee) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(ff) another mechanism that meets the requirements of title III and is approved by the Secretary;

(ii) the short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); or

(iii) the maintenance of information about, and recycling centers for, the redistribution of assistive technology devices and equipment, which may include redistribution through device and equipment loans, rentals, or gifts.

(B) DEMONSTRATIONS.—The State, in collaboration with other entities in established, recognized community settings (such as nonprofit organizations, libraries, schools, community-based employer organizations, churches, and entities operating senior citizen centers, shopping malls, and health clinics), may demonstrate assistive technology devices in settings where targeted individuals can see and try out assistive technology devices, and learn more about the devices from personnel who are familiar with such devices and their applications or can be referred to other entities who have information on the devices.

(C) OPTIONS FOR SECURING DEVICES AND SERVICES.—The State, through public agencies or nonprofit organizations, may support assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives about options for securing assistive technology devices and assistive technology services that would meet individual needs for such assistive technology devices and assistive technology services. Such assistance shall not include direct payment for an assistive technology device.

(D) TECHNOLOGY-RELATED INFORMATION.—

(i) IN GENERAL.—The State may operate and expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such devices and services, and individuals, organizations, and agencies capable of carrying out such an activity for individuals with disabilities. The system shall be part of, and complement the information that is available through a link to, the National Public Internet Site described in section 104(c)(1).

(ii) ACCESS.—Access to the system may be provided through community-based locations, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973), locations of community rehabilitation programs (as defined in section 7 of such Act), schools, senior citizen centers, State vocational rehabilitation offices, other State workforce offices, and other locations frequented or used by the public.

(iii) INFORMATION COLLECTION AND PREPARATION.—In operating or expanding a system described in subparagraph (A), the State may—

(I) develop, compile, and categorize print, large print, braille, audio, and video materials, computer disks, compact discs (including compact discs formatted with read-only memory), information in alternative formats that can be used in telephone-based information systems, and materials using such other media as technological innovation may make appropriate;

(II) identify and classify funding sources for obtaining assistive technology devices and assistive technology services, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(III) identify support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection, including groups that provide evaluations of assistive technology devices and assistive technology services; and

(IV) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in clause (i), and of the nature of such inquiries.

(E) INTERSTATE ACTIVITIES.—

(i) IN GENERAL.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals with disabilities of all ages to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such

Contracts.

individuals need at home, at school, at work, or in other environments that are part of daily living.

(ii) ELECTRONIC COMMUNICATION.—The State may operate or participate in an electronic information exchange through which the State may communicate with other States to gain technical assistance in a timely fashion and to avoid the duplication of efforts already undertaken in other States.

(F) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

(i) the development, demonstration, and dissemination of assistive technology devices; and

(ii) the ongoing provision of information about new products to assist individuals with disabilities.

(G) EXPENSES.—The State may pay for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need and not eligible for such payments or services through another public agency or private entity.

(H) ADVOCACY SERVICES.—The State may provide advocacy services.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year for grants under this section, the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States in accordance with the requirements described in paragraph (3).

(3) CALCULATION OF STATE GRANTS.—

(A) CALCULATIONS FOR GRANTS IN THE SECOND OR THIRD YEAR OF A SECOND EXTENSION GRANT.—For any fiscal year, the Secretary shall calculate the amount of a grant under paragraph (2) for each eligible State that would be in the second or third year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if that Act had been reauthorized for that fiscal year.

(B) CALCULATIONS FOR GRANTS IN THE FOURTH OR FIFTH YEAR OF A SECOND EXTENSION GRANT.—

(i) FOURTH YEAR.—An eligible State that would have been in the fourth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 75 percent of the funding that the State received in the prior

fiscal year under section 103 of that Act or under this section, as appropriate.

(ii) FIFTH YEAR.—An eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 50 percent of the funding that the State received in the third year of a second extension grant under section 103 of that Act or under this section, as appropriate.

(C) PROHIBITION ON FUNDS AFTER FIFTH YEAR OF A SECOND EXTENSION GRANT.—Except as provided in subsection (f), an eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, may not receive any Federal funds under this title for any fiscal year after such fiscal year.

(D) ADDITIONAL STATES.—

(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall treat a State described in clause (ii)—

(I) for fiscal years 1999 through 2001, as if the State were a State described in subparagraph (A); and

(II) for fiscal year 2002 or 2003, as if the State were a State described in clause (i) or (ii), respectively, of subparagraph (B).

(ii) STATE.—A State referred to in clause (i) shall be a State that—

(I) in fiscal year 1998, was in the second year of an initial extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; and

(II) meets such terms and conditions as the Secretary shall determine to be appropriate.

(d) LEAD AGENCY.—

(1) IDENTIFICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall designate a lead agency to carry out appropriate State functions under this section. The lead agency shall be the current agency (as of the date of submission of the application supplement described in subsection (e)) administering the grant awarded to the State for fiscal year 1998 under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, except as provided in subparagraph (B).

(B) CHANGE IN AGENCY.—The Governor may change the lead agency if the Governor shows good cause to the Secretary why the designated lead agency should be changed, in the application supplement described in subsection (e), and obtains approval of the supplement.

(2) DUTIES OF THE LEAD AGENCY.—The duties of the lead agency shall include—

(A) submitting the application supplement described in subsection (e) on behalf of the State;

(B) administering and supervising the use of amounts made available under the grant received by the State under this section;

(C)(i) coordinating efforts related to, and supervising the preparation of, the application supplement described in subsection (e);

(ii) continuing the coordination of the maintenance and evaluation of the comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private entities, including coordinating efforts related to entering into interagency agreements; and

(iii) continuing the coordination of efforts, especially efforts carried out with entities that provide protection and advocacy services described in section 102, related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out under the grant; and

(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to one or more appropriate offices, agencies, entities, or individuals.

(e) APPLICATION SUPPLEMENT.—

(1) SUBMISSION.—Any State that desires to receive a grant under this section shall submit to the Secretary an application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, at such time, in such manner, and for such period as the Secretary may specify, that contains the following information:

(A) GOALS AND ACTIVITIES.—A description of—

(i) the goals the State has set, for addressing the assistive technology needs of individuals with disabilities in the State, including any related to—

(I) health care;

(II) education;

(III) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973;

(IV) telecommunication and information technology; or

(V) community living; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsection (b).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(D) REDESIGNATION OF THE LEAD AGENCY.—If the Governor elects to change the lead agency, the following information:

(i) With regard to the original lead agency, a description of the deficiencies of the agency.

(ii) With regard to the new lead agency, a description of—

(I) the capacity of the new lead agency to administer and conduct activities described in subsection (b) and this paragraph; and

(II) the procedures that the State will implement to avoid the deficiencies, described in clause (i), of the original lead agency.

(iii) Information identifying which agency prepared the application supplement.

(2) INTERIM STATUS OF STATE OBLIGATIONS.—Except as provided in subsection (f)(2), when the Secretary notifies a State that the State shall submit the application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall specify in the notification the time period for which the application supplement shall apply, consistent with paragraph (4). Notification. Applicability.

(3) CONTINUING OBLIGATIONS.—Each State that receives a grant under this section shall continue to abide by the assurances the State made in the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 and continue to comply with reporting requirements under that Act.

(4) DURATION OF APPLICATION SUPPLEMENT.—

(A) DETERMINATION.—The Secretary shall determine and specify to the State the time period for which the application supplement shall apply, in accordance with subparagraph (B).

(B) LIMIT.—Such time period for any State shall not extend beyond the year that would have been the fifth year of a second extension grant made for that State under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if the Act had been reauthorized through that year.

(f) EXTENSION OF FUNDING.—

(1) IN GENERAL.—In the case of a State that was in the fifth year of a second extension grant in fiscal year 1998 or is in the fifth year of a second extension grant in any of the fiscal years 1999 through 2004 made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, the Secretary may, in the discretion of the Secretary, award a 3-year extension of the grant to such State if the State submits an application supplement under subsection (e)

and meets other related requirements for a State seeking a grant under this section.

(2) AMOUNT.—A State that receives an extension of a grant under paragraph (1), shall receive through the grant, for each of fiscal years of the extension of the grant, an amount equivalent to the amount the State received for the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, from funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for grants under this section.

(3) LIMITATION.—A State may not receive amounts under an extension of a grant under paragraph (1) after September 30, 2004.

29 USC 3012.

SEC. 102. STATE GRANTS FOR PROTECTION AND ADVOCACY RELATED TO ASSISTIVE TECHNOLOGY.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the appropriation of funds under section 105, the Secretary shall make a grant to an entity in each State to support protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) for the purposes of assisting in the acquisition, utilization, or maintenance of assistive technology or assistive technology services for individuals with disabilities.

(2) CERTAIN STATES.—Notwithstanding paragraph (1), for a State that, on the day before the date of enactment of this Act, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall make the grant to the lead agency designated under section 101(d). The lead agency shall determine how the funds made available under this section shall be divided among the entities that were providing protection and advocacy services in that State on that day, and distribute the funds to the entities. In distributing the funds, the lead agency shall not establish any further eligibility or procedural requirements for an entity in that State that supports protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under paragraph (1).

(3) PERIODS.—The Secretary shall provide assistance through such a grant to a State for 6 years.

(b) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year, the Secretary shall make a grant in an amount of not more than $30,000 to each eligible system within an outlying area.

(2) GRANTS TO STATES.—For any fiscal year, after reserving funds to make grants under paragraph (1), the Secretary shall make allotments from the remainder of the funds described in paragraph (1) in accordance with paragraph (3) to eligible

systems within States to support protection and advocacy services as described in subsection (a). The Secretary shall make grants to the eligible systems from the allotments.

(3) SYSTEMS WITHIN STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each fiscal year, the Secretary shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, the allotment to any system under subparagraph (A) shall be not less than $50,000, and the allotment to any system under this paragraph for any fiscal year that is less than $50,000 shall be increased to $50,000.

(4) REALLOTMENT.—Whenever the Secretary determines that any amount of an allotment under paragraph (3) to a system within a State for any fiscal year will not be expended by such system in carrying out the provisions of this section, the Secretary shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Secretary determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(c) REPORT TO SECRETARY.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

(2) engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;

(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;

(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and

(5) coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency.

(d) REPORTS AND UPDATES TO STATE AGENCIES.—An entity that receives a grant under this section shall prepare and submit to the lead agency the report described in subsection (c) and quarterly updates concerning the activities described in subsection (c).

(e) COORDINATION.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State designated under section 101(d) with respect to efforts at coordination, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

29 USC 3013.

SEC. 103. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING ENTITIES.—

(1) IN GENERAL.—The Secretary shall assess the extent to which entities that receive grants pursuant to this title are complying with the applicable requirements of this title and achieving the goals that are consistent with the requirements of the grant programs under which the entities applied for the grants.

(2) ONSITE VISITS OF STATES RECEIVING CERTAIN GRANTS.—

(A) IN GENERAL.—The Secretary shall conduct an onsite visit for each State that receives a grant under section 101 and that would have been in the third or fourth year of a second extension grant under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 if that Act had been reauthorized for that fiscal year, prior to the end of that year.

(B) UNNECESSARY VISITS.—The Secretary shall not be required to conduct a visit of a State described in subparagraph (A) if the Secretary determines that the visit is not necessary to assess whether the State is making significant progress toward development and implementation of a comprehensive statewide program of technology-related assistance.

(3) ADVANCE PUBLIC NOTICE.—The Secretary shall provide advance public notice of an onsite visit conducted under paragraph (2) and solicit public comment through such notice from targeted individuals, regarding State goals and related activities to achieve such goals funded through a grant made under section 101.

(4) MINIMUM REQUIREMENTS.—At a minimum, the visit shall allow the Secretary to determine the extent to which the State is making progress in meeting State goals and maintaining a comprehensive statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(5) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) CORRECTIVE ACTION AND SANCTIONS.—

(1) CORRECTIVE ACTION.—If the Secretary determines that an entity fails to substantially comply with the requirements of this title with respect to a grant program, the Secretary shall assist the entity through technical assistance funded under section 104 or other means, within 90 days after such determination, to develop a corrective action plan.

(2) SANCTIONS.—An entity that fails to develop and comply with a corrective action plan as described in paragraph (1) during a fiscal year shall be subject to one of the following corrective actions selected by the Secretary:

(A) Partial or complete fund termination under the grant program.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in funding for the following year under the grant program.

(D) Required redesignation of the lead agency designated under section 101(d) or an entity responsible for administering the grant program.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for entities that are found to be in noncompliance with the requirements of this title.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to Congress, a report on the activities funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services. Deadline.

(2) CONTENTS.—Such report shall include information on—

(A) the demonstrated successes of the funded activities in improving interagency coordination relating to assistive technology, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

(B) the demonstration activities carried out through the funded activities to—

(i) promote access to such funding in public programs that were in existence on the date of the initiation of the demonstration activities; and

(ii) establish additional options for obtaining such funding;

(C) the education and training activities carried out through the funded activities to educate and train targeted individuals about assistive technology, including increasing awareness of funding through public programs for assistive technology;

(D) the research activities carried out through the funded activities to improve understanding of the costs and benefits of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

(E) the program outreach activities to rural and inner-city areas that are carried out through the funded activities;

(F) the activities carried out through the funded activities that are targeted to reach underrepresented populations and rural populations; and

(G) the consumer involvement activities carried out through the funded activities.

(3) AVAILABILITY OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—As soon as practicable, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services.

(d) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a Federal or a State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

29 USC 3014.

SEC. 104. TECHNICALSSISTANCE PROGRAM.

(a) IN GENERAL.—Through grants, contracts, or cooperative agreements, awarded on a competitive basis, the Secretary is authorized to fund a technical assistance program to provide technical assistance to entities, principally entities funded under section 101 or 102.

(b) INPUT.—In designing the program to be funded under this section, and in deciding the differences in function between national and regionally based technical assistance efforts carried out through the program, the Secretary shall consider the input of the directors of comprehensive statewide programs of technology-related assistance and other individuals the Secretary determines to be appropriate, especially—

(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

(2) family members, guardians, advocates, and authorized representatives of such individuals; and

(3) individuals employed by protection and advocacy systems funded under section 102.

(c) SCOPE OF TECHNICAL ASSISTANCE.—

(1) NATIONAL PUBLIC INTERNET SITE.—

(A) ESTABLISHMENT OF INTERNET SITE.—The Secretary shall fund the establishment and maintenance of a National Public Internet Site for the purposes of providing to individuals with disabilities and the general public technical assistance and information on increased access to assistive technology devices, assistive technology services, and other disability-related resources.

(B) ELIGIBLE ENTITY.—To be eligible to receive a grant or enter into a contract or cooperative agreement under subsection (a) to establish and maintain the Internet site, an entity shall be an institution of higher education that emphasizes research and engineering, has a multidisciplinary research center, and has demonstrated expertise in—

(i) working with assistive technology and intelligent agent interactive information dissemination systems;

(ii) managing libraries of assistive technology and disability-related resources;

(iii) delivering education, information, and referral services to individuals with disabilities, including technology-based curriculum development services for adults with low-level reading skills;

(iv) developing cooperative partnerships with the private sector, particularly with private sector computer software, hardware, and Internet services entities; and

(v) developing and designing advanced Internet sites.

(C) FEATURES OF INTERNET SITE.—The National Public Internet Site described in subparagraph (A) shall contain the following features:

(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

(iii) RESOURCES.—

(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

(II) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

(iv) LINKS TO PRIVATE SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private sector resources and information, under agreements developed between the institution of higher education and cooperating private sector entities.

(D) MINIMUM LIBRARY COMPONENTS.—At a minimum, the Internet site shall maintain updated information on—

(i) how to plan, develop, implement, and evaluate activities to further extend comprehensive statewide programs of technology-related assistance, including the development and replication of effective approaches to—

(I) providing information and referral services;

(II) promoting interagency coordination of training and service delivery among public and private entities;

(III) conducting outreach to underrepresented populations and rural populations;

(IV) mounting successful public awareness activities;

(V) improving capacity building in service delivery;

(VI) training personnel from a variety of disciplines; and

(VII) improving evaluation strategies, research, and data collection;

(ii) effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(iii) successful approaches to increasing the availability of public and private funding for and access

to the provision of assistive technology devices and assistive technology services by appropriate State agencies; and

(iv) demonstration sites where individuals may try out assistive technology.

(2) TECHNICAL ASSISTANCE EFFORTS.—In carrying out the technical assistance program, taking into account the input required under subsection (b), the Secretary shall ensure that entities—

(A) address State-specific information requests concerning assistive technology from other entities funded under this title and public entities not funded under this title, including—

(i) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

(ii) requests for examples of policies, practices, procedures, regulations, administrative hearing decisions, or legal actions, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

(iii) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

(iv) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(v) other requests for technical assistance from other entities funded under this title and public entities not funded under this title; and

(vi) other assignments specified by the Secretary, including assisting entities described in section 103(b) to develop corrective action plans; and

(B) assist targeted individuals by disseminating information about—

(i) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

(ii) technical assistance activities undertaken under subparagraph (A).

(d) ELIGIBLE ENTITIES.—To be eligible to compete for grants, contracts, and cooperative agreements under this section, entities shall have documented experience with and expertise in assistive

technology service delivery or systems, interagency coordination, and capacity building and advocacy activities.

(e) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $36,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2004.

(b) RESERVATIONS OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), of the amount appropriated under subsection (a) for a fiscal year—

(A) 87.5 percent of the amount shall be reserved to fund grants under section 101;

(B) 7.9 percent shall be reserved to fund grants under section 102; and

(C) 4.6 percent shall be reserved for activities funded under section 104.

(2) RESERVATION FOR CONTINUATION OF TECHNICAL ASSISTANCE INITIATIVES.—For fiscal year 1999, the Secretary may use funds reserved under subparagraph (C) of paragraph (1) to continue funding technical assistance initiatives that were funded in fiscal year 1998 under the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(3) RESERVATION FOR ONSITE VISITS.—The Secretary may reserve, from the amount appropriated under subsection (a) for any fiscal year, such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 103(a)(2).

TITLE II—NATIONAL ACTIVITIES

Subtitle A—Rehabilitation Act of 1973

SEC. 201. COORDINATION OF FEDERAL RESEARCH EFFORTS.

Section 203 of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1988) is amended— 29 USC 763.

(1) in subsection (a)(1), by inserting after "programs," insert "including programs relating to assistive technology research and research that incorporates the principles of universal design,";

(2) in subsection (b)—

(A) by inserting "(1)" before "After receiving";

(B) by striking "from individuals with disabilities and the individuals' representatives" and inserting "from targeted individuals";

(C) by inserting after "research" the following: "(including assistive technology research and research that incorporates the principles of universal design)"; and

(D) by adding at the end the following:

"(2) In carrying out its duties with respect to the conduct of Federal research (including assistive technology research and

research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities, the Committee shall—

"(A) share information regarding the range of assistive technology research, and research that incorporates the principles of universal design, that is being carried out by members of the Committee and other Federal departments and organizations;

"(B) identify, and make efforts to address, gaps in assistive technology research and research that incorporates the principles of universal design that are not being adequately addressed;

"(C) identify, and establish, clear research priorities related to assistive technology research and research that incorporates the principles of universal design for the Federal Government;

"(D) promote interagency collaboration and joint research activities relating to assistive technology research and research that incorporates the principles of universal design at the Federal level, and reduce unnecessary duplication of effort regarding these types of research within the Federal Government; and

"(E) optimize the productivity of Committee members through resource sharing and other cost-saving activities, related to assistive technology research and research that incorporates the principles of universal design.";

(3) by striking subsection (c) and inserting the following:

Deadline. Reports.

"(c) Not later than December 31 of each year, the Committee shall prepare and submit, to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

"(1) describes the progress of the Committee in fulfilling the duties described in subsection (b);

"(2) makes such recommendations as the Committee determines to be appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities; and

"(3) describes the activities that the Committee recommended to be funded through grants, contracts, cooperative agreements, and other mechanisms, for assistive technology research and development and research and development that incorporates the principles of universal design."; and

(4) by adding at the end the following:

"(d)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting assistive technology research programs, to reduce duplication of effort among the programs, and to increase the availability of assistive technology for individuals with disabilities, the Committee may recommend activities to be funded through grants, contracts or cooperative agreements, or other mechanisms—

"(A) in joint research projects for assistive technology research and research that incorporates the principles of universal design; and

"(B) in other programs designed to promote a cohesive, strategic Federal program of research described in subparagraph (A).

"(2) The projects and programs described in paragraph (1) shall be jointly administered by at least 2 agencies or departments with representatives on the Committee.

"(3) In recommending activities to be funded in the projects and programs, the Committee shall obtain input from targeted individuals, and other organizations and individuals the Committee determines to be appropriate, concerning the availability and potential of technology for individuals with disabilities.

"(e) In this section, the terms 'assistive technology', 'targeted individuals', and 'universal design' have the meanings given the terms in section 3 of the Assistive Technology Act of 1998.".

SEC. 202. NATIONAL COUNCIL ON DISABILITY.

Section 401 of the Rehabilitation Act of 1973 (as amended by section 407 of the Workforce Investment Act of 1998) is amended by adding at the end the following: 29 USC 781.

"(c)(1) Not later than December 31, 1999, the Council shall prepare a report describing the barriers in Federal assistive technology policy to increasing the availability of and access to assistive technology devices and assistive technology services for individuals with disabilities. Deadline. Reports.

"(2) In preparing the report, the Council shall obtain input from the National Institute on Disability and Rehabilitation Research and the Association of Tech Act Projects, and from targeted individuals, as defined in section 3 of the Assistive Technology Act of 1998.

"(3) The Council shall submit the report, along with such recommendations as the Council determines to be appropriate, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

SEC. 203. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) IN GENERAL.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(2) by inserting after subsection (c) the following:

"(d) Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals (as defined in section 3 of the Assistive Technology Act of 1998), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 508 of the Rehabilitation Act of 1973."; and Effective date.

(3) in the second sentence of paragraph (1) of subsection (e) (as redesignated in paragraph (1)), by striking "subsection (e)" and inserting "subsection (f)".

(b) CONFORMING AMENDMENT.—Section 506(c) of the Rehabilitation Act of 1973 (29 U.S.C. 794(c)) is amended by striking "section 502(h)(1)" and inserting "section 502(i)(1)". 29 USC 794b.

Subtitle B—Other National Activities

29 USC 3031.

SEC. 211. SMALL BUSINESS INCENTIVES.

(a) DEFINITION.—In this section, the term "small business" means a small-business concern, as described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) CONTRACTS FOR DESIGN, DEVELOPMENT, AND MARKETING.—

(1) IN GENERAL.—The Secretary may enter into contracts with small businesses, to assist such businesses to design, develop, and market assistive technology devices or assistive technology services. In entering into the contracts, the Secretary may give preference to businesses owned or operated by individuals with disabilities.

(2) SMALL BUSINESS INNOVATIVE RESEARCH PROGRAM.—Contracts entered into pursuant to paragraph (1) shall be administered in accordance with the contract administration requirements applicable to the Department of Education under the Small Business Innovative Research Program, as described in section 9(g) of the Small Business Act (15 U.S.C. 638(g)). Contracts entered into pursuant to paragraph (1) shall not be included in the calculation of the required expenditures of the Department under section 9(f) of such Act (15 U.S.C. 638(f)).

(c) GRANTS FOR EVALUATION AND DISSEMINATION OF INFORMATION ON EFFECTS OF TECHNOLOGY TRANSFER.—The Secretary may make grants to small businesses to enable such businesses—

(1) to work with any entity funded by the Secretary to evaluate and disseminate information on the effects of technology transfer on the lives of individuals with disabilities;

(2) to benefit from the experience and expertise of such entities, in conducting such evaluation and dissemination; and

(3) to utilize any technology transfer and market research services such entities provide, to bring new assistive technology devices and assistive technology services into commerce.

29 USC 3032.

SEC. 212. TECHNOLOGY TRANSFER AND UNIVERSAL DESIGN.

(a) IN GENERAL.—The Director of the National Institute on Disability and Rehabilitation Research may collaborate with the Federal Laboratory Consortium for Technology Transfer established under section 11(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), to promote technology transfer that will further development of assistive technology and products that incorporate the principles of universal design.

(b) COLLABORATION.—In promoting the technology transfer, the Director and the Consortium described in subsection (a) may collaborate—

(1) to enable the National Institute on Disability and Rehabilitation Research to work more effectively with the Consortium, and to enable the Consortium to fulfill the responsibilities of the Consortium to assist Federal agencies with technology transfer under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq);

(2) to increase the awareness of staff members of the Federal Laboratories regarding assistive technology issues and the principles of universal design;

(3) to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will

have an intended or recognized impact on the available range of assistive technology for individuals with disabilities, including technologies and projects that incorporate the principles of universal design, as appropriate;

(4) to develop strategies for applying developments in assistive technology and universal design to mainstream technology, to improve economies of scale and commercial incentives for assistive technology; and

(5) to cultivate developments in assistive technology and universal design through demonstration projects and evaluations, conducted with assistive technology professionals and potential users of assistive technology.

(c) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to or enter into contracts or cooperative agreements with commercial, nonprofit, or other organizations, including institutions of higher education, to facilitate interaction with the Consortium to achieve the objectives of this section.

(d) RESPONSIBILITIES OF CONSORTIUM.—Section 11(e)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(1)) is amended—

(1) in subparagraph (I), by striking "; and" and inserting a semicolon;

(2) in subparagraph (J), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3 of the Assistive Technology Act of 1998), including technologies and projects that incorporate the principles of universal design (as defined in section 3 of such Act), as appropriate.".

SEC. 213. UNIVERSAL DESIGN IN PRODUCTS AND THE BUILT ENVIRONMENT. 29 USC 3033.

The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of universal design concepts for products (including information technology) and the built environment. In making such grants, the Secretary shall give consideration to enterprises and institutions that are owned or operated by individuals with disabilities. The Secretary shall define the term "built environment" for purposes of this section.

SEC. 214. OUTREACH. 29 USC 3034.

(a) ASSISTIVE TECHNOLOGY IN RURAL OR IMPOVERISHED URBAN AREAS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for rural and impoverished urban populations, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

(b) ASSISTIVE TECHNOLOGY FOR CHILDREN AND OLDER INDIVIDUALS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive

technology for populations of children and older individuals, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

29 USC 3035.

SEC. 215. TRAINING PERTAINING TO REHABILITATION ENGINEERS AND TECHNICIANS.

(a) GRANTS AND CONTRACTS.—The Secretary shall make grants, or enter into contracts with, public and private agencies and organizations, including institutions of higher education, to help prepare students, including students preparing to be rehabilitation technicians, and faculty working in the field of rehabilitation engineering, for careers related to the provision of assistive technology devices and assistive technology services.

(b) ACTIVITIES.—An agency or organization that receives a grant or contract under subsection (a) may use the funds made available through the grant or contract—

(1) to provide training programs for individuals employed or seeking employment in the field of rehabilitation engineering, including postsecondary education programs;

(2) to provide workshops, seminars, and conferences concerning rehabilitation engineering that relate to the use of assistive technology devices and assistive technology services to improve the lives of individuals with disabilities; and

(3) to design, develop, and disseminate curricular materials to be used in the training programs, workshops, seminars, and conferences described in paragraphs (1) and (2).

29 USC 3036.

SEC. 216. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

(a) PROGRAMS.—The President's Committee on Employment of People With Disabilities (referred to in this section as "the Committee") may design, develop, and implement programs to increase the voluntary participation of the private sector in making information technology accessible to individuals with disabilities, including increasing the involvement of individuals with disabilities in the design, development, and manufacturing of information technology.

(b) ACTIVITIES.—The Committee may carry out activities through the programs that may include—

(1) the development and coordination of a task force, which—

(A) shall develop and disseminate information on voluntary best practices for universal accessibility in information technology; and

(B) shall consist of members of the public and private sectors, including—

(i) representatives of organizations representing individuals with disabilities; and

(ii) individuals with disabilities; and

(2) the design, development, and implementation of outreach programs to promote the adoption of best practices referred to in paragraph (1)(B).

(c) COORDINATION.—The Committee shall coordinate the activities of the Committee under this section, as appropriate, with the activities of the National Institute on Disability and Rehabilitation Research and the activities of the Department of Labor.

(d) TECHNICAL ASSISTANCE.—The Committee may provide technical assistance concerning the programs carried out under this

section and may reserve such portion of the funds appropriated to carry out this section as the Committee determines to be necessary to provide the technical assistance.

(e) DEFINITION.—In this section, the term "information technology" means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including a computer, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS. 29 USC 3037.

There are authorized to be appropriated to carry out this title, and the provisions of section 203 of the Rehabilitation Act of 1973 that relate to research described in section 203(b)(2)(A) of such Act, $10,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal year 2000.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. GENERAL AUTHORITY. 29 USC 3051.

(a) IN GENERAL.—The Secretary shall award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, an alternative financing program featuring one or more alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase assistive technology devices and assistive technology services (referred to individually in this title as an "alternative financing mechanism").

(b) MECHANISMS.—The alternative financing mechanisms may include—

(1) a low-interest loan fund;

(2) an interest buy-down program;

(3) a revolving loan fund;

(4) a loan guarantee or insurance program;

(5) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(6) another mechanism that meets the requirements of this title and is approved by the Secretary.

(c) REQUIREMENTS.—

(1) PERIOD.—The Secretary may award grants under this title for periods of 1 year.

(2) LIMITATION.—No State may receive more than one grant under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of the alternative financing program shall not be more than 50 percent.

(e) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of a State to establish an alternative financing program under title I.

SEC. 302. AMOUNT OF GRANTS. 29 USC 3052.

(a) IN GENERAL.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 308 for any fiscal year that are not reserved under section 308(b), the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States from allotments made in accordance with the requirements described in paragraph (3).

(3) ALLOTMENTS.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1)—

(A) the Secretary shall allot $500,000 to each State; and

(B) from the remainder of the funds—

(i) the Secretary shall allot to each State an amount that bears the same ratio to 80 percent of the remainder as the population of the State bears to the population of all States; and

(ii) the Secretary shall allot to each State with a population density that is not more than 10 percent greater than the population density of the United States (according to the most recently available census data) an equal share from 20 percent of the remainder.

(b) INSUFFICIENT FUNDS.—If the funds appropriated under this title for a fiscal year are insufficient to fund the activities described in the acceptable applications submitted under this title for such year, a State whose application was approved for such year but that did not receive a grant under this title may update the application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

(c) DEFINITIONS.—In subsection (a):

(1) OUTLYING AREA.—The term "outlying area" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) STATE.—The term "State" does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

29 USC 3053.

SEC. 303. APPLICATIONS AND PROCEDURES.

(a) ELIGIBILITY.—States that receive or have received grants under section 101 and comply with subsection (b) shall be eligible to compete for grants under this title.

(b) APPLICATION.—To be eligible to compete for a grant under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) an assurance that the State will provide the non-Federal share of the cost of the alternative financing program in cash, from State, local, or private sources;

(2) an assurance that the alternative financing program will continue on a permanent basis;

(3) an assurance that, and information describing the manner in which, the alternative financing program will expand and emphasize consumer choice and control;

(4) an assurance that the funds made available through the grant to support the alternative financing program will

be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms;

(5) an assurance that the State will ensure that—

(A) all funds that support the alternative financing program, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund;

(B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and

(C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person;

(6) an assurance that—

(A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support the alternative financing program; and

(B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering the alternative financing program, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program; and

(7) an assurance that the percentage of the funds made available through the grant that is used for indirect costs shall not exceed 10 percent.

(c) LIMIT.—The interest and income described in subsection (b)(6)(B) shall not be taken into account by any officer or employee of the Federal Government for purposes of determining eligibility for any Federal program.

SEC. 304. CONTRACTS WITH COMMUNITY-BASED ORGANIZATIONS. 29 USC 3054.

(a) IN GENERAL.—A State that receives a grant under this title shall enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decisionmaking at all organizational levels, to administer the alternative financing program.

(b) PROVISIONS.—The contract shall—

(1) include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of this title;

(2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and

(3) require the community-based organization to enter into a contract, to expand opportunities under this title and facilitate administration of the alternative financing program, with—

(A) commercial lending institutions or organizations; or

(B) State financing agencies.

29 USC 3055.

SEC. 305. GRANT ADMINISTRATION REQUIREMENTS.

A State that receives a grant under this title and any community-based organization that enters into a contract with the State under this title, shall submit to the Secretary, pursuant to a schedule established by the Secretary (or if the Secretary does not establish a schedule, within 12 months after the date that the State receives the grant), each of the following policies or procedures for administration of the alternative financing program:

(1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific assistive technology device or service to be financed through the program.

(2) A policy and procedure to assure that access to the alternative financing program shall be given to consumers regardless of type of disability, age, income level, location of residence in the State, or type of assistive technology device or assistive technology service for which financing is requested through the program.

(3) A procedure to assure consumer-controlled oversight of the program.

29 USC 3056.

SEC. 306. INFORMATION AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title, which shall include—

(1) providing assistance in preparing applications for grants under this title;

(2) assisting grant recipients under this title to develop and implement alternative financing programs; and

(3) providing any other information and technical assistance the Secretary determines to be appropriate to assist States to achieve the objectives of this title.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall provide the information and technical assistance described in subsection (a) through grants, contracts, and cooperative agreements with public or private agencies and organizations, including institutions of higher education, with sufficient documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing programs carried out under this title.

29 USC 3057.

SEC. 307. ANNUAL REPORT.

Deadline.

Not later than December 31 of each year, the Secretary shall submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the progress of each alternative financing program funded under this title toward achieving the objectives of this title. The report shall include information on—

(1) the number of grant applications received and approved by the Secretary under this title, and the amount of each grant awarded under this title;

(2) the ratio of funds provided by each State for the alternative financing program of the State to funds provided by the Federal Government for the program;

(3) the type of alternative financing mechanisms used by each State and the community-based organization with which each State entered into a contract, under the program; and

(4) the amount of assistance given to consumers through the program (who shall be classified by age, type of disability, type of assistive technology device or assistive technology service financed through the program, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or rural population).

SEC. 308. AUTHORIZATION OF APPROPRIATIONS. 29 USC 3058.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 1999 and such sums as may be necessary for fiscal year 2000.

(b) RESERVATION.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve 2 percent for the purpose of providing information and technical assistance to States under section 306.

TITLE IV—REPEAL AND CONFORMING AMENDMENTS

SEC. 401. REPEAL.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is repealed.

SEC. 402. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 6 of the Rehabilitation Act of 1973 (as amended by section 403 of the Workforce Investment Act of 1998) is amended— 29 USC 705.

(1) in paragraph (3), by striking "section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2))" and inserting "section 3 of the Assistive Technology Act of 1998"; and

(2) in paragraph (4), by striking "section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3))" and inserting "section 3 of the Assistive Technology Act of 1998".

(b) RESEARCH AND OTHER COVERED ACTIVITIES.—Section 204(b)(3) of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1998) is amended— 29 USC 764.

(1) in subparagraph (C)(i), by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998"; and

(2) in subparagraph (G)(i), by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998".

29 USC 794e.

(c) PROTECTION AND ADVOCACY.—Section 509(a)(2) of the Rehabilitation Act of 1973 (as amended by section 408 of the Workforce Investment Act of 1998) is amended by striking "the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)" and inserting "the Assistive Technology Act of 1998".

Approved November 13, 1998.

LEGISLATIVE HISTORY—S. 2432:

SENATE REPORTS: No. 105–334 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 144 (1998):
Oct. 5, considered and passed Senate.
Oct. 9, considered and passed House, amended.
Oct. 14, Senate concurred in House amendment.

○

Vermont Assistive Technology Program
HC 2, 280 State Drive
Waterbury, VT 05671
Phone: 1-800-750-6355
dail.atinfo@vermont.gov

Fee For Service – Fee Schedule

Service	Description	Fee
Consultation	Guidance with Assistive Technology consideration; equipment demonstration, and consultation report with vendor and pricing information. Minimum 2 hours.	$100.00/hour
Training	Training for groups or individuals includes technical skill building in the use of Assistive Technology devices or strategies.	$100.00/hour
Technical Assistance	Assistance to organizations, agencies, and other entities in improving their Assistive Technology related services, management, policies, and/or outcomes.	Pricing for special projects will be considered on a case-by-case basis.
Preparation time	Preparation time training, technical assistance, and consultation.	$35.00/hour
Mileage	For field based training, consult, and technical assistance.	$.58/miles

State of Vermont
Agency of Human Services
DEPARTMENT OF HEALTH
Division of Health Protection
Food & Lodging Program
108 Cherry Street
Burlington, Vermont 05401
802-863-7221
800-439-8550

HEALTH REGULATIONS
for
FOOD SERVICE ESTABLISHMENTS

Effective December 1, 2003

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* Denotes critical item

5-201 SCOPE, JURISDICTION, EXPIRATION, TRANSFER AND DISPLAY OF FOOD ESTABLISHMENT LICENSES

A. Scope:

1. All places that prepare and serve food to the public, other than on an occasional basis, and advertise such food service within the meaning of 18 V.S.A. Section 4358 shall, prior to serving food, hold a current annual food license issued by the Department of Health.
2. Each individual food service establishment shall require a separate food license, regardless of ownership.
3. Food Service Establishments are public buildings and therefore must also comply with Department of Environmental Conservation, Environmental Protection Rules, Chapter 1, Wastewater System and Potable Water Supply. Plans and specifications must be submitted to the Agency of Natural Resources, Department of Environmental Conservation for review and approval.
4. Food Service Establishments which meet the definition of a "public water system" shall also comply with Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply.

B. Jurisdiction:

1. 18 V.S.A. Chapter 85 serves as the legislative basis for licensing food service establishments.
2. Foods provided by food service establishments outside the jurisdiction of the State of Vermont may be sold within the state if such out-of-state food service establishment conforms to the provisions of this regulation or to substantially equivalent standards acceptable to the State of Vermont Department of Health. To determine the extent of compliance with such provision, the Department of Health may accept reports from responsible authorities in other jurisdictions where such food service establishments are situated.

C. Expiration:

A regular food license expires annually, unless sooner revoked by the Board of Health as defined in the enforcement section of these regulations.

1. In his/her discretion, and where there are extenuating circumstances, the Commissioner of Health may issue a temporary license for a period not to exceed 60 days. The license shall state the conditions under which it is issued. The licensee is presumed to have full knowledge of such conditions, and shall be required to comply with them for the temporary license to be valid.
2. There shall be no extension of the 60-day time period for any reason.

D. Transfer:

A license shall not be transferred from one person or corporation to another. If a licensed establishment is sold, the corporation changes, the establishment relocates or enlarges its operation, then the old license must be returned to the Department of Health. The proprietor or management must apply for and receive a new license before operating the business.

E. Display of License:

The food license shall be posted so as to be easily viewed by the patrons.

F. Sanitary Inspections:

1. New Facilities: A license shall not be issued for a newly constructed facility or to a facility which has been converted from another use until after completion of a sanitary inspection showing a minimum score of 70 and no violations of any critical or construction items. Any establishment whose license has been expired for one year or more will be considered a new establishment.

2. Changes of Ownership: A license shall not be issued to a change of owner facility until after completion of a sanitary inspection showing a minimum score of 70 and no violation of any critical items. Existing two (2) bay sinks must be replaced with a three (3) - compartment sink within sixty days of license assignment or the temporary license will be subject to revocation.
3. Ongoing: For an ongoing facility, the license shall remain in effect if the sanitary inspection shows a minimum of 70 and no violations of any critical items.
4. Critical Items: Refers to Item numbers 1, 3, 4, 7, 11, 12, 22, 27,28, 30, 31, 35 and 41 on the inspection report.
5. Construction Items: Refers to Item numbers 14, 15, 16, 34, 36, 37, 38, 39 and 43 on the inspection report.

5-202 CLASSIFICATION OF FOOD ESTABLISHMENT LICENSES

1. Food, Restaurant:

Any food service establishment that prepares and serves food for consumption on premises. Any person desirous of obtaining a food service establishment license must meet all of the requirements of the Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-220. Any establishment doing off-premise catering must also have a commercial catering license or a fair stand license.

2. Home Caterer:

An establishment where food is prepared and wrapped in a home kitchen using only standard home kitchen equipment and sold on a take-out basis only or sold to commercial establishments for resale. Home caterers shall be inspected and approved under these regulations to the maximum extent feasible considering the fact that the establishment is located in the same facility the licensee uses as a primary residence. No animals or pets are allowed in the kitchen area while food is being prepared. Meat and poultry products, other than the sale of meals or as entrees directly to individual consumers, cannot be prepared in a home kitchen operation.

3. Limited Operation:

An establishment that prepares and serves steamed or rotogrill frankfurters and/or cold sandwiches for off-premise consumption, and whose major business is not the preparation and service of food. The use of a grill shall not be permitted in this category. These facilities must comply with Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219 with the following exceptions:

a. Section 5-207, Item 16, Manual Dishwashing Facilities: Only a one-compartment sink is required; and
b. Section 5-212, Item 31, A. Toilet Rooms: Patron toilet and handwashing facilities will not be required. However, they must furnish a restroom(s) for their employees.

4. Commercial Caterer: (includes permanent food stands and motorized and push cart type mobile units)

A catering operation based in a store, food stand, mobile unit, pushcart or other commercial establishment, or a home kitchen equipped with commercial equipment. This classification also applies to any food service establishment that prepares and sells food for takeout. All food sold shall be wrapped, covered or in some type of container that is made of clean, non-absorbent food grade material. Temporary outdoor seating for no more than 16 people may be allowed in this classification for establishments that operate fewer than six months of the year.

A food service establishment license will not be required of an establishment that provides only a heating oven for the purpose of heating previously prepared, prepackaged, or pre-

cooked food which is frozen or refrigerated; and where there is no other on-site preparation procedure involved and the food is intended for off-premise consumption.

If out-of-state caterers are to supply establishments in Vermont, then they must show evidence that they are licensed in their state and are maintaining sanitary standards at least equivalent to these regulations.

Establishments in this category who prepare or offer meat products, other than the sale of meals or as entrees directly to individual consumers, are required to be licensed by the Vermont Agency of Agriculture. The Agency of Agriculture will not license a home kitchen operation.

Any person desirous of obtaining a commercial caterer's license must meet the requirements of the Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219, with the following exceptions:

a. Section 5-212, Item 31., A. Toilet Rooms: Patron toilet and handwashing facilities are strongly recommended, but will not be required. The establishment, however, must furnish a restroom(s) for their employees.
b. Establishments in this classification with existing bathroom and handwashing facilities must maintain them in good sanitary working order.
c. In lieu of facilities, the use of hand sanitizers for patrons is encouraged.

Be advised that food caterers must have a three-compartment sink and a handsink in the food preparation area (see Item 16. for exemption).

Requirements – Mobile Units

The following requirements apply only to motorized units (vans, trucks or trailers pulled by cars or trucks) that prepare and serve food:

a. All mobile units must be registered and capable of being moved at anytime.
b. They must have either:
    I. Two properly constructed food grade tanks, each containing a minimum of 15 gallons of water, one for cold water and the other for hot water at 140°F; or
    II. One water supply holding tank containing a total of 30 gallons of tempered water at 110°F to 120°F.
    III. The water must run to a sink with a mixing faucet or single faucet if using tempered water by pressure or gravity.
c. Wastewater from the sink must be piped to a wastewater holding tank with a minimum capacity of 35 gallons.

Approved Sewage Disposal System – Mobile Units

Sewage shall be disposed of through an approved facility that is:

a. A public sewage treatment plant; or
b. An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

Requirements – Push Carts

The following requirements apply only to carts that are pushed by hand or hand pushcarts that are situated on trailers:

a. Handwashing facilities are to be provided for the operator.
b. They must have either:
    I. Two properly constructed food grade tanks each containing a minimum of 3 gallons of water, one for cold water, and the other for hot water at 140°F; or
    II. One water supply holding tank containing a total of 6 gallons of tempered water at 110°F to 120°F.
c. The water must run to a sink with a mixing faucet or single faucet if using tempered water by pressure or gravity.

d. Wastewater from the sink must be piped to a wastewater holding tank with a minimum capacity of 7 gallons.

Approved Sewage Disposal System – Push Carts

Pushcart wastewater must be disposed of in:

a. A public sewage treatment plant; or
b. An individual sewage disposal system that is sized, constructed, maintained and operated according to law.

Pushcarts must meet all other regulations except furnishing restrooms for the patrons.

5. Vacation Camp:

An establishment which is a seasonal operation lasting not more than 90 days per year and offering a camping program which includes providing food and/or lodging to vacationing youth or family groups.

6. Fair Stand:

A mobile or non-mobile establishment that operates at special events not lasting more than 14 days in one location, and operates throughout the year. Applicants for a fair stand license must meet the requirements of Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-219, with the following exceptions:

a. Section 5-207, Item 16: A three-compartment sink or automatic dishwasher is not required; the use of three dishpans will be approved for washing, rinsing and sanitizing utensils.
b. Section 5-209, Item 27 Water Supply, ¶ I. Pressure: All fair stands must have hot and cold water going to a sink by means of a mixing faucet fed by pressure or gravity.
c. Section 5-212, Toilet and Handwashing Facilities: Fair Stands will not be required to have restrooms, but the fair or outdoor festival operators must furnish restrooms for the stand employees and the public.

7. Tourist Home (Bed & Breakfast):

An establishment that provides meals only to lodging patrons, or occasional functions such as weddings, and has a capacity of twenty-five (25) or less. These facilities must comply with Department of Health, Vermont Health Regulations Chapter 5, Subchapter 2 Food Service Establishments, Sections 5-204 through 5-220, with the following exceptions:

a. Portions of section 5-212 that are concerned with toilet facilities for patrons and employees. Separate restrooms provided for patrons and employees does not apply, and
b. Section 5-207, Item 16: Domestic dishwashers will be approved provided tableware is manually sanitized as outlined in Section 5 –208, Item 22. If a dishwasher is provided, a two-compartment sink is required.
c. Section 5-207, Item 16: For manual dishwashing of tableware, either a three-compartment sink or a two-compartment sink with a dishpan for sanitizing must be provided.
d. A separate handwash sink in the kitchen is not required, although highly recommended.

8. Seafood Vendor:

An establishment that sells seafood products such as fish and shellfish on a retail basis. For mobile seafood vendors, the requirements for Food Caterer – *Mobile Units* apply.

5-203 DEFINITIONS

ACCREDITED PROGRAM means/refers to:

a. a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certifies individuals.
b. the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.
c. does not refer to training functions or educational programs.

ADDITIVE means all substances, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. Additives must comply with the Code of Federal Regulations.

ADULTERATED means the condition of a food:

a. if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
b. if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established,
c. if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; and. If it has been processed, prepared, packed, or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
d. if it is in whole or in part the product of a diseased animal or an animal which has died otherwise than by slaughter; or
e. if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

AIR GAP means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of that receptacle.

APPROVED means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

A_w means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.

BACKFLOW means in regards to:

a. Drainage: a reversal of flow in the drainage system.
b. Water supply system: the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTER means a device or means to prevent backflow.

BOARD means the Vermont State Board of Health.

BEVERAGE means a liquid for drinking, including water.

BOTTLED DRINKING WATER means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

CERTIFICATION NUMBER means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

CHANGE OF OWNERSHIP means the change of licensee at a facility currently licensed by the Health Department. The change of ownership is applicable when there is a continuous operation, the capacities are not changed, and the facility is not undergoing construction or renovation to the food preparation area which increases the size of the kitchen or adds to or modifies the kitchen ventilation system.

CIP means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

CODE OF FEDERAL REGULATIONS (CFR) means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which:

a. is published annually by the U.S. Government Printing Office; and
b. contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

CLEAN means free from visible soil.

CLOSED means fitted together snugly leaving no openings larger than 1/32 inch.

COMMISSIONER means the Vermont Department of Health Commissioner.

COMMINUTED means reduced in size by methods including chopping, flaking, grinding, or mincing.

CONFIRMED DISEASE OUTBREAK means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

CONSUMER means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

CORROSION-RESISTANT MATERIAL means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

CRITICAL CONTROL POINT means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

CRITICAL ITEM means a provision of this Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. It is an item denoted in this Code with an asterisk *.

CRITICAL LIMIT means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

CROSS-CONNECTION means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other water of unknown or questionable safety, whereby water may flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

DRINKING WATER means water that meets the standards of the Department of Environmental Conservation, Water Supply Division.

DRY STORAGE AREA means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

EASILY CLEANABLE means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

EASILY MOVABLE means:

a. portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
b. having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

EPA means the U.S. Environmental Protection Agency.

EQUIPMENT:

a. means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.
b. does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

FISH:

a. means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.
b. includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

FOOD means any raw, cooked, or processed edible substances, including ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOODBORNE DISEASE OUTBREAK means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

FOOD CONTACT SURFACE means:

a. a surface of equipment or a utensil with which food normally comes into contact; or
b. a surface of equipment or a utensil from which food may drain, drip, or splash:
    I. into a food, or

II. onto a surface normally in contact with food.

FOOD PREPARATION AREA means any portion of the establishment where the preparation, processing and cooking of food occurs.

FOOD-PROCESSING ESTABLISHMENT means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

FOOD SERVICE EMPLOYEE means any employee of the establishment who indulges in the preparation, storage or serving of food (or water) or who washes dishes or tableware or cleans food contact surfaces.

FOOD SERVICE ESTABLISHMENT means any place where food that is intended for individual service and consumption is routinely provided completely prepared. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include a private home where food is prepared for individual family consumption, and it does not include the location of food vending machines.

GAME ANIMAL:

a. means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR Subchapter A - Mandatory Meat Inspection, Part 301, as Poultry in 9 CFR Subchapter C - Mandatory Poultry Products Inspection, Part 381, or as fish as defined under these regulations, 5-203 Definitions, Fish.
b. includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.
c. does not include ratites such as ostrich, emu, and rhea.

GENERAL USE PESTICIDE means a pesticide that is not classified by EPA for restricted use as specified in 40CFR152.175.

GRADE A STANDARD means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry Milk Ordinance" with which certain fluid and dry milk and milk products comply.

HACCP means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

HAZARD means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

HERMETICALLY SEALED CONTAINER means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

HIGHLY SUSCEPTIBLE POPULATION means a group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

IMMINENT HEALTH HAZARD means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or

event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: a) The number of potential injuries, and; b) The nature, severity, and duration of the anticipated injury.

INFESTATION means the presence or visible evidence of rodents, cockroaches or other insects.

INJECTED means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as by processes which may be referred to as "injecting," "pinning," or "stitch pumping."

JUICE, when used in the context of food safety, means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or purée. This definition does not apply to standards of identity.

KITCHEN means the principal area where food is prepared and utensils are washed.

KITCHENWARE means all multi-use utensils other than tableware.

LAW means applicable local, state, and federal statures, regulations, and ordinances.

LINENS means fabric such as cloth hampers, cloth napkins, table cloths, wiping cloths and work garments including cloth gloves.

MEAT means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under these regulations, 5-203 Definitions, Game Animals.

MISBRANDED means the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable state or federal labeling requirements.

mg/L means milligrams per liter, which is the metric equivalent of parts per million (ppm).

MOLLUSCAN SHELLFISH means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

NEW FACILITY means any facility that has not previously prepared and served food to the public or any establishment whose license has been expired for one year. When the capacities are changed or the facility is undergoing construction or renovation to the food preparation area that increases the size of the kitchen, the facility will be considered a new license.

NON-ACID AND LOW ACID FOOD means any food with a pH of 4.6 or higher.

OCCASIONAL means occurring for not more than one day’s duration in any month.

PACKAGED means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. It does not include a wrapper, carryout box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

PERISHABLE FOOD means any food of such type or in such condition as may spoil.

PERSON means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

PERSON IN CHARGE means the individual present at a food establishment who is responsible for the operation at the time of inspection.

PERSONAL CARE ITEMS means/includes:

a. items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.
b. include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

pH means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

PHYSICAL FACILITIES means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

POTABLE WATER means water free from impurities in amounts sufficient to cause disease or harmful physiological effects with the bacteriological, chemical, physical, or radiological quality conforming to applicable regulations and standards of the Agency of Natural Resources, Water Supply Division.

PLUMBING FIXTURE means a receptacle or device that:

a. is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
b. discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

POISONOUS OR TOXIC MATERIALS means substances that are not intended for ingestion and are included in 4 categories:

1. cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
3. substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
4. substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

POTENTIALLY HAZARDOUS FOOD (PHF) means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

a. the rapid and progressive growth of infectious or toxigenic microorganisms;
b. the growth and toxin production of Clostridium botulinum; or
c. in raw shell eggs, the growth of Salmonella Enteritidis.

PHF includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

PHF does not include:

a. an air-cooled hard-boiled egg with shell intact;
b. a food with an a_w value of 0.85 or less;
c. a food with a pH level of 4.6 or below when measured at 75°F;
d. a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; and
e. a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of S. enteritidis in eggs or C. botulinum can not occur, such as a food that has an a_w and a pH that are below the levels specified under Subparagraphs b. and c. of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.
f. a food that does not support the growth of microorganisms as specified under the definition for PHF even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

POULTRY means:

a. any domesticated bird (chickens, turkeys, ducks, geese, or guineas), and
b. any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas, whether live or dead.

PREPARED FOOD means food that is heated, cooled, altered in any way from its original state or mixed with other foods for human consumption.

PREMISES means:

a. the physical facility, its contents, and the contiguous land or property under the control of the license holder; or
b. the physical facility, its contents, and the land or property not described under Subparagraph a. of this definition if its facilities and contents are under the control of the license holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

PRIMAL CUT means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

PUBLIC WATER SYSTEM means any system(s) or combination of systems owned or controlled by a person, that provides drinking water through pipes or other constructed conveyances to the public and that has at least fifteen (15) service connections or serves an average of at least twenty five (25) individuals daily for at least sixty (60) days out of the year. Such term includes all collection, treatment, storage and distribution facilities under the control of the water supplier and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system shall also mean any part of a system which does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. A Public water system is either a Public Community water system or a Public Non-Community water system:

a. **PUBLIC COMMUNITY** Water System means a Public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least 25 year-round residents.

b. **PUBLIC NON-COMMUNITY** Water System means a Public water system that is not a Public Community water system.

I. **PUBLIC NON-TRANSIENT NON-COMMUNITY** Water System (NTNCWS) means a Public water system that is not a Public Community water system and that regularly serves at least 25 of the same persons daily for more than six months per year. Examples: schools, factories, office buildings.

II. **PUBLIC TRANSIENT NON-COMMUNITY** Water System (TNCWS) means a Public Non-community water system that is not a Non-transient Non-community system. Examples: restaurants, motels, campgrounds.

READY-TO-EAT FOOD means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

It Includes:

a. potentially hazardous food that is unpackaged and cooked and cooled to the temperature and time required for the specific food as indicated in Item 3;
b. raw, washed, cut fruits and vegetables;
c. whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and
d. other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

REDUCED OXYGEN PACKAGING means:

a. the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding 21% oxygen atmosphere; and
b. a process as specified in subparagraph a. of this definition that involves a food for which Clostridium botulinum is identified as a microbiological hazard in the final packaged form.

Reduced oxygen packaging includes:

a. vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;
b. modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
c. controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

REFUSE means solid waste not carried by water through the sewage system.

REGULATORY AUTHORITY means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

SAFE MATERIALS means:

a. an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
b. an additive that is used as specified in § 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or

c. other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

SAFE TEMPERATURES as applied to potentially hazardous food, means temperatures of 41ºF or below, and 135ºF or above.

SANITIZATION means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance, which has been approved by the department of health.

SEALED means free of cracks or other openings that allows the entry or passage of moisture.

SERVICE ANIMAL means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

SERVICING AREA means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

SEWAGE means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

SHELLFISH CONTROL AUTHORITY means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

SHELLSTOCK means raw, in-shell molluscan shellfish.

SHUCKED SHELLFISH means molluscan shellfish that have one or both shells removed.

SINGLE-SERVICE ARTICLES means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

SINGLE-USE ARTICLES means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under Item 14 for multiuse utensils.

SLACKING means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of –10ºF to 25ºF in preparation for deep fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

SMOOTH means:

a. a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
b. a nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
c. a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

SURFACE WATER means a stream, pond or lake.

TABLE MOUNTED EQUIPMENT means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

TABLEWARE means all multi-use eating and drinking utensils.

TEMPERATURE MEASURING DEVICE means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

TEMPORARY FOOD SERVICE ESTABLISHMENT means any food service establishment which operates at a fixed location for a period of time not more than 60 consecutive days.

TEMPORARY OUTDOOR SEATING means utilization of picnic tables or other for patron use.

USDA means the U.S. Department of Agriculture.

UTENSIL means a food-contact implement or container used in the storage preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; food temperature measuring devices; and probe-type price or identification tags used in contact with food.

VARIANCE means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

VENDING MACHINE means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

VERMIN means small animals, such as mice, rats, squirrels, plus any other nuisance animal.

WAREWASHING means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

WHOLE-MUSCLE, INTACT BEEF means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beefsteaks may be cut.

5-204 SOURCE OF FOOD

Item 1. Acceptable Source*

A. All food shall be clean to sight, free from spoilage, adulteration and misbranding and safe for human consumption. All food in food service establishments shall be obtained from sources acceptable to the Department of Health.

B. Honestly Presented.

1. Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.

2. Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

C. Food shall be obtained from sources that comply with regulations of the Vermont Agency of Agriculture, U.S. Department of Agriculture (USDA), Food and Drug Administration (FDA) or other sources approved by the Department of Health.

D. Packaged food shall be labeled as specified in law, including 21CFR101 Food Labeling, 9CFR317 Labeling, Marking Devices, and Containers, and 9CFR381 Subpart N Labeling and Containers, and as specified under Item 1, Sections R and S.

E. Fish, other than molluscan shellfish, that are intended for consumption in their raw form may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified to a temperature of -31°F or below for 15 hours in a blast freezer or to a temperature of -4°F or below for 168 hours (7 days) in a freezer. HACCP records and temperature recording charts must be kept for 90 days to show that the temperatures have been met throughout the time period or a letter of guarantee from the supplier is maintained on the premises indicating HACCP requirements have been met.

F. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in Item 3, Section E, ¶ 5 shall be:

1. Obtained from a food processing plant that packages the steaks and labels them to indicate that they meet the definition of whole-muscle, intact beef; or

2. If individually cut in a food establishment:
   a. Cut from whole-muscle intact beef that is labeled by a food processing plant to indicate that the beef meets the definition of whole-muscle, intact beef.
   b. Prepared so they remain intact, and
   c. If packaged for undercooking a food establishment, labeled to indicate that they meet the definition of whole-muscle, intact beef.

G. Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale shall be labeled to include safe handling instructions. Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by FDA, USDA, Vermont Agency of Agriculture, or approved by the Vermont Department of Health.

H. Fluid Milk and Milk Products.

1. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in laws that are enforced by the Vermont Agency of Agriculture.

2. All cheese products must meet the regulations of the Vermont Agency of Agriculture.

3. Frozen milk products, such as ice cream, shall be obtained pasteurized.

I. Fish.

1. Fish that are received for sale or service shall be:
   a. Commercially and legally caught or harvested; or
   b. Approved for sale or service.

2. Molluscan shellfish that are recreationally caught may not be received for sale or service.

J. Molluscan Shellfish.

1. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

2. Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

K. Wild Mushrooms.

1. Except as specified in ¶ 2 of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert (as determined by U.S. FDA).

2. This section does not apply to:
   a. Cultivated wild mushroom species that are grown, harvested and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
   b. Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

L. Game Animals.

If game animals are received for sale or service they shall be:

1. Commercially raised for food and:
   a. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or
   b. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction, and

2. Raised, slaughtered, and processed according to:
   a. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
   b. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;

3. Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Voluntary Exotic Animal Program or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Rabbit Inspection Program;

4. As allowed by law, for wild game animals that are live-caught:
    a. Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction, and

5. Slaughtered and processed according to:
    a. Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
    b. Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or

6. As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:
    a. Receive a postmortem examination by an approved veterinarian or veterinarian's designee, or
    b. Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
    c. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

7. A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 Endangered and Threatened Wildlife and Plants.

Specifications for Receiving

M. Temperature.

1. Except as specified in ¶ 2 of this section, refrigerated, potentially hazardous foods shall be at a temperature of 41°F or below when received.

2. If a temperature other than 41°F for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature.

3. Potentially hazardous food that is cooked to a temperature and for a time specified in the cooking portion of these regulations and received hot shall be at a temperature of 135°F or above.

4. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

5. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

N. Additives.

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR 318.7 Approval of substances for use in the preparation of products, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

O. Eggs.

Only clean whole eggs, with shell intact and without cracks or checks, pasteurized whole eggs, pasteurized liquid, or egg products shall be used, and they must be stored at 41ºF

or below. Frozen pasteurized liquid and pasteurized dry eggs must be kept frozen. Shell eggs may be transported under ambient refrigerated temperature of 45ºF or less.

P. Package Integrity.

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

Q. Ice.

Ice for use as a food or a cooling medium shall be made from drinking water, that is regulated by the Agency of Natural Resources, Department of Environmental Conservation, Water Supply Division.

R. Shucked Shellfish, Packaging and Identification.

1. Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:

a. Name address, and certification number of the shucker-packer or repacker of the molluscan shellfish; and

b. The "sell by" date for packages with a capacity of less that 1.87 L (one-half gallon) or the date shucked for packages with a capacity of 1.87 L (one-half gallon) or more.

2. A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under ¶ 1 of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D-Specific Administrative Decisions Shipments, Section 1240.60(d).

S. Shellstock Identification.

1. Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that deports, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list:

a. Except as specified under ¶ 3 of this section, on the harvester's tag or label, the following information in the following order:

I. The harvester's identification number that is assigned by the Shellfish Control Authority,

II. The complete date of harvesting,

III. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,

IV. The type and quantity of shellfish, and

V. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days;" and

b. Except as specified in ¶ 4 of this section, on each dealer's tag or label, the following information in the following order:

I. The dealer's name and address, and the certification number assigned by the shellfish control authority,

II. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,

III. The same information as specified for a harvester's tag under ¶ 1, Subparagraphs a, II – IV of this section, and

IV. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days."

2. A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under ¶ 1 of this section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

3. If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

4. If the harvester's tag or label is designed to accommodate each dealer's identification as specified under ¶ 1, Subparagraphs b, I and II of this section, individual dealer tags or labels need not be provided.

T. Shellstock, Condition.

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

Original Containers and Records

U. Molluscan Shellfish, Original Container.

1. Except as specified in ¶¶ 2 and 3 of this section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

2. Shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

a. The source of the shellstock on display is identified as specified under Item 1, Section S. and recorded as specified under Item 1, Section V.; and
b. The shellstock are protected from contamination.

3. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

a. The labeling information for the shellfish on display as specified under Item 1, Section R is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
b. The shellfish are protected from contamination.

V. Shellstock, Maintaining identification.

1. Except as specified under ¶ 2, Subparagraph a. of this section, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

2. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container is emptied by:

a. Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and
b. If shellstock are removed from their tagged or labeled container:
    I. Preserving the source of identification by using a record keeping system as specified under ¶a of this section; and
    II. Ensuring shellstock from one tagged or labeled container are not commingled with shellstock from another lot before being ordered by the consumer.

W. Meat and Meat Products.

All meat and meat products shall have been inspected and approved by the Vermont Agency of Agriculture or the USDA.

X. Poultry and Poultry Products.

All poultry and poultry products shall have been inspected and approved by the Vermont Agency of Agriculture or the USDA.

Ratites must come from an approved source which is regulated or approved by the Vermont Agency of Agriculture or the USDA.

Y. Bakery Products.

All bakery products shall have been prepared in the licensed food service establishment, in a Vermont or out-of-state bakery licensed by the Department of Health as authorized by 18 V.S.A., Section 4444(b).

Z. Spoiled and Damaged Foods.

A food that is unsafe, adulterated or not honestly presented shall be reconditioned according to an approved procedure or discarded. Food that is contaminated shall be discarded.

AA. Bottled Water.

All bottled water served shall be from a source approved by the Agency of Natural Resources, Department of Environmental Conservation, Water Supply Division.

5–205 FOOD PROTECTION

Item 2. Original Container, Properly Labeled

All food while being stored, prepared, displayed, served or sold at food service establishments, or during transportation between such establishments, shall be protected from spoilage and contamination and shall not be adulterated in any manner.

All food in the food service establishment shall be properly labeled as to content. This applies to food which may be mistaken for non-food items that have been transferred from an original container to an acceptable container for preparation, storage, service, sale or transportation.

Packaged food shall be labeled as specified in Federal and State laws and as mentioned in Item 1 of these regulations.

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR 318.7 approval of substances for use in the preparation of products, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

A. Food Labels.

1. Food packaged in a food establishment, shall be labeled as specified in federal law, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Making Devices, and Containers.

2. Label information shall include:

a. The common name of the food, or absent a common name, an adequately descriptive identifying statement;
b. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
c. An accurate declaration of the quantity of contents;
d. The name and place of business of the manufacturer, packer, or distributor; and
e. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3)-(5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

3. Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

a. The manufacturer's or processor's label that was provided with the food; or

b. A card, sign, or other method of notification that includes the information specified under ¶ 2, Subparagraphs a., b. and e. of this section.

4. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

a. A health, nutrient content, or other claim is not made;

b. There are not state or local laws requiring labeling; and

c. The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

B. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed To Eliminate Pathogens.

If animal food such as beef, eggs, fish, lamb, milk, poultry or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form such as a deli, menu, vended or other item; or as a raw ingredient in another ready-to-eat food, the licensee shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means of the significantly increased risk associated with eating such foods in the raw or undercooked form. Warnings of the potential health risks may read: “Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.”

Retail grocery stores (any store that sells food for retail) are exempt from this provision.

C. Labeling - Food Storage Containers, Identified with Common Name of Food.

Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment; such as cooking oils, flour, herbs, potato flakes, salt, spices and sugar shall be identified with the common name of the food except that containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified.

Item 3. Potentially Hazardous Food - Temperature Requirements*

Temperature and Time Control

A. Frozen Food.

Stored frozen foods shall be maintained frozen.

B. Potentially Hazardous Food, Slacking.

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

1. Under refrigeration that maintains the food temperature at 41°F or less.

2. At any temperature if the food remains frozen throughout.

C. Cooling.

1. Cooked potentially hazardous food shall be cooled from 135°F to 41°F within four hours.

2. Cooling shall be accomplished in accordance with the time and temperature criteria specified above using one or more of the following methods based on the type of food being cooled:

a. Placing the food in shallow pans with no more than 2 inches of product;
b. Separating the food into smaller or thinner portions;
c. Using rapid cooling equipment;
d. Stirring the food in a container placed in an ice water bath; which has the level of the food lower than the level of the ice water bath and/or a cooling stick;
e. Using containers that facilitate heat transfer;
f. Adding ice as an ingredient; or
g. Other effective methods.

3. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
a. Arranged in the equipment to provide maximum heat transfer through the container walls; and not stacked on top of each other.
b. Loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.
c. Cooling procedures must be closely monitored.

D. Potentially Hazardous Food, Hot and Cold Handling.
Except during preparation, cooking or cooling, or when time is used as the public health control, potentially hazardous food shall be maintained:

1. At 135°F or above, except that roasts cooked to a temperature and for a time shown in the cooking chart or reheated leftover roast may be held at a temperature of 130°F; or

2. At a cold holding temperature of 41°F or less.

Cooking

E. Raw Animal Foods.
Except as specified under ¶ 4 and ¶¶ 5 and 6 of this section, raw animal foods such as eggs, fish, meat, poultry and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

1. 145°F or above for 15 seconds for:
a. Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service, and
b. Except as specified under ¶¶ 2, 3 and 4 of this section, fish, meat and pork including game animals commercially raised for food must be inspected by the Vermont Agency of Agriculture or the USDA and game animals under a voluntary inspection program of the Vermont Agency of Agriculture.

2. 155°F for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food and game animals under a voluntary inspection program and raw eggs that are not prepared as specified under ¶ 1, Subparagraph a of this section:

Temperature (°F)	Time
145	3 minutes
150	1 minute
158	<1 second (instantaneous)

;or

3. 165°F or above for 15 seconds for poultry, wild game animals as specified under Item 1, Section L., stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry or ratites.

4. Whole beef roasts, corned beef roasts, pork roasts and cured pork roasts such as ham, shall be cooked:

a. In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs.	10 lbs. or More
Still Dry	350° or more	250° or more
Convection	325° or more	250° for more
High Humidity[1]	250° or less	250° or less
[1] Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.		

and

b. As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Temperature	Time[1] in Minutes	Temperature	Time[1] in Minutes	Temperature	Time[1] in Seconds
°F		°F		°F	
130	112	142	8	147	134
131	89	144	5	149	85
133	56	145	4	151	54
135	36			153	34
136	28			155	22
138	18			157	14
140	12			158	0
[1]Holding time may include postoven heat rise.					

5. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

a. The food establishment serves a population that is not a highly susceptible population,

b. The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef", and

c. The steak is cooked on both the top and bottom to a surface temperature of 145°F or above and a cooked color change is achieved on all external surfaces.

6. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartar; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in ¶ 5 of this section, may be served or offered for sale in a ready-to-eat form if:

a. The food establishment serves a population that is not a highly susceptible population, and

b. The consumer is informed that to ensure its safety, the food should be cooked as specified under ¶ 4 of this section; or

c. The regulatory authority grants a variance from ¶¶ 1, 2, 3, and 4 of this section based on a HACCP plan that:

I. Is submitted by the licensee and reviewed by the Department of Health.

II. Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and

III. Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

F. Microwave Cooking.

Raw animal foods cooked in a microwave oven shall be:

1. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

2. Covered to retain surface moisture;

3. Heated to a temperature of at least 165°F in all parts of the food; and

4. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

G. Plant Food Cooking for Hot Holding.

Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135°F.

Freezing

H. Parasite Destruction.

Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -4°F or below for 168 hours (7days) in a freezer, or

2. -31°F or below for 15 hours in a blast freezer; and

3. Recorded on a temperature recording device; and

4. A letter of guarantee from the supplier is maintained on the premises indicating HACCP requirements have been met; and

5. The records must be held for 90 days.

Reheating

I. Preparation for Immediate Service.

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

J. Reheating for Hot Holding.

1. Except as specified under ¶¶ 2, 3, and 5 of this section, potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165° F for 15 seconds.

2. Except as specified under ¶ 3 of this section, potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.

3. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135°F for hot holding.

4. Reheating for hot holding shall be done rapidly and the time the food is between the temperature of 41°F and 165°F may not exceed 2 hours.

5. Remaining unsliced portions of roasts of beef that are cooked according to the thermo kill chart may be reheated for hot holding using the oven parameters and minimum time and temperature shown on the chart.

K. Ready-to-Eat, Potentially Hazardous Food, Date Marking.

1. Refrigerated, ready-to-eat, potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be clearly marked at the time of preparation to indicate the date by which the food shall be consumed which is, including the date of preparation:
    a. Seven (7) calendar days or less from the day that the food is prepared, if the food is maintained at 41°F or less.

In other words, food prepared on premises must be consumed, used or sold within seven (7) days.

2. A ready-to-eat, potentially hazardous food prepared in a food establishment and subsequently frozen, shall be clearly marked:
    a. When the food is removed from the freezer, to indicate the date by which the food shall be consumed which is:
        I. Seven (7) calendar days or less after the food is removed from the freezer, if the food is maintained at 41°F or less before and after freezing.

3. Paragraphs 1 and 2 of this section do not apply to whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

4. The following items are exempt from date marking:

    a. Specific cheese containing certain moisture content meeting the aging standards of the USDA;
    b. Fermented sausages produced in a state or federally inspected food processing plant that are not labeled “Keep Refrigerated” and which retain the original casing on the product;
    c. Shelf stable, dry, fermented sausages;
    d. Shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a state or federally inspected food processing plant that are not labeled “Keep Refrigerated”; or
    e. Items which are subject to inspection by state or federal departments of Agriculture.

L. Ready-to-Eat, Potentially Hazardous Food, Disposition.

1. A food specified in Section K, ¶ 1 of this Item shall be discarded if not consumed within:
    a. Seven (7) calendar days from the date of preparation if the food is maintained at 41°F or less.

2. A food specified under Section K, ¶ 2 of this Item shall be discarded if not consumed within:
    a. Seven (7) calendar days or less after the food is removed from the freezer, if the food is maintained at 41°F or less before and after freezing.
    b. A food specified under Section K, ¶¶ 1 and 2 of this Item is in a container or package that does not bear a date or day.

3. Refrigerated, ready-to-eat, potentially hazardous food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds seven (7) calendar days from the date of preparation, and the food is maintained at 41º F or less.

M. Time as a Public Health Control.

1. Except as specified under ¶ 2 of this section, if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous

food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption (food consumed within 24 hours):

a. The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;

b. The food shall be cooked and served, served if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control;

c. The food in unmarked containers or marked to exceed a 4 hour limit shall be discarded; and

d. Written procedures shall be maintained in the food establishment and made available to the regulatory authority upon request, that ensure compliance with:

I. Paragraph 1, Subparagraphs a - d of this section, and

II. For food that is prepared, cooked, and refrigerated before time is used as a public health control.

2. In a food establishment that serves a highly susceptible population, time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs.

Specialized Processing Methods

N. Variance Requirement.

A food establishment shall obtain a variance from the regulatory authority before smoking food as a method of food preservation rather than as a method of flavor enhancement; curing food; brewing alcoholic beverages; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; and it will be necessary to get a third party review before a variance will be considered. Third party review may be obtained from sources approved by the Department of Health (i.e. NSF, private consultants).

Clostridium botulinum Controls

O. Reduced Oxygen Packaging, Criteria.

1. Except for a food establishment that obtains a variance, a food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of C. botulinum.

2. A food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information necessary to have a safe food and that:

a. Identifies the food to be packaged;

b. Limits the food packaged to a food that does not support growth of Clostridium botulinum because it complies with one of the following:

I. Has an a_w of 0.91 or less,

II. Has a pH of 4.6 or less,

III. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or

IV. Is a food with a high level of competing organisms such as raw meat or raw poultry;

c. Specifies methods for maintaining food at 41°F or below;

d. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

I. Maintain the food at 41°F or below, and

II. Discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

e. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
f. Includes operational procedures that:
I. Prohibit contacting food with bare hands,
II. Identify a designated area and the method by which:
i. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and
ii. Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and
III. Delineate cleaning and sanitization procedures for food-contact surfaces; and
g. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
I. Concepts required for a safe operation,
II. Equipment and facilities, and
III. Procedures specified under ¶ 2, Subparagraph f of this section.
h. Except for fish that is frozen before, during and after packaging, a food establishment may not package fish using a Reduced Oxygen Packaging method.

Item 4. Preventing Cross Contamination*

A. Preventing Contamination from Hands.

1. Food employees shall wash their hands at intervals specified in Item 12 ¶ C, with warm 100°F water and soap with a scrubbing action for at least 20 seconds, paying special attention to the nails and between the fingers. A soft nail brush that does not tear the skin should be used. Hands should be dried with disposable paper towels or an air dryer, or

2. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

3. Food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use plastic or vinyl gloves, or dispensing equipment.

4. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

B. Preventing Contamination When Tasting.

A food employee may not use a utensil more than once to taste food that is to be sold or served.

Preventing Food and Ingredient Contamination

C. Packaged and Unpackaged Food - Separation, Packaging and Segregation.

1. Food shall be protected from cross contamination by:
a. Separating raw animal foods during storage, preparation, holding, and display from:
I. Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables, and
II. Cooked ready-to-eat food;
b. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
I. Using separate equipment for each type, or
II. Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and
III. Preparing each type of food at different times or in separate areas;
c. Cleaning and sanitizing equipment and utensils between different uses.

d. Except as specified in ¶ 2 of this section, storing the food in packages, covered containers, or wrappings;
e. Cleaning hermetically sealed containers of food of visible soil before opening;
f. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
g. Storing damaged, spoiled or recalled food being held in the food establishment shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles; and.
h. Separating fruits and vegetables before they are washed, from ready-to-eat food.

2. Paragraph 1, Subparagraph d. of this section does not apply to:
a. Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
b. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
c. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
d. Food being cooled as specified under Item 3 of these regulations;
e. Shellstock.

D. Pasteurized Eggs, Substitute for Raw Shell Eggs for Certain Recipes.
Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods [such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages] that are:

1. Not cooked to 145°F for 15 seconds, or

2. Served to a highly susceptible population, or served to the public without warning labels or a health department approved variance.

E. Protection from Unapproved Additives.

1. Food shall be protected from contamination that may result from the addition of:
a. Unsafe or unapproved food or color additives; and
b. Unsafe or unapproved levels of approved food and color additives.

2. A food employee may not:
a. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B_1; or
b. Serve or sell food specified under ¶ 2, Subparagraph a. of this section that is treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this subparagraph.

F. Washing Fruits and Vegetables.

1. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except as specified in ¶ 2 of this section and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

2. Fruits and vegetables may be washed by using chemicals as long as these chemicals have been approved by regulatory agencies.

Preventing Contamination from Ice Used as a Coolant.

G. Ice Used as Exterior Coolant, Prohibited as Ingredient.
After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

H. Storage or Display of Food in Contact with Water or Ice.

1. Packaged food may not be stored in direct contact with ice or ice water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or ice water.

2. Except as specified in ¶¶ 3 and 4 of this section, unpackaged food may not be stored in direct contact with undrained ice.

3. Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or ice water.

4. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale as long as the water from the ice can drain away and not create a nuisance on floors, work surfaces or in cooling equipment.

I. Using Clean Tableware for Second Portions and Refills.

1. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

2. Except as specified in ¶ 1 of this section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

3. Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as stated in ¶ 1 of this section.

J. Refilling Returnables.

1. No re-use of single service containers or consumer owned containers for potentially hazardous food.

2. For non-potentially hazardous food, personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process by having:

a. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

b. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

c. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

Item 5. Adequate Facilities to Maintain Product Temperature

Conveniently located and adequate refrigeration facility, hot food storage and display facilities, and effective insulated facilities, shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage, preparation, display and service. Food and containers of food are so stored as to permit free circulation of air and in such a manner as to prevent contamination.

A. Food Temperature Measuring Devices.

Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Item 3 of these regulations.

B. Temperature Measuring Devices.

1. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or the simulated product temperature in the warmest part of a mechanical refrigerated unit and in the coolest part of a hot food storage unit.

2. Except as specified in ¶ 3 of this section, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

3. Paragraph 2 of this section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars, and then metal stem probe temperature measuring device must be used to check food temperature.

4. Temperature measuring devices shall be designed to be easily readable and located conspicuously.

Accuracy

C. Temperature Measuring Devices, Food.

1. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to ±1°C in the intended range of use.

2. Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to ±2°F in the intended rate of use.

3. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

D. Temperature Measuring Devices, Ambient Air and Water.

1. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius or Fahrenheit shall be designed to be easily readable and accurate to ±1.5°C in the intended range of use.

2. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to ±3°F in the intended range of use.

3. Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F in the intended range of use.

E. Cleaning.

1. All temperature measuring devices must be cleaned, sanitized and allowed to dry before and after each use.

2. Temperature measuring devices may be sanitized using an approved sanitizer or alcohol before and after each use.

Item 6. Thawing Potentially Hazardous Food

Except as specified in ¶ 4 of this section, potentially hazardous food shall be thawed:

1. Under refrigeration that maintains the food temperature at 41°F or less, or

2. Completely submerged under cold running water:
   a. At a water temperature of 70°F or below,
   b. With sufficient water velocity to agitate and float off loose particles in an overflow, and
   c. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F, or
   d. For a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above 41°F, for more than 4 hours including:
      I. The time the food is exposed to the cold running water and the time needed for preparation for cooking, or
      II. The time it takes under refrigeration to lower the food temperature to 41°F,

3. As part of a cooking process if the food that is frozen is:
   a. Cooked to specified temperatures and times as stated in Item 3 of these regulations.
   b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order, and never goes above 41°F for more than 4 hours.

5. Non-potentially hazardous food (frozen vegetables) may be thawed at room temperature and immediately cooked.

Item 7. Unwrapped Foods*

A. Returned Food and Reservice of Food.

1. Except as specified in ¶ 2 of this section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

2. A container of food that is not potentially hazardous may be transferred from one consumer to another, but this is not meant to exclude small containers of cream (8 oz. or less); if
   a. The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce or wine; or
   b. The food, such as crackers, salt or pepper, is in an unopened original package and is maintained in sound condition.

3. No foods should be transferred from one consumer to another if they are part of a highly susceptible population.

Item 8. Food Protected From Contamination During Storage, Preparation, Display, Service and Transportation

A. Food Storage.

1. Except as specified in ¶¶ 2 and 3 of this section, food shall be protected from contamination by storing the food:
   a. In a clean, dry location:

b. Where it is not exposed to splash, dust or other contamination; and
c. At least 6 inches above the floor.

2. Food in packages and working containers may be stored less than 6 inches above the floor on case lot handling equipment such as dollies, forklifts and pallets.

3. Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture and leaves space so area can be checked for insects and rodents.

4. Food not subject to further washing or cooking before serving shall be stored in such a manner as to be protected against contamination from food requiring washing or cooking. Washed vegetables and ready-to-eat foods must be stored above raw foods.

5. In a clean, dry location. If wooden shelves are used, then they must be painted with an epoxy paint or equivalent.

6. Swollen or severely dented canned goods must be discarded or returned for credit.

B. Food Storage, Prohibited Areas.

Food may not be stored:

1. In locker rooms;

2. In toilet rooms;

3. In dressing rooms;

4. In garbage rooms;

5. In mechanical rooms;

6. Under sewer lines that are not shielded to intercept potential drips;

7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

8. Under open stairwells; or

9. Under other sources of contamination.

C. Vended Machine Operation.

1. Potentially Hazardous Food, Original Container.

Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

2. Vending Machine, Vending Stage Closure.

The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

b. Available for self-service during hours when it is not under the full-time supervision of a food employee.

3. Vending Machines, Automatic Shutoff.

a. A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food:

I. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that can not maintain food temperatures as specified under Item 3; and

II. If a condition specified under ¶ 1, Subparagraph a of this section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Item 3.

b. When the automatic shutoff within a machine vending potentially hazardous food is activated:

I. In a refrigerated vending machine, the ambient temperature may not exceed 41°F or for more than 30 minutes immediately after the machine is filled, services, or restocked; or

II. In a hot holding vending machine, the ambient temperature may not be less than 135°F for more than 120 minutes immediately after the machine is filled, services or restocked.

4. Vending Machine Doors and Openings.

a. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch by:

I. Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch. Screening of 12 mesh to 1 inch meets this requirement;

II. Being effectively gasketed;

III. Having interface surfaces that are at least one-half inch wide; or

IV. Jambs or surfaces used to form an L-shaped entry path to the interface.

b. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps or grommets so that the openings are no larger than one-sixteenth inch.

D. Food Preparation.

During preparation, unpackaged food shall be protected from environmental sources of contamination.

E. Food Display.

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

F. Condiments, Protection.

1. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing or individual packages or portions.

2. Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

G. Consumer Self-Service Operations.

1. Raw, unpackaged animal food, such as beef, lamb, pork, poultry and fish may not be offered for consumer self-service. This paragraph does not apply to consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish; ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or raw, frozen, shell-on shrimp or lobster.

2. Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination. A clean, dry towel may be used to protect bread and rolls during self-service.

3. Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures, such as not adding of new food to old food and proper temperature monitoring.

H. Equipment Openings, Closures and Deflectors.

1. A cover or lid for equipment shall overlap the opening and be sloped to drain.

2. An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch.

3. Except as specified under ¶ 4 of this section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

4. If a watertight joint is not provided:
   a. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips and dust from openings into the food; and
   b. The opening shall be flanged as specified under ¶ 2 of this section.

I. Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents and other contamination by a self-closing door if the equipment is:
   a. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents and other contaminants that are present in the environment; or
   b. Available for self-service during hours when it is not under the full-time supervision of a food employee; and

4. The dispensing equipment-actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

J. Bearings and Gear Boxes, Leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip or be forced into food or onto food-contact surfaces.

K. Beverage Tubing, Separation.

Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin.

L. Molluscan Shellfish Tanks.

1. Except as specified under ¶ 2 of this sections, molluscan shellfish life support system display tanks may not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

2. Molluscan shellfish life-support display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the regulatory authority and a HACCP plan that:

a. Is submitted by the licensee and approved by the regulatory authority,

b. Ensures that:

I. Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

II. The safety and quality of the shellfish as they were received are not compromised by the use of the tank, and

III. The identity of the source of the shellstock is retained and tag retained for 90 days.

M. Case Lot Handling Equipment, Moveability.

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

N. Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

1. A food that is unsafe, adulterated, or not honestly presented shall be reconditioned according to an approved procedure or discarded.

2. Food that is not from an approved source shall be discarded.

3. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded shall be discarded.

4. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

O. Pasteurized Foods, Prohibited Reservice, and Prohibited Food.

In a food establishment that serves a highly susceptible population:

1. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, may not be served or offered for sale;

2. Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of:

a. Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, egg nog, ice cream, and

b. Except as specified in ¶ 5 of this section, recipes in which more than one egg is broken and the eggs are combined;

3. Food in an unopened original package may not be re-served; and

4. The following foods may not be served or offered for sale in a ready-to-eat form:

a. Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish and steak tartare,
b. A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue, and
c. Raw seed sprouts.

5. Paragraph 2, Subparagraph b. of this section does not apply if:
a. The raw eggs are combined immediately before cooking for one consumers serving at a single meal, cooked thoroughly and served immediately, such as an omelet, soufflé or scrambled eggs;
b. The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin or bread; or
c. The preparation of the food is conducted under a HACCP plan that:
I. Identifies the food to be prepared,
II. Prohibits contacting ready-to-eat food with bare hands,
III. Includes specifications and practices that ensure:
i. Salmonella Enteritidis growth is controlled before and after cooking, and
ii. Salmonella Enteritidis is destroyed by cooking the eggs to the temperature of 145°F for at least 15 seconds,
IV. Contains the information including procedures that:
i. Control cross contamination of ready-to-eat food with raw eggs, and
ii. Delineate cleaning and sanitization procedures for food-contact surfaces, and
V. Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

Item 9. Handling of Food Minimized

Self-Service: Convenient and suitable utensils, such as tissues, forks, knives, tongs, spoons, or scoops shall be used by the self-service customers.

A. Gloves, Use Limitation.

1. If used, single-use gloves shall be used for only one task such as working with ready-to eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

2. Except as specified in ¶ 3 of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked such as frozen food or a primal cut of meat.

3. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and non-absorbent outer surface; or if the slash resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

4. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked such as frozen food or a primal cut of meat.

5. Except when washing fruits and vegetables, food employees should attempt to limit contact with exposed, ready-to-eat food with their bare hands.

Item 10. In-Use Dispensing Equipment

A. Food Contact with Equipment and Utensils.

Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized between each use.

B. In-Use Utensils, Between-Use Storage.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

1. Except as specified under ¶ 2 of this section, in the food with their handles above the top of the food and the container;

2. In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour or cinnamon;

3. On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency of every 4 hours;

4. In cold running water of sufficient velocity to flush particles to drain, if used with moist food such as ice cream or mashed potatoes;

5. In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

6. In a container of water if the water is maintained at a temperature of at least 135°F and the container is cleaned at a frequency of every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

C. Linens and Napkins, Use Limitation.

Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new customer.

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Item 11. Personnel with Infections and Communicable Diseases Restricted*

Disease or Medical Condition

A. Responsibility of the Person in Charge to Require Reporting By Food Employees and Applicants.

The licensee shall require food employee applicants to whom a conditional offer of employment is made and food employees to report to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food. A food employee or applicant shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under Paragraph 3 of this section, if the food employee or applicant:

1. Is diagnosed with an **illness** due to:
    a. Salmonella Typhi,
    b. Shigella spp.,
    c. Shiga toxin-producing Escherichia coli, or
    d. Hepatitis A virus;

2. Has a **symptom** caused by illness, infection, or other source that is:

a. Associated with an acute gastrointestinal illness such as:
I. Diarrhea,
II. Fever,
III. Vomiting,
IV. Jaundice, or
V. Sore throat with fever, or

b. A lesion containing pus such as a boil or infected wound that is open or draining and is;
I. On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover,
II. On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or
III. On other parts of the body, unless the lesion is covered by a dry durable, tight-fitting bandage;

3. Had a past illness from an infectious agent as follows:
a. Salmonella Typhi within the past three months,
b. Shigella spp. within the past month,
c. Shiga toxin-producing Escherichia coli within the past month, or
d. Hepatitis A virus;

4. Meets one or more of the following high-risk conditions:
a. Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by S. Typhi, Shigella spps., Shiga toxin-producing E. coli, or hepatitis A virus including an outbreak at an event such as a family meal, church supper, or festival because the food employee or applicant:
I. Prepared food implicated in the outbreak,
II. Consumed food implicated in the outbreak, or
III. Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent,

b. Lives in the same household as, and has knowledge about, a person who is diagnosed with a disease cause by S. Typhi, Shigella spp., Shiga toxin-producing E. coli, or hepatitis A virus, or

c. Lives in the same household as, and has knowledge about, a person who attends or works in a setting where there is a confirmed disease outbreak cause by S.Typhi, Shigella spp., Shiga toxin-producing E. coli, or hepatitis A virus.

B. Exclusions and Restrictions.

The person in charge shall:

1. Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent specified under ¶ 1 of the previous section.

2. Except as specified under ¶ 3 or ¶ 4 of this section, restrict a food employee from working with exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is:
a. Suffering from a symptom specified under ¶ 2 of the previous section, or
b. Not experiencing a symptom of acute gastroenteritis specified under ¶ 2, Subparagraph a of this section but has a stool that yields a specimen culture that is positive for Salmonella Typhi, Shigella spp., or Shiga toxin-producing Escherichia coli;

3. If the population served is a highly susceptible population, exclude a food employee who:
a. Is experiencing a symptom of acute gastrointestinal illness specified under ¶ 2, Subparagraph a. of this section and meets a high-risk condition specified under ¶ 4, Subparagraphs a. – c., in the previous section,

b. Is not experiencing a symptom of acute gastroenteritis specified under ¶ 2, Subparagraph a of this section but has a stool that yields a specimen culture that is positive for S. Typhi, Shigella spp., or Shiga toxin-producing E. coli,
c. Had a past illness from S Typhi within the last 3 months, or
d. Had a past illness from Shigella spp., or Shiga toxin-producing E coli within the last month; and

4. For a food employee who is jaundiced:
   a. If the onset of jaundice occurred within the last 7 calendar days, exclude the food employee from the food establishment, or
   b. If the onset of jaundice occurred more than 7 calendar days before:
      I. Exclude the food employee from a food establishment that serves a highly susceptible population, or
      II. Restrict the food employee from activities handling food, if the food establishment does not serve a highly susceptible population.

C. Removal of Exclusions and Restrictions.

1. The person in charge may remove an exclusion specified under Section B, ¶ 1 if:
   a. The person in charge obtains approval from the regulatory authority; and
   b. The person excluded as specified under Section B, ¶ 1 provides to the person in charge written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the excluded person may work in an unrestricted capacity in a food establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern.

2. The person in charge may remove a restriction if the restricted person:
   a. Is free of the symptoms specified under Section A, ¶ 2 and no foodborne illness occurs that may have been caused by the restricted person,
   b. Is suspected of causing foodborne illness but:
      I. Is free of the symptoms specified under Section A, ¶ 2 and
      II. Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness;
   c. Provides written medical documentation from a physician licensed to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohns' disease, irritable bowel syndrome, or ulcerative colitis; or
   d. If the restricted person provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by law, a nurse practitioner or physician assistant, according to the criteria, that indicates the stools are free of Salmonella Typhi, Shigella spp., or Shiga toxin-producing E. coli, whichever is the infectious agent of concern.

3. The person in charge may remove an exclusion specified under Section B, ¶ 3 if the excluded person provides written medial documentation from a physician licensed to practice medicine, or, if allowed by law, a nurse practitioner or physician assistant:
   a. That specifies that the person is free of:
      I. The infectious agent of concern;
      II. Jaundice if Hepatitis A virus is the infectious agent of concern; or
      III. If the person is excluded stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis.

4. The person in charge may remove the exclusion or the restriction and reinstate the employee if:
   a. No foodborne illness occurs that may have been caused by the excluded or restricted person and the person provides written medical documentation from a physician licensed

to practice medicine or, if allowed by law, a nurse practitioner or physician assistant, that specifies that the person is free of Hepatitis A virus; or
b. The excluded or restricted person is suspected of causing foodborne illness and complies with these requirements:
I. Symptoms cease; or
II. A blood test shows falling liver enzymes.

D. Responsibility of a Food Employee or an Applicant to Report to the Person in Charge.

A food employee or a person who applies for a job as a food employee must:

1. Report any illness, symptom as described in Section A, ¶ 2, wounds or other conditions that might cause any type of foodborne illness if they were to be involved in food preparation; and

2. Comply with any exclusions or restrictions that the person in charge may require.

E. Reporting by the Person in Charge.

The person in Charge shall notify the regulatory authority that a food employee is diagnosed with an illness due to, Salmonella Typhi, Shigella sap., Shiga toxin-producing Escherichia coli, or Hepatitis A virus.

Item 12. Acceptable Hygienic Practices*

Hands and Arms

A. Clean Condition.

Food employees shall keep their hands and exposed portions of their arms clean.

B. Cleaning Procedure.

1. Except as specified in ¶ 4 of this section, food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped with a mixing faucet with hot and cold water at 100ºF by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers and use a nailbrush.

2. A single faucet with water tempered to 100ºF may be used in lieu of a mixing faucet.

3. Hands must be dried with disposable paper towels or an air dryer.

4. If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

C. When to Wash.

Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils and unwrapped single-service and single-use articles and:

1. After touching bare human body parts other than clean hands and clean, exposed portions of arms;

2. After using the toilet room;

3. After caring for or handling service animals or aquatic animals;

4. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;

5. After handling soiled equipment or utensils;

6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

7. When switching between working with raw food and working with ready-to-eat food;

8. After engaging in other activities that contaminate the hands such as use of the telephone or handling money; and

9. When entering the kitchen, or food preparation area after any absence.

D. Where To Wash.

Food employees shall clean their hands in a handwashing lavatory or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

E. Hand Sanitizers.

1. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:
   a. Comply with one of the following;
      I. Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness; or
      II. Have active antimicrobial ingredients that are listed in:
         i. The FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, or
         ii. The NSF International List of Nonfood Compounds.; and
   b. Comply with one of the following:
      I. Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39-Threshold of regulation for substances used in food-contact articles; or
      II. Comply with and be listed in:
         i. 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use, or
         ii. 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe; or 21 CFR 186- Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and
   c. Be applied only to hands that have been washed and are clean.

2. If a hand sanitizer or a chemical hand sanitizing solution used as a hand dip does not meet the criteria specified under Subparagraph a. of this section, use shall be:
   a. Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
   b. Limited to situations that involve no direct contact with food by the bare hands.

3. A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.

Fingernails

F. Maintenance.

1. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

2. Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

Jewelry

G. Prohibition.

While preparing food, food employees may not wear jewelry on their arms and hands. This section does not apply to a plain ring such as a wedding band, as long as one washes under it.

Food Contamination Prevention

H. Eating, Drinking or Using Tobacco.

1. Except as specified in ¶ 2 of this section, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils and linens; unwrapped single-service and single-use articles; or other items needing protection can not result.

2. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

a. The employee's hands;
b. The container; and
c. Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

I. Discharges from the Eyes, Nose and Mouth.

Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

Animals

J. Handling Prohibition.

1. Except as specified in ¶ 2 of this section, food employees may not care for or handle animals that may be present such as service animals for sight or hearing impaired persons.

2. Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacae in display tanks if they wash their hands according to these regulations.

Item 13. Uniforms, Bib-Type Aprons, Effective Hair Restraints

Outer Clothing

A. Clean Condition.

1. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

2. All food service employees who primarily work in the kitchen, or food preparation area shall wear clean uniforms or clean bib-type aprons.

Hair Restraints

B. Effectiveness.

1. Except as provided in ¶ 2 of this section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

2. This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles.

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Item 14. Food Contact Surfaces

Multiuse

A. Characteristics.

Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

1. Safe;

2. Durable, corrosion-resistant, and nonabsorbent;

3. Sufficient in weight and thickness to withstand repeated warewashing;

4. Finished to have a smooth, easily cleanable surface; and

5. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

B. Cast Iron, Use Limitation.

1. Except as specified in ¶¶ 2 and 3 of this section, cast iron may not be used for utensils or food-contact surfaces of equipment.

2. Cast iron may be used as a surface for cooking.

3. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

C. Lead in Ceramic, China, and Crystal Utensils, Use Limitation.

Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

Utensil Category	Description	Maximum Lead ppm mg/L
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls greater than or equal to 1.1 L (1.16 QT)	1
Small Hollowware	Bowls < 1.1 L (1.16 QT)	2.0
Flat Utensils	Plates, Saucers	3.0

D. Copper, Use Limitation.

1. Except as specified in ¶ 2 of this section, copper and copper alloys such as brass may not be used in contact with a food that has pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

2. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

E. Galvanized Metal, Use Limitation.

Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

F. Sponges, Use Limitation.

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

G. Lead in Pewter Alloys, Use Limitation.

Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.

H. Lead in Solder and Flux, Use Limitation.

Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

I. Wood, Use Limitation.

1. Except as specified in ¶¶ 2, 3 and 4 of this section, wood and wood wicker may not be used as a food-contact surface.

2. Hard maple or an equivalently hard, close-grained wood shall be used for:

a. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls and reusable chopsticks; and

b. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F or above.

3. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

4. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

a. Untreated wood containers; or

b. Treated wood containers if the containers are treated with a preservative that meets the requirements and all regulatory standards for contact with food.

5. Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

J. Nonstick Coatings, Use Limitation.

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

Durability and Strength

K. Equipment and Utensils.

Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

L. Food Temperature Measuring Devices.

Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

Cleanability

M. Food-Contact Surfaces.

1. Multiuse food-contact surfaces shall be:
    a. Smooth;
    b. Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;
    c. Free of sharp internal angles, corners, and crevices;
    d. Finished to have smooth welds and joints; and
    e. Except as specified in ¶ 2 of this section, accessible for cleaning and inspection by one of the following methods:
        I. Without being disassembled,
        II. By disassembling without the use of tools, or
        III. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches and Allen wrenches.

2. Paragraph 1, Subparagraph e. of this section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

N. Food-Contact Surfaces, Maintenance.

Food-contact surfaces that have become cracked, chipped, pitted, or badly worn must be discarded when they can no longer be properly washed, rinsed and sanitized.

O. Food-Contact Surfaces, Installation and Location.

All food-contact surface equipment shall be so installed and located that it and the floor and wall surfaces adjacent to it can be cleaned.

P. CIP Equipment.

1. CIP equipment shall meet all regulatory standards for cleanability and shall be designed and constructed so that:
    a. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and
    b. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

2. CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

Q. “V” Threads, Use Limitation.

Except for hot oil cooking or filtering equipment, “V” type threads may not be used on food-contact surfaces.

R. Hot Oil Filtering Equipment.

Hot oil filtering equipment shall meet the characteristics regulatory standards and shall be readily accessible for filter replacement and cleaning of the filter.

S. Can Openers.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement. They shall also be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

T. Ice Units, Separation of Drains.

Liquid waste drain lines may not pass through or over an ice machine or ice storage bin.

U. Condenser Unit, Separation.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

V. Equipment Compartments, Drainage.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

W. Vending Machines, Liquid Waste Products.

1. Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

2. Vending machines that dispense liquid food in bulk shall be:

a. Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

b. Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

3. Shutoff devices specified under ¶ 2, Subparagraph b. of this section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

X. Bearings and Gear Boxes, Leakproof.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

Item 15. Non-Food-Contact Surfaces, Design, Construction, Maintenance, Installation and Location

Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris, or otherwise require frequent cleaning, shall be smooth; washable; free of unnecessary ledges, projections, or crevices; readily accessible for cleaning; and of such material and in such repair as to be easily cleanable.

A. Fixed Equipment, Spacing or Sealing.

1. Equipment that is fixed because it is not easily movable shall be installed so that it is:

a. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

b. Spaced from adjoining equipment, walls, and ceilings a distance of not more than one thirty-second inch; or

c. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

2. Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

a. Sealed to the table; or
b. Elevated on legs as stated in section B, ¶ 4.

B. Fixed Equipment, Elevation or Sealing.

1. Except as specified in ¶¶ 2 and 3 of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least 6 inch clearance between the floor and the equipment.

2. If no part of the floor under the floor-mounted equipment is more than 6 inches from the point of cleaning access, the clearance space may be only 4 inches.

3. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

4. Except as specified in ¶ 5 of this section, table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 4 inch clearance between the table and the equipment.

5. The clearance space between the table and table-mounted equipment may be:
   a. Three (3) inches if the horizontal distance of the table top under the equipment is 20 inches from the point of access for cleaning; or
   b. Two (2) inches if the horizontal distance of the table top under the equipment is no more three (3) inches from the point of access for cleaning.

6. Equipment shall be maintained in a state of repair and condition that meets the requirements specified under all parts of these regulations.

7. Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

8. Microwave ovens shall meet the safety and construction standards of the regulatory authority.

9. Equipment for cooling and heating food, and handling cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified in Item 3.

Item 16. Dishwashing Facilities Design, Size, Construction, Maintenance, Installation, Location, Operation

A. Manual Warewashing, Sink Compartment Requirements.

1. A sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. Prior to the date of adoption of this regulation, existing two (2) compartment units shall be permitted until which time renovations or new construction is made, or within sixty (60) days of an establishment's change of owner.

2. Sink compartments shall be large enough to accommodate immersion of at least ½ of the surface of the largest piece of equipment and/or utensil. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in ¶ 3 of this section shall be used.

3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. Alternative manual warewashing equipment may include:
   a. High-pressure detergent sprayers;
   b. Low-or line-pressure spray detergent foamers;
   c. Other task specific cleaning equipment;
   d. Brushes or other implements;
   e. Receptacles that substitute for the compartments of a multi-compartment sink.

4. The nature of warewashing shall be limited to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another, or cleanup at the end of a shift, and;

a. The number of items to be cleaned shall be limited;
b. The cleaning and sanitizing solutions shall be made up immediately before use and drained immediately after use.

B. Drainboards.

1. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

2. Sinks and drainboards of warewashing sinks and machines shall be self-draining.

C. Warewashing Equipment, Cleaning Frequency.

A warewashing machine, the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards shall be cleaned:

1. Before use;

2. Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function;

3. If used, at least every 24 hours; and

4. If washing foods, at least every 4 hours of operation.

D. Warewashing Machine, Data Plate Operating Specifications.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

1. Temperatures required for washing, rinsing and sanitizing;

2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.

E. Warewashing Machines, Internal Baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

F. Warewashing Machines, Manufacturers' Operating Instructions.

1. A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

2. A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

G. Warewashing Machines, Sanitizer Level Indicator.

A warewashing machine that uses a chemical for sanitization shall be equipped with a device that indicates audibly or visually when more chemical sanitizer needs to be added.

H. Warewashing Sinks, Use Limitation.

1. A warewashing sink may not be used for handwashing.

2. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized before and after using the sink to wash produce or thaw food.

I. Manual Warewashing Equipment, Heaters and Baskets.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 170°F; and

2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

Item 17. Thermometers, Chemical Kits and Pressure Gauges Provided

A. Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and

2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

B. Temperature Measuring Devices, Manual Warewashing.

In manual warewashing operations, where hot water alone is used for sanitizing, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

C. Temperature Measuring Devices, Water.

1. Water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to ±1°C or 2ºF in the intended range of use.

2. Water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to ±2ºF in the intended range of use.

D. Pressure Measuring Devices, Mechanical Warewashing Equipment.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments 1 pound per square inch or smaller and shall be accurate to ±2 pounds per square inch in the 15-25 pounds per square inch range.

E. Sanitizing Solutions, Testing Devices.

A test kit or other device that accurately measures the concentration in mg/L (ppm) of sanitizing solutions shall be used to monitor and maintain sanitizer solution concentrations.

Item 18. Single-Service Articles Stored and Dispensed

A. Characteristics.

Materials that are used to make single-service and single-use articles may not allow the migration of deleterious substances, or impart colors, odors, or tastes to food, and shall be safe, and clean.

B. Single-Service and Single-Use Articles, Required Use.

A food establishment temporarily without facilities for cleaning and sanitizing kitchenware as specified in the warewashing portions of these regulations, shall provide only single-use kitchenware, single-service and single-use articles for use by food employees and single-service articles for use by consumers.

C. Single-Service and Single-Use Articles, Handling.

1. Single-service and single-use articles shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.

2. Single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

D. Single-Service and Single-Use Articles, Storage.

1. Except as specified in ¶ 3 of this section, single-service and single-use articles shall be stored:
   a. In a clean, dry location;
   b. Where they are not exposed to splash, dust, or other contamination; and
   c. At least six (6) inches above the floor.

2. Single-service and single-use articles shall be stored as specified under ¶ 1 of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

3. Items that are kept in closed packages may be stored less than six (6) inches above the floor on dollies, pallets, racks, and skids that are designed for such use.

E. Prohibitions.

Single-service and single-use articles may not be stored:

1. In locker rooms;

2. In toilet rooms;

3. In garbage rooms;

4. In mechanical rooms;

5. Under sewer lines that are not shielded to intercept potential drips;

6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

7. Under open stairwells; or

8. Under other sources of contamination.

Item 19. No Re-Use of Single-Service Items

A. Single-Service and Single-Use Articles, Use Limitation.

1. Single-service and single-use articles may not be reused.

2. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

3. Single-use containers such as cans and ornate containers that cannot be properly cleaned shall not be reused.

B. Shells, Use Limitation.

Mollusk and crustacea shells may not be used more than once as serving containers.

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Item 20. Dry Cleaning and Precleaning

A. Dry Cleaning.

1. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

2. Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

B. Precleaning.

1. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

2. If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

Item 21. Warewashing and Rinsing

A. Warewashing Equipment, Clean Solutions.

The wash, rinse, and sanitizing solutions shall be maintained clean.

B. Manual Warewashing Equipment, Wash Solution Temperature.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

C. Warewashing Equipment, Cleaning Agents.

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle or alternative manual warewashing equipment shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

D. Mechanical Warewashing Equipment, Wash Solution Temperature.

1. The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:
   a. For a stationary rack, single temperature machine, 165°F;
   b. For a stationary rack, dual temperature machine, 150°F;
   c. For a single tank, conveyor, dual temperature machine, 160°F;

d. For a multitank, conveyor, multitemperature machine, 150°F; or
e. At a temperature recommended by the manufacturer's instructions.

2. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 120°F, or at temperatures recommended by the manufacturer.

3. At all other times the mechanical wash temperature of hot water machines shall be at a minimum of 140°F.

Item 22. Sanitization Rinse*

A. Manual Warewashing Equipment, Hot Water Sanitization Temperatures.

1. In a manual dishwashing setup the second sink must have clean rinse water at a minimum of 110°F.

2. If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 170°F or above.

B. Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures.

1. In mechanical dishwashers that have a wash, rinse and sanitize cycle, the rinse temperature must be at least 160°F.

2. Except as specified in ¶ 3 of this section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194°F, or less than:
a. For a stationary rack, single temperature machine, 165°F at the dish level; or
b. For all other machines, 180°F in the manifold and 170°F at the dish level.

3. The maximum temperature specified under ¶ 2 of this section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws, etc.

C. Mechanical Warewashing Equipment, Sanitization Pressure.
The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.

D. Manual and Mechanical Warewashing Equipment, Chemical Sanitization – Temperature, pH, Concentration and Hardness.
1. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times of 30 seconds at a sanitizing strength as follows:

a. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Minimum Concentration	Minimum Temperature	
Mg/L (ppm)	pH 10 or less °C(°F)	pH 8 or less °C(°F)
50	38 (100)	24 (75)
100	13 (55)	13 (55)

b. An iodine solution shall have a:
I. Minimum temperature of 75°F,

II. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, and
III. Concentration between 12.5 mg/L (ppm) and 25 mg/L (ppm);

c. A quaternary ammonium compound solution shall:
I. Have a minimum temperature of 75°F,
II. Have a concentration of 200 mg/L (ppm) produced following manufacturers labeling directions, and
III. Be used only in water with 500 mg/L (ppm) hardness or less or in water having a hardness no greater than specified by the manufacturer's label;

d. If another solution of a chemical specified under ¶¶ a. – c. of this section is used, the permit holder shall demonstrate to the Health Department that the solution achieves sanitization and the use of the solution shall be approved; or

e. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.

2. Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device. A log should be kept of these concentrations.

3. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

Item 23. Wiping Cloths, Use Limitation

A. Wiping Cloths, Clean, Use Restricted.

1. Cloths that are in use for wiping food spills shall be used for no other purpose.

2. Cloths used for wiping food spills shall be:
a. Dry and used for wiping food spills from tableware and carry-out containers; or
b. Wet and cleaned wiping cloths shall be stored in a chemical sanitizer at a concentration of 50 ppm of chlorine, 12.5 ppm of iodine, or 200 ppm of quaternary ammonium compound and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.

3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and wet cloths used with raw animal foods shall be kept in a separate sanitizing solution.

4. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

5. Soiled, wet wiping cloths shall be laundered daily.

6. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

7. Equipment and utensils may not be cloth dried. Utensils that have been air-dried, however, may be polished with cloths that are maintained clean and dry and used for no other purpose.

B. Wiping Cloths, Air-Drying Locations.

1. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution.

2. Wiping cloths used on tables shall be kept separate from cloths used to wipe chairs, benches or other non-food contact areas.

3. Sponges shall be prohibited from use on food contact surfaces.

Item 24. Cleaning Food-Contact Surfaces of Equipment and Utensils

A. Cleaning Objectives and Frequency.

1. Equipment food-contact surfaces, utensils and tableware shall be clean to sight and touch.

2. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

3. Equipment food-contact surfaces and utensils shall be cleaned:
   a. Except as specified in this section, before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry;
   b. Each time there is a change from working with raw foods to working with ready-to-eat foods;
   c. Between uses with raw fruits and vegetables and with potentially hazardous food;
   d. Before using or storing a food temperature measuring device; and
   e. At any time during the operation when contamination may have occurred.

4. Except as specified in ¶ 5 of this section, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.

5. Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned less frequently than every four (4) hours if:
   a. In storage, containers of potentially hazardous food and their contents are maintained at temperatures specified in Item 3 of these regulations, and the containers are cleaned when empty;
   b. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the chart below; and
      I. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature:

Temperature	Cleaning Frequency
41°F or less	24 hours
>41°F - 45°F	20 hours
>45°F - 50°F	16 hours
>50°F - 55°F	10 hours

      ; and

      II. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment, and records kept on file.

   c. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under Item 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

   d. Temperature measuring devices that are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under

Item 3 of these regulations, must be cleaned at least every 24 hours or at any time between food uses. Alternatively, refrigerated cases can be equipped with approved product mimicking sensors placed in devices located in the warmest part of the mechanically refrigerated unit in lieu of an ambient air sensor;

e. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

f. The cleaning schedule is approved based on consideration of:

I. Characteristics of the equipment and its use,
II. The type of food involved,
III. The amount of food residue accumulation, and
IV. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

g. In-use utensils are intermittently stored in a container of water in which the water is maintained 135°F or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

6. Except when dry cleaning methods are used as specified in these regulations, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

a. At any time when contamination may have occurred;
b. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops or ladles;
c. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
d. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment;

I. At a frequency specified by the manufacturer, or
II. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold, and never longer than 6 days.

B. Cooking and Baking Equipment.

1. The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours.

2. The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

C. Dry Cleaning of Food Contact Surfaces.

1. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

2. Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

D. Wet Cleaning.

1. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

2. The washing procedures selected shall be based on the type and purpose of the equipment or utensils and on the type of soil to be removed.

E. Food-Contact Surfaces and Utensils, Sanitization.

1. Equipment food-contact surfaces and utensils shall be sanitized.

2. Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning, by one of the methods mentioned in Item 22 of these regulations.

3. All tableware must be washed, rinsed, and sanitized after each use.

F. Food-Contact Surfaces.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces. Only approved USDA and/or NSF food grade lubricants shall be used.

G. Equipment.

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

H. Equipment and Utensils, Air-Drying Required.

After cleaning and sanitizing, equipment and utensils:

1. Shall be air-dried or used after adequate draining of sanitizing solutions, before contact with food; and

2. May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry, and used for no other purpose.

Item 25. Cleaning of Nonfood-Contact Surfaces

1. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

2. Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

3. All nonfood-contact surfaces of equipment and fixtures must be washed and rinsed, and kept clean.

Item 26. Storage of Clean Equipment and Utensils

A. General.

1. Cleaned equipment (including portable equipment) and utensils shall be stored:
    a. In a clean, dry location;
    b. Where they are not exposed to splash, dust, or other contamination; and
    c. At least six (6) inches above the floor.

2. Clean equipment and utensils shall be stored:
    a. In a self-draining position that allows air drying; and
    b. Covered or inverted.

3. Cleaned and sanitized equipment, utensils, and portable equipment may not be stored:
    a. In locker rooms;
    b. In toilet rooms;
    c. In garbage rooms;
    d. In mechanical rooms;
    e. Under sewer lines that are not shielded to intercept potential drips;
    f. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

g. Under open stairwells; or
h. Under other sources of contamination or in hard to clean areas.

Handling

B. Kitchenware and Tableware.

1. Cleaned and sanitized utensils shall be handled, dispensed, and displayed so that contamination of food- and lip-contact surfaces is prevented.

2. Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

C. Soiled and Clean Tableware.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

D. Preset Tableware.

If tableware is preset:

1. It shall be protected from contamination by being wrapped, covered, or inverted;

2. Exposed, unused settings shall be removed when a consumer is seated; or

3. Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.

5-209 Water System

Item 27. Water Supply*

A. System Flushing and Disinfection.

A potable water system shall be flushed and disinfected before being placed in service after construction, repair or modification, and after an emergency situation (such as a flood) that may introduce contaminants to the system; and at anytime routine sampling shows a positive for coliform or E. coli organisms.

B. Approved System.

Potable water shall be obtained from an approved source that is:

1. A public water system (community or non-community) which meets the Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule; or

2. A non-public system (less than 25 people) which must be constructed according to the Department of Environmental Conservation, Environmental Protection Rules and be monitored by the Department of Health.

C. Bottled Drinking Water.

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129 Processing and Bottling of Bottled

Drinking Water and with Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule for bottled water.

D. Standards.

1. Water from a public water system shall meet state drinking water quality standards; and

2. Water from a nonpublic system shall meet state drinking water quality standards for small water systems.

E. Non-potable Water.

1. A non-potable water supply shall be used only if its use is approved by the Department of Health and is completely separate from potable systems and identified by signs, color coding, etc. so it will not be mistaken for potable water.

2. Non-potable water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation.

3. Non-potable water may be used for flushing toilets or other uses which do not require potable water.

F. Sampling.

Public water systems must sample according to Department of Environmental Conservation, Environmental Protection Rules, Chapter 21, Water Supply Rule. Water from a nonpublic water system shall be sampled and tested at least annually and as required by state water quality regulations. All water samples must be processed in state approved laboratories and collected by persons approved by the Department of Health.

G. Sample Report.

The most recent sample report for the nonpublic water system shall be retained on file in the food establishment and/or the report shall be maintained as specified by state water quality regulations.

Quantity and Availability

H. Capacity.

1. The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment.

2. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

I. Pressure.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water. However, water supplied to a mobile unit or temporary food establishment need not be under pressure, but must flow to the sinks through a mixing faucet by pressure or gravity.

Distribution Delivery and Retention

J. System.

Water shall be received from the source through the use of:

1. An approved public water main; or

2. One or more of the following that shall be constructed, maintained, and operated according to law:
    a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances,
    b. Water transport vehicles, and
    c. Water containers.

K. Alternative Water Supply.

Water meeting the requirements of the Vermont Safe Drinking Water Rules shall be made available for a mobile facility or for a temporary food establishment without a permanent water supply through:

1. A supply of containers of commercially bottled drinking water;

2. One or more closed portable water containers;

3. An enclosed vehicular water tank;

4. An on-premises water storage tank; or

5. Piping, tubing, or hoses connected to an adjacent approved source.

L. Private Individual Water Systems (those not meeting the definition of a public water supply).

1. Well pits and cellars are not acceptable locations for water wells. However, those that exist and provide water that meets the drinking water quality requirements of the Department of Health may remain in use until shown to be contaminated.

2. Existing facilities shall meet present construction standards insofar as it is practicable, but in every case, the system shall be protected against contamination.

3. All food service establishments utilizing surface water sources must insure that the water receives a minimum of coagulation, filtration, and disinfection, or the considered equivalent.

4. Bacteriological water quality:
    a. A count of zero coliform organisms per 100 ml of water is the water quality standard for all facilities covered by these regulations, and is the level at which water is considered safe to drink.
    b. Whenever coliform counts indicate that water is unsafe to drink, the facility will be advised to boil water and the coliform count will be confirmed by taking two water samples. Only where both samples have counts of less than one will the water be considered safe to drink.
    c. Where confirmed coliform counts indicate that water is unsafe to drink, the facility will be required to:
        I. Boil all water used for drinking or for washing of fruits, vegetables, and other foods to be eaten raw, and
        II. Identify and eliminate the source of contamination within 60 days of notice from the Department of Health. All repairs or construction performed on a water system shall be done in accordance with the rules of the Department of Health, or the Department of Environmental Conservation.
        III. Utilize an alternative approved water source until the unsafe water system contamination is corrected and eliminated.
    d. The source of contamination will be considered eliminated when two water samples taken on the same day have no coliform present.

e. If the source of contamination has not been eliminated within 60 days of notice from the Department, the facility's license will be suspended.

5-210 Sewage Disposal

Item 28. Sewage System and Disposal*

A. Approved Sewage Disposal System.

Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant; or

2. An individual sewage disposal system that is sized, constructed, maintained, and operated according to the Rules & Regulations of the Agency of Natural Resources, Department of Environmental Conservation, Division of Wastewater Management.

B. Other Liquid Wastes and Rainwater.

1. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to the Agency of Natural Resources, Department of Environmental Conservation, Environmental Protection Rules – Chapter 1.

2. Existing systems shall meet the requirements of the Agency of Natural Resources, Department of Environmental Conservation, Environmental Protection Rules – Chapter 1 insofar as is practicable, but in no case shall a public health hazard be permitted to exist.

3. Each subsurface sewage treatment disposal system shall be operated so that sewage does not back-up into the establishment or flow to the ground surface.

C. Non-Water-Carried Sewage.

1. Non-water-carried sewage disposal facilities shall not be used, except where specifically permitted by the Department of Health.

2. Under such conditions, only facilities which have been approved by the Department of Health shall be used.

3. The privy or chemical toilet shall be maintained in a sanitary condition.

5-211 Plumbing

Item 29. Plumbing - Properly Installed, Maintained

A. General.

All plumbing installed in new buildings, or renewed and/or repaired in existing buildings, shall conform to the plumbing rules of the state of Vermont as enforced by the Department of Labor & Industry and the codes adopted therein.

B. Arrangement.

1. All plumbing shall be adequately sized and sloped, and there shall be no exposed pipes directly over food preparation or food storage areas.

2. Drain lines from equipment shall not, as a regular practice, discharge waste water in such a manner as will permit:

a. The flooding of floors;
b. The flowing of water across working or walking areas;
c. Into difficult-to-clean areas; or
d. Otherwise create a nuisance.

C. Water Reservoir of Fogging Devices, Cleaning.

1. A reservoir that is used to supply water to a device such as a produce fogger shall be:
   a. Maintained in accordance with manufacturer's specifications; and
   b. Cleaned in accordance with manufacturer's specifications or according to the procedures specified under ¶ 2 of this section, whichever is more stringent.

2. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
   a. Draining and complete disassembly of the water and aerosol contact parts;
   b. Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
   c. Flushing the complete system with water to remove the detergent solution, and particulate accumulation; and
   d. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/l hypochlorite solution.

D. Establishment Drainage System.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed with approved materials according to state of Vermont plumbing rules.

E. Conveying Sewage.

Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to state of Vermont plumbing rules.

F. Grease Trap.

If used, a grease trap shall be located to be easily accessible for cleaning.

G. System Maintained in Good Repair.

A plumbing system shall be:

1. Repaired according to state of Vermont plumbing rules; and

2. Maintained in good repair.

Item 30. Plumbing - No Cross-Connection, Backflow or Back Siphonage*

A. Backflow Prevention Device, When Required.

A plumbing system shall be installed to preclude backflow of a solid, liquid or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bib by:

1. Providing an air gap as specified under ¶ B of this Item; or
2. Installing an approved backflow prevention device as specified under ¶ C of this Item.

B. Backflow Prevention, Air Gap.

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one (1) inch.

C. Backflow Prevention Device, Design Standard.

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

D. Backflow Prevention Device.

Backflow prevention devices must be installed on all carbonation equipment and must meet the standards of the A.S.S.E.

E. Backflow Prevention Device, Location.

A backflow prevention device shall be located so that it may be serviced and maintained.

F. Conditioning Device, Design.

A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

G. Scheduling Inspection and Service for a Water System Device.

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

H. Non-Potable Water System.

A non-potable water system is permitted to serve water closets, urinals, air conditioning units, fire prevention systems or hot water heating systems as long as there is no physical or direct connection to the potable water supply, and the non-potable pipes are painted yellow.

I. Establishment Drainage System.

Food establishment drainage systems, including grease traps, that convey sewage shall be designed, installed, constructed, and repaired with approved materials according to all laws and regulations.

J. Backflow Prevention.

1. Except as specified in ¶ 4 of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment or utensils are placed, or from where food is made or processed.

2. The waste line connecting to the sewer must be at least one pipe size larger than the pipe coming from the fixture that is air gapped.

3. If the discharge pipe is not one size larger as specified in ¶ 2 of this section, the discharge pipe shall have a restricter device which slows down the discharge.

4. A warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five (5) feet of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

5-212 Toilet and Handwashing Facilities

Item 31. Toilet and Handwashing Facilities – Fixture Requirements*

A. Toilet Rooms.

Food service establishments shall provide toilet rooms accessible to the most commonly used dining area. Non-water-carried toilet facilities (privies or chemical toilets) may be permitted in lieu of wet toilets as remote, emergency, or temporary facilities.

1. Toilets required:

a. Patrons

Establishments shall maintain adequate handwash sinks and toilets as determined by the Department of Health. An establishment with a seating capacity (or equivalent) of up to and including 25 persons shall provide at least one toilet room that includes one (1) toilet and one (1) handwash sink. Establishments with seating capacity of 26 or greater shall provide a minimum of two (2) separate toilet rooms with each room equipped with at least one (1) toilet and one (1) handwash sink.

b. Employees

If the employees' toilet facilities are to be included with the patrons' toilet(s), the number of fixtures required shall be based on the number obtained when adding together the patron seating capacity and the maximum number of employees on duty at any one time.

2. When separate employee toilet rooms are provided, the number of fixtures shall be in accord with the requirements of the Vermont Occupational Safety and Health Act (V.O.S.H.A.).

3. Toilets and Urinals:

At least one toilet and not fewer than the number of toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified by law.

B. Handwashing Facilities, Location.

1. A handwashing facility shall be located:

a. Close and conveniently located to any area where food is prepared, dispensed or washed.

b In, or immediately adjacent to, toilet rooms.

C. Handwashing Facilities, Installation.

1. A handwashing lavatory shall be equipped to provide water at a temperature of at least 100°F through a mixing valve or combination faucet.

2. A steam mixing valve may not be used at a handwashing lavatory.

3. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

4. An automatic handwashing facility shall be installed in accordance with manufacturer's instructions, only after it has been deemed effective and approved by the Department of Health.

D. Handwashing Facilities, Operation and Maintenance.

1. A handwashing facility shall be maintained so that it is accessible for employee use at all times.

2. A handwashing facility may not be used for purposes other than handwashing.

3. An automatic handwashing facility, if approved, shall be maintained and used in accordance with manufacturer's instructions.

E. Facilities, Service Sink.

Establishments constructed after December 1, 2003 shall have at least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain; it shall be conveniently located for the cleaning of mops or similar wet floor cleaning tools, and for the disposal of mop water and/or similar liquid waste.

Item 32. Toilet Rooms and Handwashing Facilities – Miscellaneous

A. Vestibules.

Vestibules, if any, and toilet rooms shall be kept clean and be equipped with self-closing, tight-fitting doors.

B. Hot and Cold Water – Temperature.

1. Each handwash sink shall be provided with hot water of at least 100°F in temperature when mixed together with cold water.

2. Tempered water at 100°F may be provided in lieu of hot and cold water.

3. A mixing valve or combination faucet is required in all installations, unless tempered water is being used.

4. Steam mixing valves are prohibited.

C. Cleaning Materials.

1. A supply of hand-cleaning soap or hand detergent shall be available at each hand wash sink.

2. A supply of sanitary single-use paper towels, or an air hand-drying device, shall be available and conveniently located near the hand wash sink.

3. Common-use towels are prohibited.

4. Where disposable towels are used, waste receptacles shall be located conveniently near the hand-washing facilities.

5. Hand wash sinks, soap dispensers, hand-drying devices, and all other components of the hand-washing facilities shall be kept clean and in good repair.

6. Ladies restrooms must be supplied with covered receptacles convenient and accessible to each toilet fixture.

D. Toilet Facilities, Maintenance.

1. Toilet facilities, including the toilet room and fixtures, shall be kept clean and in good repair.

2. A supply of toilet tissue shall be provided at each toilet at all times.

3. Waste receptacles shall be emptied at least once a day, and more frequently when necessary to prevent overflow of waste material to the floor.

E. Sign Posted.

A sign which reads, **"Employees Must Wash Hands After Using the Toilet and Before Handling Food,"** shall be placed in each toilet room and handwash sink location where it can be easily viewed and read by employees.

5-213 Garbage and Refuse Disposal

Item 33. Garbage and Refuse Disposal - Facilities on the Premises

A. Indoor Storage Area.

1. If separately located within the food establishment, a storage area for refuse, recyclables, and returnables shall have smooth and easily cleanable floors and walls. Ceilings in such areas shall be painted or sealed with cleanable materials. The area must be insect and rodent proof and must not create a health hazard or nuisance.

2. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

B. Storage Areas, Rooms, and Receptacles - Capacity and Availability.

1. An inside storage room and area, outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

2. A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

3. If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

C. Receptacles.

1. Except as specified in ¶ 2 of this section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

2. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

D. Covering Receptacles.

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered inside the food establishment if the receptacles and units:

a. Contain food residue and are not in continuous use; or
b. After they are filled.

E. Receptacles in Vending Machines.

A refuse receptacle may not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

F. Storing Refuse, Recyclables, and Returnables.

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

G. Storage Areas, Enclosures, and Receptacles - Good Repair.

Storage areas, enclosures, and receptacles for refuse, recyclable and returnables shall be maintained in good repair.

H. Cleaning Implements and Supplies.

1. Except as specified in ¶ 2 of this section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

2. If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

I. Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units - Location.

1. An area designated for refuse, recyclables, returnables, and except as specified in ¶ 2 of this section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

2. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service articles and a public health hazard or nuisance is not created.

3. The location of receptacles and waste handling units for refuse, recyclables and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

4. Receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

J. Outside Receptacles.

1. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors or covers.

2. Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

K. Cleaning Receptacles.

1. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of.

2. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

L. Removal, Frequency.

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects or rodents.

Item 34. Garbage and Refuse Disposal Areas – Construction and Cleanliness

A. Outdoor Storage Surface.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

B. Outdoor Enclosure.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials and with tight-fitting lids or doors if kept outside the food establishment.

C. Outdoor Refuse Area, Curbed and Graded to Drain.

Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

D. Using Drain Plugs.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

E. Maintaining Refuse Areas and Enclosures.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items and clean.

F. Receptacles or Vehicles.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

1. Portable receptacles that are constructed and maintained according to law; or

2. A transport vehicle that is constructed, maintained, and operated according to law.

G. Community or Individual Facilities, Disposal and Composting.

1. Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained and operated according to law.

2. Food waste may be disposed of by composting with the following requirements:
   a. Compost sites cannot be in close proximity to the outer openings of a food service establishment.
   b. A compost site must be properly operated and kept free of insects, rodents, and vermin.

3. Compost sites cannot create a health hazard or nuisance to any food establishment or neighboring property owner.

5-214 Insect and Rodent Control

Item 35. Insect and Rodent Control*

Effective measures shall be taken to prevent insects, rodents, and vermin from entering, living, or breeding in food service establishments.

A. Controlling Pests.

1. The presence of insects, rodents and other pests shall be controlled to minimize their presence on the premises by:
   a. Routinely inspecting incoming shipments of food and supplies;
   b. Routinely inspecting the premises for evidence of pests;
   c. Using glue boards, fly papers, light attracted glueboards, and devices that are used to stun or electrocute flying insects; and
   d. Using devices to trap rodents and vermin.

2. For chemical insecticide control of flies, only pyrethrins or man-made pyrethrins shall be used where food is stored, prepared, or served.

3. Poisons for rodent or cockroach control shall not be used in the food storage, food preparation or food service area except by a professional exterminator, with proper bait boxes so as not to contaminate food.

4. Infestation of cockroaches or rodents will require intervention by professional exterminators.

B. Insect Control Devices, Design and Installation.

1. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

2. Insect control devices shall be installed so that:
   a. The devices are not located over a food preparation area; and
   b. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

C. Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests.

Dead or trapped birds, insects, rodents and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

D. Outer Openings, Protected.

1. Except as specified in ¶¶ 2, 3, 4, and 5 of this section, outer openings of a food establishment shall be protected against the entry of insects and rodents by:

a. Filling or closing holes and other gaps along floors, walls, ceilings, foundations and doors;
b. Closed, tight-fitting windows, and
c. Solid, self-closing, tight-fitting doors.

2. Paragraph 1 of this section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

3. Exterior doors used as exits need not be self-closing if they are:

a. Solid and tight-fitting;
b. Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
c. Restricted so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

4. Except as specified in ¶¶ 2 and 5 of this section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under ¶ 1 of this section, the openings shall be protected against the entry of insects and rodents by:

a. 16 mesh (16 mesh to 1 inch) screens;
b. Properly designed and installed air curtains; or
c. Other effective means.

5. Paragraph 4 of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

6. Establishments with open-air-dining must have tight-fitting doors, screens, or air curtains between the food service, preparation, and storage areas and the open air dining area.

E. Prohibiting Animals.

1. Except as specified in ¶ 2 of this section, live animals may not be allowed on the premises of a food establishment.

2. Live animals may be allowed in the following situations, only if the contamination of food, clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

a. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
b. In areas that are not used for food preparation and that are usually open for customers such as dining and sales areas, service animals (such as sight or hearing-impaired guide dogs) who are controlled by the person with disability, but only if a health or safety hazard will not result from the presence or activities of the service animal;
c. Pets in the common dining areas of group residences at times other than during meals if:

I. Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
II. Condiments, equipment, and utensils are stored in enclosed cabinets, or removed from the common dining areas when pets are present, and
III. Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

d. In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

3. Live birds and reptiles (such as turtles) are prohibited from the premises of food service establishments.

F. Insect and Rodent Control - Outdoor Walking and Driving Surfaces, Graded to Drain.

1. Exterior walking and driving surfaces shall be graded to drain and no water shall be allowed to stand which will create breeding places for insects.

2. Outdoor areas like parking lots, lawns and areas around buildings will be kept free of rubbish, tires, old equipment and must have short mowed grass which is kept clean so as not to create harborage for insects and rodents.

5-215 Floors, Walls and Ceilings

Item 36. Floors

A. General.

Floor surfaces shall be of smooth, nonabsorbent materials, and so constructed as to be easily cleanable in:

1. Kitchens;

2. Rooms/areas in which food is stored or prepared, and in which utensils are washed;

3. Walk-in refrigerators;

4. Dressing or locker rooms; and

5. Toilet rooms.

B. Floors, Construction Details.

1. The floors of all food preparation, food storage, utensil-washing rooms, and toilet rooms shall be constructed of smooth, durable, non-absorbent, and easily cleanable materials such as ceramic tile, durable grades of linoleum or plastic, or tightly laid wood impregnated with a plastic sealer.

2. All floors shall be constructed using a coved and closed juncture between the wall and floor.

3. Tightly laid wood impregnated with a plastic sealer may be used only in food service facilities that do not have any grease production.

4. Walk-in refrigerators shall be constructed of ceramic tile, durable grades of linoleum or plastic, concrete, or metal.

5. Floor drains shall be provided in floors which are waterflushed for cleaning, or which receive discharges of water or other fluid waste from equipment. Such floors shall be graded to drain.

6. Mats or duckboards, if used, shall be so constructed as to facilitate being cleaned, and shall be kept clean. They shall be of such design and size as to permit easy removal for cleaning.

7. Floors and floor covering materials shall meet the requirements of the Fire Prevention Code administered by the Vermont Department of Labor and Industry.

8. In a temporary food establishment, if graded to drain, a floor may be concrete, machine laid asphalt, dirt, or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud.

C. Floors, Utility Lines.

1. Utility service lines and pipes may not be unnecessarily exposed.

2. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors.

3. Exposed horizontal utility service lines and pipes may not be installed on the floor.

D. Floors, Good Repair.

The physical facilities shall be maintained in good repair.

E. Cleaning, Frequency and Restrictions.

1. The physical facilities shall be cleaned as often as necessary to keep them clean.

2. Cleaning shall be done during periods when the least amount of food is exposed, such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

F. Cleaning Floors, Dustless Methods.

1. Except as specified in ¶ 2 of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

2. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:
   a. Without the use of dust-arresting compounds; and
   b. In the case of liquid spills or drippage, with the use of a small amount of absorbent compounds such as dustban or diatomaceous earth applied immediately before spot cleaning.

G. Absorbent Materials on Floors, Use Limitation.

Sawdust, wood shavings, granular salt, baked clay, or similar materials may not be used on floors.

H. Floor Carpeting, Restrictions and Installation.

1. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing or spray cleaning methods.

2. If carpeting is installed as a floor covering in areas other than those specified under ¶ 1 of this section, it shall be:
   a. Securely attached to the floor with a durable mastic, by using a stretch and tuck method, or by another method; and
   b. Installed tightly against the wall under the coving, or installed away from the wall with a space between the carpet and the wall, and with the edges of the carpet secured by metal stripping or some other means.

Item 37. Walls and Ceilings

A. Walls and Ceilings, Construction Details.

1. The walls of all food preparation, utensil-washing, and handwashing rooms or areas, shall have light-colored, smooth, easily cleanable surfaces, and such surfaces shall be washable up to at least the highest level reached by splash or spray. Pumice blocks, stone walls, or brick walls shall not be used. Concrete walls, concrete block walls finished with epoxy paint are permitted, if they have no pits, holes, cracks, or seams.

2. Acoustical materials may be used on the ceiling, provided ventilation is adequate to minimize grease and moisture absorption.

3. Wall covering materials such as sheet metal, linoleum, plastic, paper, and similar materials, shall be so attached and sealed to the wall or ceiling as to leave no open spaces or cracks which would permit accumulation of grease or debris, or provide harborage for vermin. If sheet metal is used, screw heads shall not be exposed and seams shall be soldered, or rolled or riveted.

4. Studs, joists, and rafters shall not be left exposed in storage, food-preparation or utensil-washing areas. If left exposed in other rooms or areas, they shall be suitably finished and shall be kept clean and in good repair. This paragraph does not apply to the storage areas of retail grocery establishments.

5. An establishment that operates for not more than four consecutive months in one year may include exposed studs, joists, or rafters in the storage, kitchen, or utensil-washing areas.

6. Walls, ceilings and their covering materials shall meet the requirements of the Fire Prevention Code administered by the Department of Labor and Industry.

7. In a temporary food establishment, walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

B. Walls and Ceilings, Utility Lines.

1. Utility service lines and pipes may not be unnecessarily exposed.

2. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the walls and ceilings.

3. Exposed horizontal utility service lines and pipes may not be installed on the walls and ceilings.

C. Walls and Ceilings, Good Repair.

All walls and ceilings, including doors, windows, skylights, and similar closures, shall be kept clean and in good repair.

D. Cleaning Frequency and Restrictions.

1. Vacuum cleaning, wet cleaning, or other dustless methods for cleaning walls and ceilings shall be used as often as necessary to keep them clean.

2. Cleaning, shall be done during those periods when the least amount of food is exposed, such as after closing or between meal times.

E. Walls and Ceilings, Attachments.

1. Except as specified in ¶ 2 of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

2. In a consumer area, wall and ceiling surfaces, decorative items, and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

3. Light fixtures, decorative material, and similar equipment and material attached to walls and ceilings, shall be kept clean.

F. Exterior Walls and Roofs, Protective Barrier.

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

5-216 Lighting

Item 38. Adequate Lighting

A. Intensity.

The light intensity shall be:

1. At least 110 lux (10 foot candles) at a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

2. At least 220 lux (20 foot candles):
   a. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
   b. Inside equipment such as reach-in and under-counter refrigerators;
   c. At a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

3. At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

B. Light Bulbs, Protective Shielding.

1. Except as specified in ¶ 2 of this section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

2. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages; if:
   a. The integrity of the packages can not be affected by broken glass falling onto them; and
   b. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

3. An infrared or other heat lamp shall be shielded, coated, or otherwise shatter-resistant or protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

5-217 Ventilation

Item 39. Rooms and Equipment - Ventilated as Required.

A. General.

All ventilation hoods, wall coverings, filters, and attachments must be smooth, easy to clean and filters must be easy to remove. The installation of hoods and attachments to the ventilation systems **must be permitted** by the Vermont Department of Labor & Industry, Fire Prevention Division.

Toilet rooms shall be ventilated to outside air with electric fans that exhaust at least 15 cubic feet of air per minute for each toilet fixture, either operating continuously or only when the toilet is in use.

B. Mechanical.

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes, mechanical ventilation of sufficient capacity shall be provided.

C. Heating, Ventilating, Air Conditioning System Vents.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

D. Ventilation Hood Systems, Adequacy.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

E. Ventilation Hood Systems, Drip Prevention.

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

F. Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.

1. Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

2. If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

5-218 Dressing Rooms

Item 40. Rooms - Adequate, Clean

A. Designation.

1. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

2. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

B. Designated Areas.

1. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination. The use of tobacco must also meet Vermont smoking laws.

2. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles can not occur.

C. Using Dressing Rooms and Lockers.

1. Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.

2. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

5-219 Miscellaneous Inspection Items

Item 41. Poisonous or Toxic Materials*

Original Containers

A. Identifying Information, Prominence.

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

Working Containers

B. Common Name.

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

Storage

C. Separation

Poisonous or toxic materials shall be stored so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning; and

2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

Presence and Use

D. Restriction.

1. Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.

2. Paragraph 1 of this section does not apply to packaged poisonous or toxic materials that are for retail sale.

E. Conditions of Use.

Poisonous or toxic materials shall be:

1. Used according to:
    a. Law and these regulations,
    b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state use is allowed in a food establishment,
    c. The conditions of certification, if certification is required, for use of the pest control materials, and
    d. Additional conditions that may be established by the regulatory authority; and

2. Applied so that:
    a. A hazard to employees or other persons is not constituted, and
    b. Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by:
        I. Removing the items,
        II. Covering the items with impermeable covers, or
        III. Taking other appropriate preventative actions, and
        IV. Cleaning and sanitizing equipment and utensils after the application.

3. A restricted use pesticide shall be applied only by a certified applicator, or a person under the direct supervision of a certified applicator per Vermont Agency of Agriculture regulations.

Container Prohibitions

F. Poisonous or Toxic Material Containers.

A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

Chemicals

G. Sanitizers, Criteria.

Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements for allowable ppm of sanitizing solutions.

H. Chemicals for Washing Fruits and Vegetables, Criteria.

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified by the regulatory authority for chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

I. Boiler Water Additives, Criteria.

Chemicals used as boiler water additives shall meet the requirements of the regulatory authority for boiler water additives.

J. Drying Agents, Criteria.

Drying agents used in conjunction with sanitization shall:

Contain only components that are listed as generally recognized as safe by either the FDA or the USDA.

Lubricants

K. Incidental Food Contact, Criteria.

Lubricants shall meet the requirements of FDA, NSF, or USDA for safe lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

Pesticides

L. Restricted Use Pesticides, Criteria.

Restricted use pesticides shall meet the requirements specified by the Environmental Protection Agency and the Vermont Agency of Agriculture.

Medicines

M. Restrictions and Storage.

1. Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

2. Medicines that are in a food establishment for the employees' use shall be labeled as to contents and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

N. Refrigerated Medicines, Storage.

Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

1. Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

2. Located so they are inaccessible to children.

First Aid Supplies

O. Storage.

First aid supplies that are in a food establishment for the employees' use shall be:

1. Labeled as to contents; and

2. Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

Other Personal Care Items

P. Storage.

Employees shall store their personal care items in food service facilities in such a manner as to prevent contamination of food equipment, utensils, linens, and single-service and single-use articles.

Storage and Display of Stock & Retail Sale Supplies

Q. Separation.

Poisonous or toxic materials shall be stored and displayed for retail sale so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

1. Separating the poisonous or toxic materials by spacing or partitioning; and

2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

Item 42. Premises Free of Rubbish, Litter, Unnecessary Articles

A. General.

1. Outside areas must be free of rubbish, litter, and debris.

2. Outside areas must be mowed, and free of standing water.

B. Maintaining Premises, Unnecessary Items and Litter.

The premises shall be free of:

1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

2. Litter.

C. Cleaning Maintenance Tools, Preventing Contamination.

Food preparation sinks, handwashing lavatories, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

D. Drying Mops.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

E. Storing Maintenance Tools.

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

1. Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

Item 43. Separation From Food Operation Areas

A. Living or Sleeping Quarters, Separation.

Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

B. Clothes Washers and Dryers.

1. If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

2. Laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

3. Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

4. If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

C. Unrelated Activities.

Activities that are not related to food preparation shall not be performed in an area where food is prepared.

Item 44. Clean and Soiled Linens

A. Clean linens.

1. Clean linens shall be stored separate from food, equipment, and utensils.

2. Clean linens shall be free from food residues and other soiling matter.

3. A cabinet that is used to store laundered linens, may not be located:
   a. In toilet rooms;
   b. In garbage rooms;
   c. In mechanical rooms;
   d. Under sewer lines that are not shielded to intercept potential drips;
   e. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
   f. Under open stairwells; or
   g. Under other sources of contamination.

4. A storage cabinet used for linens may be stored in a locker room.

Frequency

B. Specifications.

1. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

2. Cloth gloves used for handling raw foods only shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

3. Linens and napkins used to line baskets holding food, and cloth napkins shall be laundered between each use.

4. Soiled, wet wiping cloths shall be laundered daily.

5. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

C. Storage of Soiled Linens.

Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

5-220 Outdoor Dining Areas

Restaurants may provide on-premise outdoor dining with prior approval from the Department of Health.

A. Open Outdoor Dining Areas.

Unscreened or unfanned outdoor dining areas may be provided when:

1. All foods served are properly protected;
2. Roaming animals such as cats and dogs are controlled so as they do not inhabit the dining area.

B. Enclosed Outdoor Dining Areas.

Completely screened or fanned areas providing effective fly control may be used for outdoor dining. In such cases food served by establishment personnel need not be covered, provided the route from kitchen to table is a fly-controlled area.

5-221 Enforcement Procedures

A. Approval for Continued Operation.

When the total rating score is not less than 70 and there are no critical items in violation, the food service establishment may remain open to the public.

B. No Approval for Continued Operation.

1. Critical Items.

All critical items in violation must be corrected immediately in the presence of a Department of Health representative. If not corrected immediately, the licensee shall be presumed to be creating an emergency health hazard and shall have the option of closing voluntarily or having the license suspended until which time items in violation are corrected. The establishment must remain closed until subsequent approval for continued operation has been granted by the Department of Health. Temporary measures may be used to correct critical items where appropriate so the establishment may remain open. However, a permanent correction as acceptable to the Department of Health will be required.

2. Rating Score Less Than 70.

When the total rating score is less than 70, the licensee shall be presumed to be creating a health hazard and shall have the option of closing voluntarily or having the license immediately suspended. Subsequent approval for continued operation shall require Department of Health approval.

C. Hearings.

When a license is suspended, the licensee will be notified in writing within five (5) days of the opportunity to appear at a hearing which will be scheduled within twenty (20) days of the date of inspection (or sooner if requested by the owner or licensee), to show cause as to why the license should not remain suspended or should not be revoked.

5-222 Miscellaneous

A. Grandfather Clause.

Changes in standards for construction specified in Section 5-205, Item 5, and Section 5-215, Item 36 and Item 37 shall apply only to construction begun on or after July 1, 1980.

B. Person in Charge.

The licensee shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

C. Demonstration of Knowledge.

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of these regulations.

The person in charge shall demonstrate this knowledge by compliance with these regulations, by being a certified food protection manager who has shown proficiency of the required information through passing a test that is part of an accredited program, or by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

1. Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

2. Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

3. Describing the symptoms associated with the diseases that are transmissible through food;

4. Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;

5. Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

6. Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;

7. Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;

8. Describing the relationship between the prevention of foodborne illness and the management and control of the following:

a. Cross contamination,
b. Hand contact with ready-to-eat foods,
c. Handwashing, and
d. Maintaining the food establishment in a clean condition and in good repair;

9. Explaining the relationship between food safety and providing equipment that is:
a. Sufficient in number and capacity, and
b. Properly designed, constructed, located, installed, operated, maintained, and cleaned;

10. Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

11. Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

12. Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

13. Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of these regulations;

14. Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, these regulations, or an agreement between the regulatory authority and the establishment; and

15. Explaining the responsibilities, rights and authorities assigned by these regulations to the:
a. Food employee,
b. Person in charge, and
c. Regulatory authority.

D. Duties of Person in Charge.

The person in charge shall ensure that:

1. Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils; and unwrapped single-service and single-use articles are protected from contamination.

2. Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with these regulations;

3. Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

4. Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

5. Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated.

6. Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within 4 hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

7. Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed that the food is not cooked sufficiently to ensure its safety;

8. Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

9. Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.

10. Employees are preventing cross-contamination of ready-to-eat food with bare hands by using suitable utensils such as deli tissue, spatulas, tongs, single-use plastic disposable gloves or dispensing equipment; and

11. Employees are properly trained in food safety as it relates to their assigned duties.

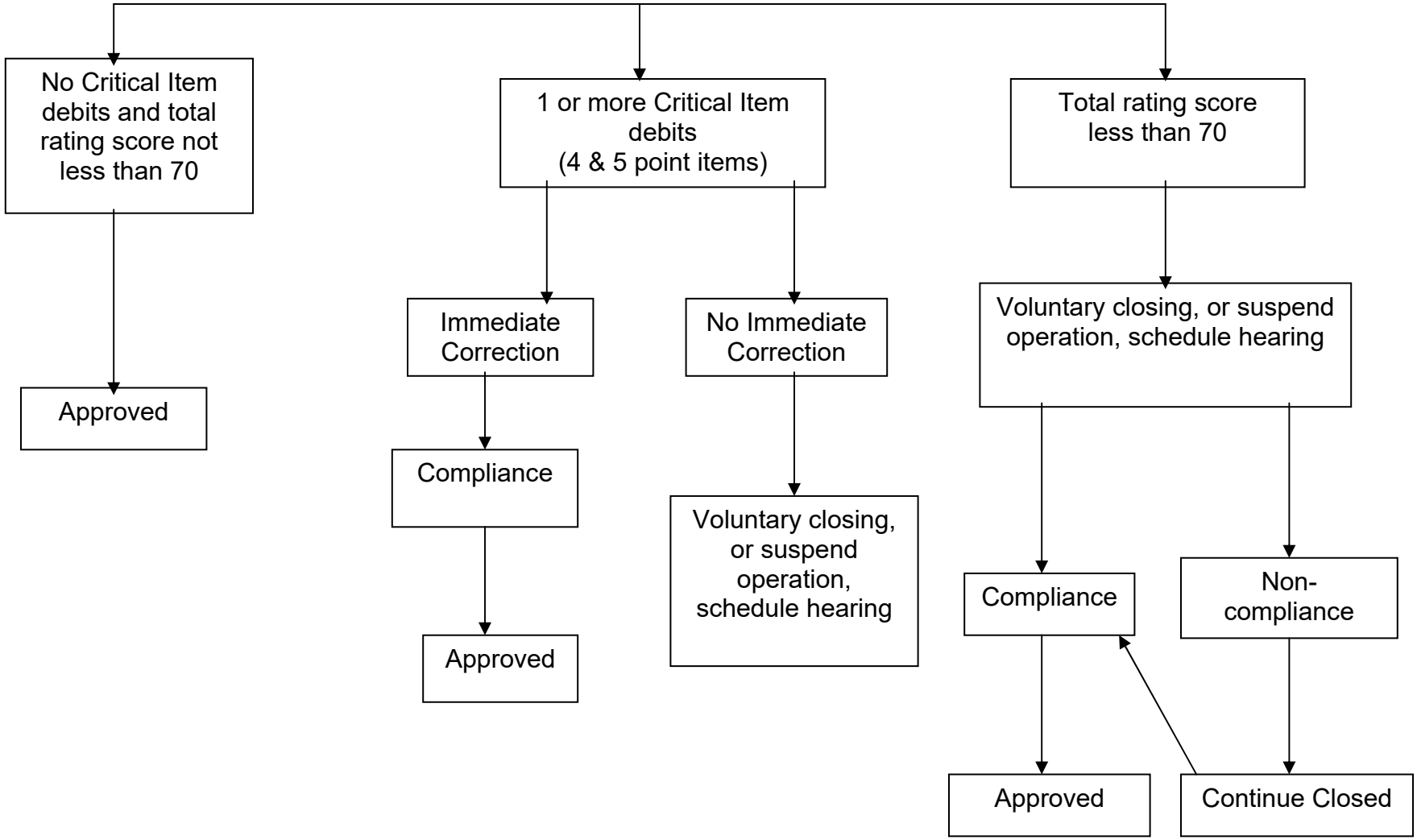
E. Security Procedures

All information about security procedures presented to the Department of Health shall be kept confidential in accordance with T.1 VSA § 317 (c) 25.

F. Enforcement Procedure for Licensed Establishments

G. Inspection Report

ENFORCEMENT PROCEDURE FOR LICENSED ESTABLISHMENTS



Chapter 6 – Environmental Health

Subchapter 2

Licensed Children's Camps Rule

1.0 Authority

This rule is adopted pursuant to 3 V.S.A. §§ 801(b)(11) and 3003(a); 18 V.S.A. §§ 102, and 4303.

2.0 Purpose

This rule provides the requirements for sanitation and licensing of children's camps to protect public health.

3.0 Scope

This rule applies to children's camps.

4.0 Definitions

4.1 "Camper" means any person in a children's camp on a fee or non-fee basis who is a participant in the regular program or training of the camp and who is present for 24 hours a day.

4.2 "Children's Camp" means any residential children's camp that is a combination of programs and facilities established for the primary purpose of providing an experience for children operated and used for five or more consecutive days during one or more seasons of the year and supervising children for 24 hours a day.

4.3 "Commissioner" means the Commissioner of the Vermont Department of Health.

4.4 "Department" means the Vermont Department of Health.

4.5 "Easily cleanable" means that surfaces which are readily accessible and made of such materials and finish, or so fabricated, that materials may be effectively removed by normal cleaning methods.

4.6 "Handwashing sink" means any source of running water with appropriate drainage supplied with soap and a hand drying method.

4.7 "Hot tub" means a pool or container of water designated for recreational use in which one or more people can soak. A hot tub can use hydrojet circulation or an air induction system, or a combination of these, to provide water circulation.

4.8 "Imminent health hazard" means a fire, significant flooding, sewage backup, infestation, misuse of poisonous or toxic materials, or any other condition that

could endanger the health and safety of campers, employees, and the general public.

4.9 "Infestation" means the presence of an unusually large number or a recurrence of pests in a camp that may cause damage or disease, or the presence of any bedbugs.

4.10 "Linens" means the cloth items provided by and used in the camp, including sheets, bedspreads, blankets, pillowcases, mattress pads, towels, and washcloths.

4.11 "Natural body of water" means any lake, pond, reservoir, river or stream that was historically present in a natural state but may have been physically altered over time.

4.12 "Person in charge" means the individual or employee who is present in the camp at the time of the inspection and who is responsible for the operation. If no designated individual or employee is the person in charge, then any employee present is the person in charge.

4.13 "Pest" means any unwanted animal, including insect, that is a potential vector for human disease or presents a risk to public health.

4.14 "Plumbing fixture" means a receptacle or device that (1) is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or (2) discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

4.15 "Plumbing System" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

4.16 "Potable water" means water free from impurities in amounts sufficient to cause disease or harmful physiological effects with the bacteriological, chemical, physical, or radiological quality conforming to applicable regulations and standards as defined by:

4.16.1 The Vermont Department of Environmental Conservation - Drinking Water and Groundwater Protection Division for any public drinking water systems, or

4.16.2 The Vermont Department of Health testing guidelines for private water supplies, specifying health-based contaminants found to be above maximum contaminant levels (MCL) or above Vermont Health Advisories where no MCL exists.

4.17 "Recreational water facility" and "RWF" mean a water environment with design and operational features that provides campers with recreational activity and that

involves immersion of the body partially or totally in the water. This term shall include water slides, watercourse rides, water activity pools, jetted pools, and wave pools. This term shall not include swimming pools and hot tubs or any natural body of water such as a pond or lake.

4.18 "Refuse" means solid waste not carried by water through the sewage system.

4.19 "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to 99.999% reduction, of representative disease microorganisms of public health importance.

4.20 "Service animal" means an animal, such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

4.21 "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, drinking glasses and cups, placemats, stirrers, straws, toothpicks, and wrappers that are designated and constructed for one time, one person use after which they are intended for discard.

4.22 "Swimming Pool" means an aquatic venue designed to have standing water for total or partial bather immersion.

4.23 "Tableware" means all multi-use eating and drinking utensils, including flatware (knives, forks, spoons, dishware), and ice containers.

5.0 Obtaining and Maintaining a License

5.1 A person shall not maintain or operate a children's camp unless such camp is licensed pursuant to the provisions of 18 V.S.A. § 4351 and this rule.

5.1.1 Each individual camp shall be required to hold a separate license, regardless of ownership.

5.1.2 A camp license expires annually.

5.2 A completed Application for License to Operate a food or lodging establishment, payment for applicable fees determined in 18 V.S.A. § 4353, and copies of all other required documentation and permits must be submitted to the Department for review no less than 30 days before the expected start of operation.

5.3 Transference of Licenses

5.3.1 A license shall not be transferred from one person or corporation to another.

5.3.2 When a licensed camp is sold, the corporation or organization changes, or the camp relocates or enlarges its operation, the license held by the former entity or person shall be returned to the Department.

5.3.3 The new proprietor or owner must apply for and receive a license before operating the camp.

5.4 License Variances

5.4.1 A variance may be granted by the Commissioner to modify or waive one or more requirements of this rule if the Commissioner determines that a health hazard, safety hazard, or nuisance will not result from the variance.

5.4.2 Each person requesting a variance shall submit the following to the department:

5.4.2.1 A written statement of the proposed variance of the regulatory requirement;

5.4.2.2 Documentation of how the proposed variance addresses public health hazards at the same level of protection as that of the original requirement; and

5.4.2.3 Any other relevant information if required by the Commissioner.

5.4.3 For each variance granted, the licensee shall meet the following requirements:

5.4.3.1 Follow the plans and procedures approved by the Commissioner;

5.4.3.2 Maintain a permanent record of the variance at the camp; and

5.4.3.3 Maintain and provide to the Commissioner, upon request, records that demonstrate that the variance is being followed.

6.0 Additional License Requirements

6.1 Additional documentation requested by the Department, may also be required. This may include but is not limited to:

6.1.1 Wastewater system documentation and permits from the Vermont Agency of Natural Resources;

6.1.2 Water system documentation for water systems requiring a permit; and

6.1.3 Local permit or zoning approval for proposed operation.

7.0 Imminent Health Hazard

7.1 Each licensee shall discontinue operations of the affected portions of the camp immediately upon discovery that an imminent health hazard exists.

7.2 Each licensee shall notify the Department by phone or email within 24 hours of the discovery of an imminent health hazard.

8.0 General Requirements for Licensed Camps

8.1 Each licensee shall meet all of the following requirements:

8.1.1 Post the license in a location in the camp that is conspicuous to the campers and their guardians – such as the registration area or food services area;

8.1.2 Comply with the provisions of these regulations, including the conditions of any granted variance; and

8.1.3 Comply with the Department's Food Service Establishments rule.

8.1.4 Comply with all relevant fire safety rules promulgated by the Department of Public Safety.

8.2 Water capacity and handwashing

8.2.1 Each licensee shall ensure that the water capacity is sufficient to meet the demands of the entire camp.

8.2.2 Each licensee shall ensure that all handwashing sinks meet the following requirements:

8.2.2.1 A supply of hand soap shall be available at all times at the handwashing sink.

8.2.2.1.1 In public areas, cloth towels may be provided for one-time use by an individual. A receptacle for the soiled cloth towels shall be provided.

8.2.2.1.2 The use of a common cloth towel shall be prohibited.

8.3 Smoking is prohibited at any licensed Children's Camp.

8.4 Toilets and toilet rooms

8.4.1 A toilet room that is accessible at all times to employees shall be provided.

8.4.2 A public toilet room or rooms shall be provided and accessible to the public if the camp provides space for camper or public gatherings or functions, including conferences, meetings, seminars, receptions, teas, dances, recitals, weddings, parties, wakes, and other events.

8.4.3 There shall be at least one handwashing sink in or immediately adjacent to each toilet room. Each sink shall meet the requirements specified in subsection 8.2.

8.4.4 Each toilet and urinal shall be sanitary, maintained in good repair, and operational at all times.

9.0 Personnel: Employee Health, Cleanliness, and Clothing

9.1 Each licensee shall ensure that all of the following requirements are met:

9.1.1 Health of employees. Each employee with any of the following health condition shall be excluded from areas of the camp where disease can

easily be transmitted to other employees or campers in the normal course of employment:

9.1.1.1 The employee is infected with a communicable disease, or

9.1.1.2 The employee is a carrier of organisms that cause a communicable disease.

9.1.2 Cleanliness of employees.

9.1.2.1 Each employee or other camp participant shall wash their hands in accordance with paragraph 9.1.2.2 before handling clean utensils or dishware, ice, beverages, food, or clean laundry in preparation for use or consumption by campers, employees or guests.

9.1.2.2 Each employee shall wash that employee's hands and any exposed portions of that employee's arms with soap and water in a sink by vigorously rubbing together the surfaces of the lathered hands and arms for 15 seconds to 20 seconds and thoroughly rinsing with clean water.

10.0 Camper Safety

10.1 All camps must comply with any relevant state and local fire and life safety laws and regulations.

10.2 Each licensee shall ensure that all repairs, construction, renovations, and maintenance are conducted in a manner that provides safe conditions for the campers and the public.

11.0 Camper Rooms – Each licensee shall ensure that each camper room is kept clean, is in good repair, and is maintained with regard to the health and safety of each camper, in accordance with all of the following requirements:

11.1 Good Repair. The walls, floors, ceilings, doors, and windows shall be constructed of materials intended for that purpose, maintained in good repair, and cleaned, painted, or replaced as necessary.

11.1.1 All floors and floor coverings shall be cleaned as needed. The methods for cleaning shall be suitable to the finish and material.

11.1.2 A camper room that has visible mold on the floors, walls, ceiling, or windows shall not be used until mold cleanup is completed.

11.2 Pests. Each camper room shall be free of any infestations of insects, rodents, and other pests.

11.2.1 A licensee shall not store rodenticides, pesticides, or insecticides in a camper room or in any area that could contaminate camper supplies, food, condiments, dishware, or utensils.

12.0 Housekeeping and Laundry Facilities – Where applicable, each licensee shall ensure that all housekeeping and laundry facilities and equipment are clean and maintained in good repair. Each licensee shall ensure that all of the following requirements are met:

12.1 Housekeeping

12.1.1 If supplied, clean linens shall not be contaminated by dirty linens or other contaminants.

12.1.2 If supplied, linens will be laundered between each guest or camper.

12.2 Laundry Facilities

12.2.1 Each licensee shall provide laundry facilities, unless a commercial laundry service is used.

12.2.2 The laundry area shall be kept clean and free from accumulated lint and dust.

12.2.3 All laundry equipment shall be functional and in good repair. Any laundry equipment that is no longer in use shall be removed from the laundry area.

12.2.4 All housekeeping and cleaning supplies and equipment shall be stored in a designated area. The storage area may be in the laundry area if the supplies and equipment are physically separated from the laundry, laundry equipment, and laundry supplies.

12.3 All laundry that is cleaned commercially off the premises shall have a segregated storage space for clean and dirty laundry and shall be located and equipped for convenient pick-up and delivery.

12.4 Single-use gloves shall be available for housekeeping and laundry staff and made available in the laundry and housekeeping areas.

13.0 Poisonous and Toxic Materials – Each licensee shall ensure that all of the following requirements are met:

13.1 Only those poisonous or toxic materials used in the operation and maintenance of the camp shall be allowed on the premises, including the following:

13.1.1 Detergents, sanitizers, cleaning or drying agents, caustics, acids, polishes, and similar chemicals;

13.1.2 Insecticides and rodenticides;

13.1.3 Building maintenance materials, including paint, varnish, stain, glue, and caulking; and

13.1.4 Landscaping materials, including herbicides, lubricants, and fuel for equipment.

13.2 The storage of poisonous or toxic materials shall meet all of the following requirements:

13.2.1 The substances listed in each of the four categories specified in subsection (13.1) shall be stored on separate shelves or in separate cabinets secured from campers except for provided detergents and sanitizers for camper use. These shelves and cabinets shall be used for no other purpose.

13.2.2 To prevent the possibility of contamination, poisonous or toxic materials shall not be stored above food, ice or ice-making equipment, linens, towels, utensils, single-service articles, or camper toiletry items. This requirement shall not prohibit the availability of cleaning or sanitizing agents in dishwashing or laundry work areas.

13.3 Each bulk or original container of a poisonous or toxic material shall bear a legible manufacturer's label.

13.4 All poisonous or toxic materials taken from a bulk container or an original container and put into another container shall be clearly identified with the common name of the material.

13.5 Each poisonous or toxic material shall be used according to the manufacturer's directions. Additional safety requirements regarding the safe use of poisonous or toxic materials may be established by the regulatory authority upon discovery of the unsafe use of these materials.

13.6 All pesticide applications must be made in accordance with the Vermont Agency of Agriculture, Food & Markets regulations.

14.0 Exterior Premises and Grounds

14.1 Exterior areas and surface

14.1.1 All exterior balconies, landings, porches, decks, stairways, and ramps shall be kept in good repair and free of debris and safety hazards for camper safety.

14.1.1.1 Storage on stairs, landings, and ramps shall be prohibited.

14.1.1.2 All guards and railings shall be attached securely and shall be kept in good repair.

14.1.1.3 All ramps shall have a slip-resistant surface.

14.2 Refuse containers.

14.2.1 The area where refuse containers are located shall be kept free of debris and cleaned as necessary to prevent the attraction and harborage of insects, rodents, and other pests and to minimize odors.

14.2.2 Containers of adequate capacity or number shall be available to store all refuse that accumulates between refuse pickups. All refuse containers shall be emptied at a frequency necessary to meet the requirements of these regulations.

15.0 Swimming Pools, Recreational Water Facilities (RWFs), and Hot Tubs

15.1 Each licensee shall ensure that all swimming pools, RWFs, and hot tubs are kept sanitary and in good repair.

15.2 Each swimming pool, RWF, and hot tub shall meet the requirements in these regulations, unless local ordinances pertaining to planning and design, lifesaving and safety equipment, water quality, and sanitation exist and these ordinances are as restrictive or more restrictive than these regulations.

15.3 Design and safeguards.

15.3.1 Each plan for a new swimming pool or RWF and for a swimming pool or RWF undergoing major renovation, including installation of a diving board, slide, or other similar recreational devices, shall be designed by a licensed engineer, architect, or other qualified professional.

15.3.2 Each grate over a main drain in each swimming pool or RWF shall be intact, firmly affixed at all times, and designed to prevent swimmer entanglement, entrapment, or injury. Other methods to prevent swimmer entanglement, entrapment, or injury may include multiple main drains, anti-vortex drain covers, or any similar device approved by the regulatory authority.

15.3.3 The depth of water in each swimming pool or RWF shall be plainly marked with at least four-inch high numbers of a color that contrasts with the color of the pool decking or vertical pool wall.

15.3.3.1 Water depth markings for an in-ground swimming pool shall be clearly marked on the edge of the deck and visible at all times. In addition, water depth markings may be placed above the water surface on the vertical pool walls and shall be visible at all times.

15.3.3.2 Water depth markings for each aboveground swimming pool or RWF shall be on the edge of the deck and shall be visible to persons entering the swimming pool. If water depth markings cannot be placed on the edge of the deck, another means shall be used so that the water depth is visible to persons entering the swimming pool.

15.3.3.3 The water depth markings in each swimming pool or RWF shall be located in the following areas:

15.3.3.3.1 At the maximum and minimum depths. Intermediate increments of depth may be used in addition to the required maximum and minimum depths; and

15.3.3.3.2 The transition point between the shallow end, which shall be five feet or less, and the deep end, which shall be more than five feet. This transition point shall be marked by a line on the floor and the walls of the swimming pool or RWF or by a safety rope equipped with buoys.

15.3.4 Each lighting and electrical system for a swimming pool, RWF, or hot tub shall be kept in good repair at all times. The following requirements shall be met:

15.3.4.1 Artificial lighting shall be provided at each swimming pool, RWF, or hot tub if used at night and for each indoor swimming pool, RWF, or hot tub. The lighting shall illuminate all portions of each swimming pool, RWF, or hot tub.

15.3.4.2 All artificial lighting located in the water shall be designed and maintained to prevent electrical shock hazards to campers.

15.3.5 Each outdoor swimming pool and RWF shall be protected by a fence, wall, building, or other enclosure that is at least four feet in height.

15.3.5.1 Each enclosure shall be made of durable material and kept in good repair.

15.3.5.2 Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.

15.3.5.3 Each gate shall have self-closing and self- latching mechanisms. The self-latching mechanism shall be installed at least four feet from the bottom of the gate.

15.3.5.4 A hedge shall not be an acceptable protective enclosure.

15.3.6 Each door leading into an indoor or enclosed swimming pool or RWF area shall have self-closing and self-latching mechanisms. The self-closing mechanism shall be at least four feet from the bottom of the door.

15.4 Lifesaving and safety equipment.

15.4.1 Each swimming pool or RWF shall have lifesaving equipment, consisting of at least one U.S. Coast Guard- approved Type IV flotation device that can be thrown into the water and at least one reaching device.

15.4.1.1 The flotation device shall be attached to a rope that is at least as long as one and one- half times the maximum width of the

swimming pool or RWF. If a lifeguard is on duty, lifesaving rescue equipment, including rescue tubes, may also be used.

15.4.1.2 The reaching device shall be a life pole or a shepherd's crook-type of pole, with a minimum length of 12 feet.

15.4.1.3 Each lifesaving device shall be located in a conspicuous place and shall be accessible. The lifeguard personnel shall keep their rescue equipment close for immediate use.

15.4.1.4 Each lifesaving device shall be kept in good repair.

15.4.2 A first-aid kit shall be accessible to the employees.

15.4.3 The camp shall not permit glass containers in the swimming pool, RWF, or hot tub area.

15.4.4 Each swimming pool, RWF, and hot tub deck shall be kept clean of sediment, visible dirt, mold and algae and shall be maintained free of cracks, peeling paint, and tripping hazards.

15.4.5 Each swimming pool, RWF, and hot tub shall be refinished or relined if the bottom or wall surfaces cannot be maintained in a safe and sanitary condition.

15.4.6 If handrails are not present, all steps leading into the swimming pool or RWF shall be marked in a color contrasting with the color of the interior of the swimming pool and RWF so that the steps are visible from the swimming pool or RWF deck.

15.4.7 All steps, ladders, and stairs shall be easily cleanable, in good repair, and equipped with nonslip treads. Handrails and ladders, if present, shall be provided with a handhold and securely attached.

15.4.8 The rules of operation and safety signs for each swimming pool, RWF, and hot tub shall be posted in a conspicuous place at the swimming pool, RWF, or hot tub. Each swimming pool and RWF without a lifeguard shall have posted the following sign: "Warning – No Lifeguard On Duty." The sign shall be legible, with letters at least four inches in height.

15.4.9 If chlorinating equipment is located indoors, the chlorinating equipment shall be housed in a separate room, which shall be vented to the outside or to another room that is vented to the outside. If chlorinating equipment is located outdoors and within an enclosed structure, the structure shall be vented to the outside.

15.5 Water quality and sanitation. Each licensee shall ensure that all of the following requirements are met:

15.5.1 Each swimming pool, RWF, and hot tub shall be maintained to provide for continuous disinfection of the water with a chemical process. This process shall use a disinfectant that leaves a measurable residual in the water.

15.5.1.1 If chlorine is used to disinfect the water of any swimming pool or RWF, the water shall have a free available chlorine residual level of at least 1.0 part per million (ppm) and not more than 5.0 ppm. If chlorine is used to disinfect the water of any hot tub, the water shall have a free available chlorine residual level of at least 2.9 ppm and not more than 5.0 ppm.

15.5.1.2 If bromine is used to disinfect the water of any swimming pool or RWF, the water shall have a disinfectant residual level of at least 1.0 ppm and not more than 5.0 ppm. If bromine is used to disinfect the water of any hot tub, the water shall have a disinfectant residual level of at least 2.0 ppm and not more than 5.0 ppm.

15.5.1.3 Each means of disinfection other than those specified in paragraphs (15.5) and (15.6) shall be used only if the licensee has demonstrated that the alternate means provides a level of disinfection equivalent to that resulting from the residual level specified in paragraph (15.5.1.1) or (15.5.1.2).

15.5.2 The pH of the water in each swimming pool, RWF, and hot tub shall be maintained at not less than 7.0 and not more than 8.0.

15.5.3 Each licensee shall use a chemical test kit or a testing device that is appropriate for the disinfecting chemical used and capable of accurately measuring disinfectant residual levels of 0.5 ppm to 20.0 ppm. In addition, a chemical test kit or testing device for measuring the pH of the water shall be used and capable of accurately measuring the pH of water in 0.2 increments.

15.5.4 The water in each swimming pool, RWF, and hot tub shall have sufficient clarity at all times so that one of the following conditions is met:

15.5.4.1 A black disc with a diameter of six inches is clearly visible in the deepest portion of the swimming pool or RWF.

15.5.4.2 The bottom drain at the deepest point of the swimming pool or RWF is clearly visible, and the bottom of the hot tub is clearly visible.

15.5.5 The water in each swimming pool, RWF, and hot tub shall be free of sediment, scum and floating debris. The bottom and walls shall be free of dirt, algae, and any other foreign material.

15.5.6 No chemical shall be added manually and directly to the water of any swimming pool, RWF, or hot tub while any individual is present in the water.

15.5.7 The temperature of the water in each hot tub shall not exceed 104 degrees Fahrenheit.

15.5.7.1 Each hot tub shall be operated in accordance with the manufacturer's specifications.

15.5.7.2 Each hot tub shall have a thermometer or other device to accurately record the water temperature within plus or minus two degrees.

15.6 Fecal accident in a swimming pool and RWF. If a fecal accident occurs in a swimming pool or RWF, the following requirements shall be met:

15.6.1 In response to any accident involving formed feces, the following requirements shall be met:

15.6.1.1 Direct the campers to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed. The closure times can vary since the decontamination process takes from 30 to 60 minutes;

15.6.1.2 Remove as much fecal material as possible using a net or scoop, and dispose of the material in a sanitary manner. Sanitize the net or scoop;

15.6.1.3 Raise the disinfectant level to 2 ppm and ensure that the water pH is between 7.2 and 7.8; and

15.6.1.4 Return the disinfectant level to the operating range specified in paragraph 15.5.1 before the swimming pool or RWF is reopened to campers.

15.6.2 In response to any accident involving diarrhea, the following requirements shall be met:

15.6.2.1 Direct campers to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed;

15.6.2.2 Remove as much fecal material as possible using a scoop, and dispose of the material in a sanitary manner. Sanitize the scoop. Vacuuming the fecal material shall be prohibited;

15.6.2.3 Raise the disinfectant level to 20.0 ppm and maintain a water pH of at least 7.2 but not more than 7.8. This level of concentration shall be maintained at least 12.75 hours to ensure inactivation of

Cryptosporidium. A lower disinfectant level and a longer inactivation time may be used according to the following table:

***Cryptosporidium* inactivation for diarrheal accident**

Disinfectant levels (ppm)	Disinfection time
1.0	6.5 days
10.0	16 hours
20.0	12.75 hours

15.6.2.4 Ensure that the filtration system is operating and maintaining the required disinfectant levels during the disinfection process. Backwash the filter. Do not return the backwashed water through the filter. Replace the filter medium, if necessary; and

15.6.2.5 Return the disinfectant level to the operating range specified in subsection 15.5.1.

15.7 Vomiting accident in a swimming pool or RWF. If a vomiting accident occurs in a swimming pool or RWF, the procedures in paragraph 15.6.2 shall be followed.

15.8 Body fluid spills at a swimming pool or RWF. All body fluid spills that occur on swimming pool or RWF equipment or hard surfaces, including decking, shall be cleaned and chemically sanitized. Disposable gloves shall be available for employees' use during cleanup. The following cleanup method shall be used:

15.8.1 Wipe up the spill using absorbent, disposable material. Paper towels may be used;

15.8.2 Use a bleach solution by combining one part bleach and 10 parts water. Pour the bleach solution onto the contaminated surface, leave the solution on the surface for at least 10 minutes, and rinse the surface with clean water;

15.8.3 Disinfect all nondisposable cleaning materials, including mops and scrub brushes, and allow to air-dry; and

15.8.4 Require each employee assisting with the cleanup to wash that employee's hands with warm water and soap after the cleanup is completed.

15.9 Fecal or vomiting accident in a hot tub. If a fecal accident or vomiting occurs in a hot tub, all of the following requirements shall be met:

15.9.1 All campers shall be required to leave the hot tub, and the water shall be completely drained.

15.9.2 The hot tub shall be disinfected according to the manufacturer's specifications.

15.9.3 The filtering system shall be disinfected or the filter medium shall be replaced with a clean filter medium before refilling the hot tub with clean water.

15.10 Operation and maintenance of a swimming pool, RWF, or hot tub. Each licensee shall ensure that all of the following requirements for each swimming pool, RWF, and hot tub are met:

15.10.1 Daily operational logs shall be maintained for at least one year at the camp and made available to the regulatory authority, upon request. These logs shall include the date and time the information was collected and the name or initials of the person who collected the information. These logs shall also record the following information:

15.10.1.1 The disinfectant residuals shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for camper use or more often, if necessary to maintain the water quality as specified in subsection 15.5.

15.10.1.2 The pH test shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for camper use or more often, if necessary to maintain the water quality as specified in subsection 15.5.

15.10.1.3 The temperature reading of each hot tub shall be recorded at least once daily when the hot tub is available for camper use.

15.10.2 Each fecal and vomiting accident log shall include the time and date of the accident and the disinfection measures taken.

15.10.3 Each indoor swimming pool area and chemical storage room shall be either vented directly to the exterior or vented to a room that is vented directly to the exterior.

15.10.4 All chemicals applied to a swimming pool, RWF, or hot tub shall be used, handled, stored, and labeled in accordance with the manufacturer's specifications.

15.10.5 All recreational equipment shall be kept sanitary. Recreational equipment shall include slides, diving boards, play equipment, water sports equipment, and accessory items available to campers, including floats, tubes, air mattresses, and pads for water slides.

15.10.6 A cleaning system shall be used to remove dirt, algae, and any other foreign material from the bottom of the swimming pool or RWF.

15.10.7 All surface skimmers, strainer baskets, and perimeter overflow systems shall be kept clean and in good repair.

15.10.8 The water in each swimming pool and each RWF shall be maintained at the manufacturer's recommended level so that the water will flow into each skimmer and strainer.

15.10.9 The recirculation system serving each swimming pool, RWF, and hot tub shall operate continuously or in accordance with the manufacturer's specifications. The filtration and recirculation systems shall be maintained in accordance with the manufacturer's specifications.

16.0 Water Supply Systems – Each licensee shall ensure that all of the following requirements are met:

16.1 Sufficient potable water to meet the needs of the camp shall be provided from a source constructed and operated pursuant to Vermont Department of Environmental Conservation requirements.

16.2 No water supply system deemed unsafe by the Department or Vermont Department of Environmental Conservation shall be used as a potable water supply.

16.3 Each nonpublic water supply system shall be constructed, maintained, and operated as specified in Vermont Department of Environmental Conservation requirements.

16.4 All water from a nonpublic water supply system shall meet state drinking water quality standards.

16.5 The most recent sample report for the nonpublic water supply system used by the camp shall be retained for at least 12 months at the camp and shall be made available to the regulatory authority upon request.

16.6 During any period when a boil water order is in effect, including a precautionary boil water notice or advisory issued by the Department or Vermont Department of Environmental Conservation on a public or nonpublic water supply, the licensee shall meet the following requirements until the problem has been corrected:

16.6.1 Notify each camper, verbally and by written notice placed in each unit, that the plumbed water is not potable and only potable water should be used for drinking and for brushing teeth;

16.6.2 Discard any ice that could have been made from or exposed to contaminated water; and

16.6.3 Obtain a temporary, alternate supply of potable water by using one of the following:

16.6.3.1 A supply of commercially bottled drinking water;

16.6.3.2 One or more closed, portable, bulk water containers;

16.6.3.3 An enclosed vehicular water tank;

16.6.3.4 An on-premises water storage tank; or

16.6.3.5 Any other alternative water source if approved by the Department or Vermont Department of Environmental Conservation.

17.0 Sewage Systems – Each licensee shall ensure that all of the following requirements are met:

17.1 All sewage shall be disposed of through an approved facility, including one of the following:

17.1.1 A public sewage treatment plant; or

17.1.2 An individual sewage disposal system that is constructed, maintained, and operated according to Vermont Department of Environmental Conservation requirements, and meets all applicable sanitation requirements.

17.2 A temporary sewage disposal facility shall be allowed only as approved by the Department or Vermont Department of Environmental Conservation.

17.3 All condensate drainage, rainwater, and other non-sewage liquids shall be drained from the point of discharge to disposal pursuant to Vermont Department of Environmental Conservation requirements.

18.0 Electrical Systems

18.1 Each licensee shall ensure that the electrical wiring is installed and maintained in accordance with all applicable state and local electrical codes. In the absence of local electrical codes, the electrical wiring shall be installed and maintained by a licensed electrician.

18.2 All emergency lighting shall be kept in working condition.

18.3 The permanent use of extension cords in camper rooms shall be prohibited. Individual branch circuits, including multiple-plug outlet strips that contain fuse breakers and multiple-plug outlet adapters that do not exceed the amperage for which the outlets are rated, shall be permitted.

18.4 The temporary use of extension cords shall be allowed for housekeeping and maintenance purposes if the extension cords are rated for industrial use.

18.5 The wattage of light bulbs shall not exceed the wattage rating of the corresponding light fixtures. Empty light sockets shall be prohibited.

19.0 Plumbing Systems

19.1 Each licensee shall ensure that all plumbing is installed and maintained in accordance with all applicable state and local plumbing codes. In the absence of local plumbing codes, all plumbing shall be installed and maintained by a licensed plumber.

19.2 Each licensee shall ensure that all of the following requirements are met:

19.2.1 Potable water under pressure shall be available at all times at each fixture designed to provide water. Hot water shall be provided to each fixture designed to use hot water.

19.2.2 Each toilet room, bathing facility, and laundry area shall be provided with ventilation to minimize condensation and to prevent mold, algae, and odors. Each newly constructed camp and each camp undergoing major renovation shall be required to have mechanical ventilation in each enclosed toilet room, bathing facility, and laundry area.

19.3 All backflow devices shall meet the design specifications for their intended use. All potable water supplies shall be protected from sources of potential contamination.

20.0 Natural Bodies of Water used for Recreation

Each natural body of water used for recreation, such as a lake, pond or reservoir, shall be visually inspected before each recreational water use by a camp employee for the presence of cyanobacteria blooms, chemical contamination, biological contamination, or physical hazards.

Chapter 5 – Food Safety Rules
Subchapter 1

GOOD MANUFACTURING PRACTICES FOR FOOD RULE

1.0 Authority

This rule is adopted pursuant to 18 V.S.A. Chapter 85.

2.0 Purpose

This rule provides the requirements for the safe and sanitary manufacturing, packing or holding of human food products.

3.0 Scope

This rule applies to food establishments that process food for human consumption, and provide processed food for sale and distribution to other business entities such as other food establishments. Requirements do not pertain to food establishments that process food solely under the regulatory oversight of the Vermont Agency of Agriculture, Food, & Markets.

4.0 Definitions

Whenever used in these Regulations, the following terms shall be construed as follows:

4.1 **"Acid foods or acidified food"** means foods that have an equilibrium pH of 4.6 or below.

4.2 **"Adequate"** means that which is needed to accomplish the intended purpose in keeping with good public health practices.

4.3 **"Batter"** means a semi-fluid substance, usually composed of flour and other ingredients, into which principal components of food are dipped or with which they are coated, or which may be used directly to form bakery foods.

4.4 **"Blanching, except for tree nuts and peanuts"** means a prepackaging heat treatment of foodstuffs for a sufficient time and at a sufficient temperature to partially or completely inactivate the naturally occurring enzymes and to effect other physical or biochemical changes in the food.

4.5 **"Critical control point"** means a point in a food process where there is a high probability that improper control may cause, allow, or contribute to a hazard or to filth in the final food or decomposition of the final food.

4.6 **"Department"** means the Vermont Department of Health.

4.7 **"Commissioner"** means the Commissioner for the Vermont Department of Health or a subordinate to whom the commissioner has assigned his or her

functions.

4.8 **"FDA"** means the U.S. Food and Drug Administration.

4.9 **"Food"** means any article used or intended to be used by human beings for food, drink, confection, or condiment, whether simple, mixed, or compound and all substances and ingredients used in the preparation thereof.

4.10 **"Food-contact surfaces"** are those surfaces that contact human food and those surfaces from which drainage onto surfaces that contact the food ordinarily occurs during the normal course of operations. Food-contact surfaces include utensils and food-contact surfaces of equipment.

4.11 **"Lot"** means the food produced during a period of time indicated by a specific code.

4.12 **"Low-acid food"** means any foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6 and a water activity (a_w) greater than 0.85. Tomatoes and tomato products having a finished equilibrium pH less than 4.7 are not classed as low-acid foods.

4.13 **"Microorganisms"** means yeasts, molds, bacteria, and viruses and includes, but is not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of these Regulations.

4.14 **"Pasteurize"** means to expose food to an elevated temperature for a period of time sufficient to destroy certain microorganisms that can produce disease or cause spoilage or undesirable fermentation of food.

4.15 **"Pest"** means any objectionable animals or insects including, but not limited to, birds, rodents, flies, and larvae.

4.16 **"Plan review"** means the submission of blueprints, drawings, or plans for proposed new construction, renovation, or remodeling of a food processing facility.

4.17 **"Plant"** means the building or facility or parts thereof, used for or in connection with the manufacturing, packaging, labeling, or holding of human food.

4.18 **"Process Authority Review"** means a product review conducted by a person(s) or organization(s) having expert knowledge of thermal processing requirements for foods in hermetically sealed containers, having access to facilities for making such determinations, and designated by the establishment to perform certain functions.

4.19 **"Processed food"** means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, grinding, churning, separating, extracting, packaging, or milling, but does not mean the sorting, trimming, cleaning, or water-rinsing of food.

4.20 **"Quality control operation"** means a planned and systematic procedure for taking all actions necessary to prevent food from being adulterated within the meaning of these Regulations.

4.21 **"Rework"** means clean, unadulterated food that has been removed from processing for reasons other than unsanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food.

4.22 **"Safe and suitable"** means that the ingredient performs an appropriate function in the food in which it is used and is used at a level no higher than necessary to achieve its intended purpose in that food.

4.23 **"Safe-moisture level"** is a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished product under the intended conditions of manufacturing, storage, and distribution. The maximum safe moisture level for a food is based on its water activity (a_w). An a_w will be considered safe for a food if adequate data are available that demonstrate that the food at or below the given a_w will not support the growth of undesirable microorganisms.

4.24 **"Sanitize"** means to adequately treat food-contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

4.25 **"Significant renovation"** means a physical change to a facility or portion of a facility, including the following:

4.25.1 Replacing or upgrading any major system, such as the electrical, plumbing, heating, ventilation, or air-conditioning systems;

4.25.2 Demolition of the interior or exterior of a building or portion of the building; and

4.25.3 Replacement, demolition, or installation of interior walls and partitions, whether fixed or movable.

4.26 **"Water activity (a_w)"** means a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

5.0 License Requirements

5.1 A person shall not maintain or operate a food processing or manufacturing facility or food warehouse unless such establishment is licensed pursuant to the provisions of 18 V.S.A. §4351.

5.1.1 Each individual establishment shall require a separate license, regardless of ownership. A food license expires annually, unless sooner revoked by the Department.

5.2 A completed Application for License to Operate a Food And Lodging Establishment, a check or money order for the applicable fees determined in 18 V.S.A. §4353, and copies of all other required documentation and permits must be submitted to the Department for review no less than 30 days before the expected start of operation.

5.3 Additional documentation, when applicable and requested by the Department, including but not limited to:

5.3.1 Wastewater system documentation and permits from the Vermont Agency of Natural Resources;

5.3.2 Water system documentation for water systems requiring a permit;

5.3.3 Local permit or zoning approval for proposed operation;

5.3.4 Documentation of Process Authority Review for low-acid canned foods, acidified foods, and products where the Department has requested documentation that there are no biological concerns with the food production process.

5.4 Establishments shall submit a plan review prior to any new construction or significant renovation of an existing facility.

5.5 Transference of Licenses

5.5.1 A license shall not be transferred from one person or corporation to another.

5.5.2 When a licensed establishment is sold, the corporation changes, or the establishment relocates or enlarges its operation, the license held by the former entity or person shall be returned to the Department.

5.5.3 The new proprietor or management must apply for and receive a license before operating the business.

5.6 A variance may be granted by the Commissioner to modify or waive one or more requirements of this rule if the Commissioner determines that a health hazard, safety hazard, or nuisance will not result from the variance.

5.6.1 Each person requesting a variance shall submit the following to the department:

5.6.1.1 A written statement of the proposed variance of the regulatory requirement;

5.6.1.2 Documentation of how the proposed variance addresses public health hazards at the same level of protection as that of the original requirement; and

5.6.1.3 Any other relevant information if required by the Commissioner.

5.6.2 For each variance granted, the licensee shall meet the following requirements:

5.6.2.1 Follow the plans and procedures approved by the Commissioner;

5.6.2.2 Maintain a permanent record of the variance at the establishment; and

5.6.2.3 Maintain and provide to the Commissioner, upon request, records that demonstrate that the variance is being followed.

6.0 Current Good Manufacturing Practice

6.1 Applicability and Scope - The criteria and definitions in these Regulations shall apply in determining whether food is adulterated as defined in 18 V.S.A. § 4059.

6.2 Personnel – The plant management shall take all reasonable measures and precautions to ensure the following:

6.2.1 Disease Control

6.2.1.1 Any person who, by medical examination or supervisory observation, is shown to have or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of food, food-contact surfaces, or food-packaging materials becoming contaminated, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.

6.2.1.2 Personnel shall be instructed to report such health conditions to their supervisors.

6.2.2 Cleanliness

6.2.2.1 All persons working in direct contact with food, food-contact surfaces, and food-packaging materials shall conform to accepted industry standard hygienic practices while on duty to the extent necessary to protect against contamination of food.

6.2.2.2 The methods for maintaining cleanliness include, but are not limited to:

6.2.2.2.1 Wearing clean garments suitable to the operation in a manner that protects against the contamination of food, food-contact surfaces, or food-packaging materials.

6.2.2.2.2 Maintaining adequate personal cleanliness.

6.2.2.2.3 Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time

when the hands may have become soiled or contaminated.

6.2.2.2.4 Removing all unsecured jewelry and other objects that might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food-packaging materials.

6.2.2.2.5 Using utensils or wearing gloves for food handling if product is ready-to-eat and maintaining gloves, if they are used in food handling, in an intact, clean, and sanitary condition. The gloves should be of an impermeable, non-latex material.

6.2.2.2.6 Wearing, where appropriate, in an effective manner, hairnets, headbands, caps, beard covers, or other effective hair restraints.

6.2.2.2.7 Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.

6.2.2.2.8 Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco. Additional restrictions concerning use of tobacco are contained in 18 V.S.A. Chapter 37.

6.2.2.2.9 Taking any other necessary precautions to protect against contamination of food, food-contact surfaces, or food-packaging materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

6.2.3 Education and Training

6.2.3.1 Personnel responsible for identifying sanitation failures or food contamination shall have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food, when available.

6.2.3.2 Food handlers and supervisors shall receive appropriate training in proper food handling techniques and food-protection principles and should be informed of the danger of poor personal hygiene and insanitary practices.

6.2.4 Supervision: Responsibility for assuring compliance by all personnel with all requirements of these Regulations shall be clearly assigned to supervisory personnel.

7.0 Plants and Grounds

7.1 Grounds – The grounds around a food plant under the control of the operator shall be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds include, but are not limited to:

7.1.1 Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests;

7.1.2 Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed;

7.1.3 Adequate draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pests;

7.1.4 Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed;

7.1.5 If the plant grounds are bordered by grounds not under the operator's control and not maintained in the manner described in the above sections (7.1.1-7.1.3) of this Rule, care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

7.2 Plant Construction and Design – Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-manufacturing purposes. The plant and facilities shall:

7.2.1 Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food;

7.2.2 Permit the taking of proper precautions to reduce the potential for contamination of food, food-contact surfaces, or food-packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which contamination is likely to occur, by one or more of the following means: location, time, partition, air flow, enclosed systems, or other effective means.

7.2.3 Permit the taking of proper precautions to protect food in outdoor bulk fermentation vessels by any effective means, including:

7.2.3.1 Using protective coverings;

7.2.3.2 Controlling areas over and around the vessels to eliminate harborages for pests;

7.2.3.3 Checking on a regular basis for pests and pest infestation;

7.2.3.4 Skimming the fermentation vessels, as necessary.

7.2.4 Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept clean and in good repair; that drip or condensate from fixtures, ducts, and pipes does not contaminate food, food-contact surfaces, or food-packaging materials; and that aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact.

7.2.5 Provide adequate lighting in hand-washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, processed, or stored and where equipment or utensils are cleaned; and provide safety-type light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.

7.2.6 Provide adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food-contact surfaces.

7.2.7 Provide tight fitting doors and outer openings and, where necessary, adequate screening or other protection against pests.

8.0 Sanitary Operations

8.1 General Maintenance – Buildings, fixtures, and other physical facilities of the plant shall be maintained in a sanitary condition and shall be kept in repair sufficient to prevent food from becoming adulterated within the meaning of these Regulations. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials.

8.2 Substances Used in Cleaning and Sanitizing – Storage of Toxic Materials

8.2.1 Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means including purchase of

these substances under a supplier's guarantee or certification, or examination of these substances for contamination. Only the following toxic materials may be used or stored in a plant where food is processed or exposed:

8.2.1.1 Those required to maintain clean and sanitary conditions;

8.2.1.2 Those necessary for use in laboratory testing procedures;

8.2.1.3 Those necessary for plant and equipment maintenance and operation;

8.2.1.4 Those necessary for use in the plant's operations.

8.2.2 Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials. All relevant regulations promulgated by other Federal, State, and local government agencies for the application, use, or holding of these products shall also be followed.

8.3 Pest Control – No pests shall be allowed in any area of a food plant. Guard or guide dogs may be allowed in some areas of a plant if the presence of the dogs is unlikely to result in contamination of food, food-contact surfaces, or food-packaging materials. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of food on the premises by pests. The use of insecticides or rodenticides is permitted only under precautions and restrictions that will protect against the contamination of food, food-contact surfaces, and food-packaging materials.

8.4 Sanitation of Food-Contact Surfaces – All food-contact surfaces, including utensils and food-contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against contamination of food.

8.4.1 Food-contact surfaces used for manufacturing or holding low-moisture food shall be in a dry, sanitary condition at the time of use. When the surfaces are wet-cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

8.4.2 In wet processing, when cleaning is necessary to protect against the introduction of microorganisms into food, all food-contact surfaces shall be cleaned and sanitized before use and after any interruption during which the food-contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and food-contact surfaces of the equipment shall be cleaned and sanitized as necessary.

8.4.3 Non-food-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to protect against contamination of food.

8.4.4 Single-service articles (such as utensils intended for one-time use, paper cups, and paper towels) should be stored in appropriate containers and shall be handled, dispensed, used, and disposed of in a manner that protects against contamination of food or food-contact surfaces.

8.4.5 Sanitizing agents shall be adequate and safe under conditions of use. Any facility, procedure, or machine is acceptable for cleaning and sanitizing equipment and utensils if it is established that the facility, procedure, or machine will routinely render equipment and utensils clean and provide adequate cleaning and sanitizing treatment.

8.5 Storage and Handling of Cleaned Portable Equipment and Utensils – Cleaned and sanitized portable equipment with food-contact surfaces and utensils should be stored in a location and manner that protects food-contact surfaces from contamination.

9.0 Sanitary Facilities and Controls

9.1 Each plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to:

9.1.1 Water Supply – The water supply shall be sufficient for the operations intended and shall be derived from an adequate source. The facility shall comply with requirements regarding water quality and the site and location of the source of the water supply will meet criteria as specified in rule by the Vermont Department of Environmental Conservation.

9.1.1.1 Any water that contacts food or food-contact surfaces shall be safe and of adequate sanitary quality.

9.1.1.2 Running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the processing of food, for the cleaning of equipment, utensils, and food-packaging materials, or for employee sanitary facilities.

9.1.2 Plumbing – A plumbing system shall be designed, constructed, and installed according to all applicable federal, state, and local requirements. Plumbing shall be of adequate size and design and adequately installed and maintained to:

9.1.2.1 Carry sufficient quantities of water to required locations throughout the plant;

9.1.2.2 Properly convey sewage and liquid disposable waste from the plant;

9.1.2.3 Avoid constituting a source of contamination to food, water supplies, equipment, or utensils or creating an unsanitary condition;

9.1.2.4 Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor;

9.1.2.5 Provide that there is not backflow from, or cross-connection between, piping systems that discharge waste water or sewage and piping systems that carry water for food or food manufacturing.

9.1.3 Sewage Disposal – Sewage disposal shall be made into an adequate sewerage system or disposed of through other adequate means and in compliance with requirements as specified in rule by the Vermont Department of Environmental Conservation.

9.1.4 Toilet Facilities – Each plant shall provide its employees with adequate, readily accessible toilet facilities. Compliance with this requirement shall be accomplished by:

9.1.4.1 Maintaining the facilities in a sanitary condition;

9.1.4.2 Keeping the facilities in good repair at all times;

9.1.4.3 Providing self-closing doors; and

9.1.4.4 Providing doors that do not open into areas where food is exposed to airborne contamination, except where alternate means have been taken to protect against such contamination (such as double doors or positive air-flow systems).

9.1.5 Hand-Washing Facilities – Hand-washing facilities shall be adequate and convenient and be furnished with running water at a temperature of at least 100°F (38°C). Hand-washing sinks shall be designated for hand-washing only and shall not be used for other purposes. Compliance with this requirement may be accomplished by providing:

9.1.5.1 Hand-washing and, where appropriate, hand-sanitizing facilities at each location in the plant where good sanitary practices require employees to wash and/or sanitize their hands;

9.1.5.2 Effective hand-cleaning and sanitizing preparations (soap);

9.1.5.3 Sanitary towel service or suitable drying devices;

9.1.5.4 Devices or fixtures, such as water control valves, so designed and constructed to protect against recontamination of clean, sanitized hands;

9.1.5.5 Readily understandable signs directing employees handling unprotected food, unprotected food-packaging materials, or food-contact surfaces to wash and, where appropriate, sanitize their hands before they start work, after each absence from post of duty, and when their hands may have become soiled or contaminated. These signs may be posted in the processing

room(s) and in all other areas where employees may handle such food, materials, or surfaces.

9.1.5.6 Refuse receptacles that are constructed and maintained in a manner that protects against contamination of food.

9.1.6 Rubbish and Offal Disposal – Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests, and protect against contamination of food, food-contact surfaces, water supplies, and ground surfaces.

10.0 Equipment and Utensils

10.1 All plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained.

10.1.1 The design, construction, and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

10.1.2 All equipment shall be installed and maintained as to facilitate the cleaning of the equipment and of all surrounding spaces.

10.1.3 Food-contact surfaces shall be corrosion-resistant when in contact with food. They shall be made of nontoxic materials and designed to withstand the environment of their intended use and the action of food and, if applicable, cleaning compounds and sanitizing agents. Food-contact surfaces shall be maintained to protect food from being contaminated by any source, including unlawful indirect food additives.

10.2 Seams on food-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms.

10.3 Equipment that is in the manufacturing or food-handling area and that does not come into contact with food shall be so constructed that it can be kept in a clean condition.

10.4 Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, shall be of a design and construction that enables them to be maintained in an appropriate sanitary condition.

10.5 Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment, and shall be fitted with an automatic control for regulating temperature or with an automatic alarm system to indicate a significant temperature change in a manual operation.

10.6 Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in food shall be accurate and adequately maintained and adequate in number for their designated uses.

10.7 Compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment shall be treated in such a way that food is not contaminated with unlawful indirect food additives.

11.0 Production and Process Controls

11.1 All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of food shall be conducted in accordance with adequate sanitation principles.

11.1.1 Appropriate quality control operations shall be employed to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable.

11.1.2 Overall sanitation of the plant shall be under the supervision of one or more competent individuals assigned responsibility for this function.

11.1.3 All reasonable precautions shall be taken to ensure that production procedures do not contribute contamination from any source. Chemical, microbial, or extraneous-material testing procedures shall be used where necessary to identify sanitation failures or possible food contamination.

11.1.4 All food that has become contaminated to the extent that it is adulterated as defined in 18 V.S.A. § 4059, shall be rejected or if permissible, treated or processed to eliminate the contamination.

11.2 Raw Materials and Other Ingredients

11.2.1 Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into food and shall be stored under conditions that will protect against contamination and minimize deterioration.

11.2.1.1 Raw materials shall be washed or cleaned as necessary to remove soil or other contamination.

11.2.1.2 Water used for washing, rinsing, or conveying food shall be safe and of adequate sanitary quality.

11.2.1.3 Water may be reused for washing, rinsing, or conveying food if it does not increase the level of contamination of the food.

11.2.1.4 Containers and carriers of raw materials shall be inspected on receipt to ensure that their condition has not contributed to the contamination or deterioration of food.

11.2.2 Raw materials and other ingredients shall either not contain levels of microorganisms that may produce food poisoning or other disease in

humans, or they shall be pasteurized or otherwise treated during manufacturing operations so that they no longer contain levels that would cause the product to be adulterated within the meaning of these Regulations. Compliance with this requirement may be verified by any effective means, including purchasing raw materials and other ingredients under a supplier's guarantee or certification.

11.2.3 Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins shall comply with 18 V.S.A § 4062, this Rule, and applicable action levels/regulations for poisonous or deleterious substances promulgated by the FDA before these materials or ingredients are incorporated into finished food. Compliance with this requirement may be accomplished by purchasing raw materials and other ingredients under a supplier's guarantee or certification or may be verified by analyzing these materials and ingredients for aflatoxins and other natural toxins.

11.2.4 Raw materials, other ingredients, and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material shall comply with the provisions of section 13.0 of this Rule regarding defect action levels for natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing food. Compliance with this requirement may be verified by any effective means, including purchasing the materials under a supplier's guarantee or certification or examination of these materials for contamination.

11.2.5 Raw materials, other ingredients, and rework shall be held in bulk, or in containers designed and constructed so as to protect against contamination and shall be held at such temperature and relative humidity and in such a manner as to prevent the food from becoming adulterated within the meaning of these Regulations. Material scheduled for rework shall be identified as such.

11.2.6 Frozen raw materials and other ingredients shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated within the meaning of these Regulations.

11.2.7 Liquid or dry raw materials and other ingredients received and stored in bulk form shall be held in a manner that protects against contamination.

11.3 Manufacturing Operations

11.3.1 Equipment and utensils and finished food containers shall be maintained in an acceptable condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

11.3.2 All food manufacturing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms or for the contamination of food. One way to comply with this requirement is careful

monitoring of physical factors such as time, temperature, humidity, a_w, pH, pressure, and flow rate, and manufacturing operations such as freezing, dehydration, heat processing, acidification, and refrigeration to ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of food.

11.3.3 Food that can support the rapid growth of undesirable microorganisms, particularly those of public health significance, shall be held in a manner that prevents the food from becoming adulterated as defined in 18 V.S.A. § 4059. Compliance with this requirement shall be accomplished by any effective means, including:

11.3.3.1 Maintaining refrigerated foods at 41°F (5°C) or below as appropriate for the particular food involved;

11.3.3.2 Maintaining frozen foods in a frozen state;

11.3.3.3 Maintaining hot foods at 135°F (57°C) or above;

11.3.3.4 Heat treating acid or acidified foods to destroy mesophilic microorganisms when those foods are to be held in hermetically sealed containers at ambient temperatures;

11.3.3.5 Any other acceptable method approved by the Vermont Department of Health Food and Lodging Program.

11.3.4 Measures such as sterilizing, irradiating, pasteurizing, freezing, refrigerating, controlling pH, or controlling a_w that are taken to destroy or prevent the growth of undesirable microorganisms, particularly those of public health significance, shall be adequate under the conditions of manufacture, handling, and distribution to prevent food from being adulterated within the meaning of these Regulations.

11.3.5 Work-in-process shall be handled in a manner that protects against contamination.

11.3.6 Effective measures shall be taken to protect finished food from contamination by raw materials, other ingredients, or refuse.

11.3.6.1 When raw materials, other ingredients, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in contaminated food.

11.3.6.2 Food transported by conveyor shall be protected against contamination as necessary.

11.3.7 Equipment, containers, and utensils used to convey, hold, or store raw materials, work-in-process, rework, or food shall be constructed, handled, and maintained during manufacturing or storage in a manner that protects against contamination.

11.3.8 Effective measures shall be taken to protect against the inclusion of metal or other extraneous material in food. Compliance with this requirement may be accomplished by using sieves, traps, magnets, electronic metal detectors, or other suitable effective means.

11.3.9 Food, raw materials, and other ingredients that are adulterated within the meaning of these Regulations shall be disposed of in a manner that protects against the contamination of other food. If the adulterated food is capable of being reconditioned, it shall be reconditioned using a method that has been proven to be effective or it shall be reexamined and found not to be adulterated within the meaning of these Regulations before being incorporated into other food.

11.3.10 Mechanical manufacturing steps such as washing, peeling, trimming, cutting, sorting and inspecting, mashing, dewatering, cooling, shredding, extruding, drying, whipping, defatting, and forming shall be performed so as to protect food against contamination. Compliance with this requirement may be accomplished by providing adequate physical protection of food from contaminants that may drip, drain, or be drawn into the food. Protection may be provided by adequate cleaning and sanitizing of all food-contact surfaces and by using time and temperature controls at and between each manufacturing step.

11.3.11 Heat blanching, when required in the preparation of food, should be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent manufacturing without delay.

11.3.11.1 Thermophilic growth and contamination in blanchers should be minimized by the use of adequate operating temperatures and by periodic cleaning.

11.3.11.2 Where the blanched food is washed prior to filling, water used shall be safe and of adequate sanitary quality.

11.3.12 Batters, breading, sauces, gravies, dressings, spices, and other similar preparations shall be treated or maintained in such a manner that they are safe and protected against contamination. Compliance with this requirement shall be accomplished by any effective means, including one or more of the following:

11.3.12.1 Using ingredients free of contamination and verified by testing;

11.3.12.2 Employing adequate heat processes where applicable;

11.3.12.3 Using adequate time and temperature controls minimizing time food is in temperature danger zone of 41°F (5°C) to 135°F (57°C);

11.3.12.4 Providing adequate physical protection of components from contaminants that may drip, drain, or be drawn into them;

11.3.12.5 Cooling to an adequate temperature during manufacturing;

11.3.12.6 Disposing of batters at appropriate intervals to protect against the growth of micro-organisms;

11.3.12.7 Any other acceptable method approved by the Vermont Department of Health Food and Lodging Program.

11.3.13 Filling, assembling, packaging, and other operations shall be performed in such a way that the food is protected against contamination. Compliance with this requirement shall be accomplished by any effective means, including:

11.3.13.1 Use of a quality control operation in which the critical control points are identified and controlled during manufacturing;

11.3.13.2 Adequate cleaning and sanitizing of all food-contact surfaces and food containers;

11.3.13.3 Using materials for food containers and food-packaging materials that are safe and suitable, as defined in these Regulations;

11.3.13.4 Providing physical protection from contamination, particularly airborne contamination;

11.3.13.5 Using sanitary handling procedures;

11.3.13.6 Any other acceptable method approved by the Vermont Department of Health Food and Lodging Program.

11.3.14 Food such as, but not limited to, dry mixes, nuts, intermediate moisture food, and dehydrated food, that relies on the control of a_w for preventing the growth of undesirable microorganisms shall be processed to and maintained at a safe moisture level. Compliance with this requirement shall be accomplished by any effective means, including employment of one or more of the following practices:

11.3.14.1 Monitoring the a_w of food;

11.3.14.2 Controlling the soluble solids-water ratio in finished food;

11.3.14.3 Protecting finished food from moisture pickup, by use of a moisture barrier or by other means, so that the a_w of the food does not increase to an unsafe level;

11.3.14.4 Any other acceptable method approved by the Vermont Department of Health Food and Lodging Program.

11.3.15 Food such as, but not limited to, acid and acidified food, that relies principally on the control of pH for preventing the growth of undesirable microorganisms shall be monitored and maintained at a pH of 4.6 or below. Compliance with this requirement shall be accomplished by any

effective means, including employment of one or more of the following practices:

11.3.15.1 Monitoring the pH of raw materials, food in process, and finished food;

11.3.15.2 Controlling the amount of acid or acidified food added to low-acid food;

11.3.15.3 Any other acceptable method approved by the Vermont Department of Health Food and Lodging Program.

11.3.16 When ice is used in contact with food, it shall be made from water that is safe and of adequate sanitary quality and shall be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in these Regulations.

11.3.17 Food-manufacturing areas and equipment used for manufacturing human food shall not be used to manufacture nonhuman food-grade animal feed or inedible products, unless there is no reasonable possibility for the contamination of the human food.

12.0 Warehousing and Distribution

12.1 Storage and transportation of finished food shall be under conditions that will protect food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container.

13.0 Defect Action Levels – Natural or Unavoidable Defects In Food For Human Use That Present No Health Hazard

13.1 Some foods, even when produced under current good manufacturing practice, contain natural or unavoidable defects that at low levels are not hazardous to health. The FDA establishes maximum levels for these defects in foods produced under current good manufacturing practice and uses these levels in deciding whether to recommend regulatory action.

13.2 Defect action levels are established by the FDA for foods whenever it is necessary and feasible to do so. These levels are subject to change upon the development of new technology or the availability of new information. The current Defect Action Levels handbook may be downloaded from the FDA website through: http://www.fda.gov/.

13.3 Food that has been adulterated as defined in 18 V.S.A. § 4059 shall still be in violation of this Rule even if the food manufacturer is in compliance with defect action levels.

13.4 The mixing of a food containing defects above the current defect action level with another lot of food is not permitted and renders the final food adulterated within the meaning of these Regulations, regardless of the defect level of the final food.

14.0 Adoption by Reference

14.1 Federal Food, Drug, and Cosmetic Act: §201(m) [21 USC §321 Definitions], §301(e), (f), (k), (v) [21 USC §331 Prohibited Acts], and §703 [21 USC §373 - Records of Interstate Shipment] are adopted by reference.

14.2 Code of Federal Regulations: 21 CFR Parts 70.20-70.25, 73.1-73.615, 74.101-706, 81, 82.3-82.706, 100.155, 101 (except 101.69 and 101.108), 102 (except 102.19), 104, 105, 106 (except 106.120), 107 (except 107.200-107.280), 108.25-108.35, 109, 113, 114, 118, 120, 123, 129-130 (except 130.5-130.6 and 130.17), 136-170 (except 168.140, 170.6, 170.15, and 170.17), 172-178, and 180-189 are adopted by reference.

Chapter 6 – Environmental Health

Subchapter 1

Licensed Lodging Establishment Rule

1.0 Authority

This rule is adopted pursuant to 3 V.S.A. §§ 801(b)(11) and 3003(a); 18 V.S.A. §§ 102, and 4303.

2.0 Purpose

This rule provides the requirements for sanitation and licensing of lodging establishments to protect public health.

3.0 Scope

This rule applies to lodging establishments who maintain and rent three or more units, guest rooms, or self-catered cottages to the transient, traveling, and vacationing public.

4.0 Definitions

4.1 "Bed and breakfast" see "Lodging establishment."

4.2 "Common area" means parts of an establishment that are open to all guests. The term includes, but not by way of limitation, hallways, stairways, and vending areas.

4.3 "Commissioner" means the Commissioner of the Vermont Department of Health.

4.4 "Department" means the Vermont Department of Health.

4.5 "Easily cleanable" means that surfaces which are readily accessible and made of such materials and finish, or so fabricated, that materials may be effectively removed by normal cleaning methods.

4.6 "Egress" means an exit or route leading out of a lodging establishment.

4.7 "Extended-stay" means a stay at a lodging establishment for more than 7 consecutive days.

4.8 "Extended-stay room" means a room within a lodging establishment in which a room is regularly rented for more than 7 consecutive days.

4.9 "Food service establishment" means any facility in which food is routinely prepared for individual service and consumption is routinely provided completely prepared. The term includes any such facility regardless of whether consumption

is on or off the premises and regardless of whether there is a charge for the food. The term does not include a private home where food is prepared for individual family consumption, and it does not include the location of food vending machines. Food service establishments that are located in or as part of a lodging place must maintain appropriate licenses.

4.10 "Food" means any raw, cooked, or processed edible substance, including ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

4.11 "Hot tub" means a pool or container of water designated for recreational use in which one or more people can soak. A hot tub can use hydrojet circulation or an air induction system, or a combination of these, to provide water circulation.

4.12 "Hotel" see "Lodging establishments"

4.13 "Imminent health hazard" means a fire, significant flooding, sewage backup, infestation, misuse of poisonous or toxic materials, or any other condition that could endanger the health and safety of guests, employees, or the general public.

4.14 "Infestation" means the presence of an usually large number or a recurrence of pests in an establishment that may cause damage or disease, or the presence of any bedbugs.

4.15 "Kitchenette" means a compact kitchen with cooking utensils, tableware, refrigerator, cooking appliance (as in a stove or microwave), and sink.

4.16 "Linens" means the cloth items used in the lodging establishment, including sheets, bedspreads, blankets, pillowcases, mattress pads, towels, and washcloths.

4.17 "Lodging establishment" means any establishment renting three or more guest rooms or units, that is regularly used, maintained, advertised or held out to the transient traveling or vacationing public as a place where sleeping accommodations are furnished including, all buildings and structures on the premises or any part thereof. The term includes, but not by way of limitation, hotels, motels, inns, and any bed and breakfasts (tourist homes) regardless of the number of rooms if prepared food is served.

The term lodging establishment includes the following:

4.17.1 "Bed and breakfast (Tourist home)" means a unique eating and lodging establishment where meals are provided only to lodging patrons, or occasional functions such as weddings, and has a capacity of twenty-five (25) or fewer. These facilities must comply with Department of Health, regulations for Food Service Establishments;

4.17.2 "Hotels," "Inns," and "Motels" means any business establishments where multiple sleeping accommodation units or rooms are regularly furnished to the transient, traveling, or vacationing public;

4.17.3 "Self-catered cottage" means a self-contained, single-unit, furnished property offering accommodations to transient, traveling, or vacationing public, which provides minimal housekeeping, linens, and a furnished kitchen for meal preparation by the guest. This does not include rustic cabins or tent facilities without indoor plumbing.

4.18 "Motel" see "Lodging establishment."

4.19 "Person in charge" means the individual or employee who is present in the lodging establishment at the time of the inspection and who is responsible for the operation. If no designated individual or employee is the person in charge, then any employee present is the person in charge.

4.20 "Pest" means any unwanted animal, including insect, that is a potential vector for human disease or presents a risk to public health.

4.21 "Plan review" means the submission of blueprints, drawings, or plans for proposed new construction, renovation, or remodeling of a lodging establishment.

4.22 "Plumbing fixture" means a receptacle or device that (1) is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or (2) discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

4.23 "Plumbing System" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

4.24 "Potable water" means water free from impurities in amounts sufficient to cause disease or harmful physiological effects with the bacteriological, chemical, physical, or radiological quality conforming to applicable regulations and standards as defined by:

4.24.1 The Vermont Department of Environmental Conservation - Drinking Water and Groundwater Protection Division for any public drinking water systems, or

4.24.2 The Vermont Department of Health testing guidelines for private water supplies, specifying health-based contaminants found to be above maximum contaminant levels (MCL) or above Vermont Health Advisories where no MCL exists.

4.25 "Proprietor" means any person 18 years or older, corporation, partnership, firm, organization, or municipality which operates or is responsible for the operation of a lodging establishment and is the license holder for the establishment.

4.26 "Recreational water facility" and "RWF" mean a water environment with design and operational features that provides guests with recreational activity and that involves immersion of the body partially or totally in the water. This term shall

include water slides, watercourse rides, water activity pools, jetted pools, and wave pools. This term shall not include swimming pools and hot tubs or any natural body of water such as a pond or lake.

4.27 "Refuse" means solid waste not carried by water through the sewage system.

4.28 "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to 99.999% reduction, of representative disease microorganisms of public health importance.

4.29 "Service animal" means an animal, such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

4.30 "Significant renovation" means a physical change to a facility or portion of a facility, including the following:

4.30.1 Replacing or upgrading any major system, such as the electrical, plumbing, heating, ventilation, or air-conditioning systems;

4.30.2 Demolition of the interior or exterior of a building or portion of the building; and

4.30.3 Replacement, demolition, or installation of interior walls and partitions, whether fixed or movable.

Significant renovation shall not include replacement of broken, dated, or worn equipment and other items, including individual air-conditioning units, bathroom tiles, shower stalls, and any other items that do not require additional or new plumbing or electrical repairs.

4.31 "Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, drinking glasses and cups, placemats, stirrers, straws, toothpicks, and wrappers that are designated and constructed for one time, one person use after which they are intended for discard.

4.32 "Spa" means any area of a lodging establishment where a hot tub, swimming pool, fitness equipment, or similar guest amenities are located.

4.33 "Swimming Pool" means an aquatic venue designed to have standing water for total or partial bather immersion.

4.34 "Tableware" means all multi-use eating and drinking utensils, including flatware (knives, forks, spoons, dishware), and ice containers.

5.0 Licensing of Lodging Establishments

5.1 A person shall not maintain or operate a lodging establishment with three or more units, or any bed & breakfast regardless of the number of rooms if prepared food is served, unless such establishment is licensed pursuant to the provisions of 18 V.S.A. § 4351 and this rule.

5.1.1 Each individual lodging establishment shall be required to hold a separate license, regardless of ownership.

5.1.2 A lodging license expires annually.

5.2 A completed Application for License to Operate a Food and Lodging Establishment, payment of applicable fees determined in 18 V.S.A. § 4353, and copies of all other required documentation and permits must be submitted to the Department for review no less than 30 days before the expected start of operation.

5.3 Establishments shall submit a plan review prior to any new construction or significant renovation of an existing facility.

5.4 Additional documentation requested by the Department, may also be required. This may include but is not limited to:

5.4.1 Wastewater system documentation and permits from the Vermont Agency of Natural Resources;

5.4.2 Water system documentation for water systems requiring a permit; and

5.4.3 Local permit or zoning approval for proposed operation;

5.5 Transference of Licenses

5.5.1 A license shall not be transferred from one person or corporation to another.

5.5.2 When a licensed establishment is sold, the corporation changes, or the establishment relocates or enlarges its operation, the license held by the former entity or person shall be returned to the Department.

5.5.3 The new proprietor or owner must apply for and receive a license before operating the business.

5.6 License Variances

5.6.1 A variance may be granted by the Commissioner to modify or waive one or more requirements of this rule if the Commissioner determines that a health hazard, safety hazard, or nuisance will not result from the variance.

5.6.2 A variance request must be submitted to the Department with the following:

5.6.2.1 A written statement of the proposed variance of the regulatory requirement;

5.6.2.2 Documentation of how the proposed variance addresses public health hazards at the same level of protection as that of the original requirement; and

5.6.2.3 Any other relevant information required by the Commissioner.

5.6.3 For each variance granted, the licensee shall meet the following requirements:

5.6.3.1 Follow the plans and procedures approved by the Commissioner;

5.6.3.2 Maintain a permanent record of the variance at the establishment; and

5.6.3.3 Maintain and provide to the Commissioner, upon request, records that demonstrate that the variance is being followed.

6.0 Food Service Licenses at Lodging Establishments:

6.1 Each lodging establishment that prepares, packages, serves, or otherwise provides food to the licensee's overnight guests or the general public, except activities covered in 6.2, shall obtain an appropriate food service license in accordance with 18 V.S.A. ch. 85, and comply with all applicable provisions of the Vermont Department of Health regulations.

6.2 A lodging establishment that provides only commercially prepared, individually portioned, prepackaged foods that are not-potentially hazardous or offers whole, uncut fresh fruits, or coffee for guests shall not be considered to be operating a food establishment as specified in regulation, but shall comply with all of the following requirements:

6.2.1 All food shall be free from spoilage, filth, or other adulteration and shall be safe for human consumption.

6.2.2 Condiments, if provided, shall be in individual packages.

6.2.3 Only single-service articles shall be used for serving food.

6.2.4 Single-service articles shall be stored, handled, and dispensed in a manner that prevents contamination of food contact surfaces.

6.2.5 All food service areas and all food contact surfaces shall be smooth, free of breaks, open seams, cracks, chips, and similar imperfections and shall be kept clean.

6.2.6 All food shall be stored and presented in a way that protects the food from cross contamination.

6.2.7 All food service and storage areas shall be free of the evidence of insects, rodents, and other pests.

6.2.8 Employees that handle food shall observe hygienic practices during all working periods of food service. Employees shall wash their hands before working with food; after using the toilet, smoking, eating, and drinking; and as often as necessary to keep their hands clean.

7.0 Imminent Health Hazard

7.1 Each licensee shall discontinue operations of the affected portions of the lodging establishment immediately upon discovery that an imminent health hazard exists.

7.2 Each licensee shall notify the Department by phone or email within 24 hours of the discovery of an imminent health hazard.

8.0 General Requirements for Licensed Lodging Establishments

8.1 Each licensee shall meet all of the following requirements:

8.1.1 Post the license in a location of the lodging establishment that is conspicuous to the public;

8.1.2 Comply with the provisions of these regulations, including the conditions of any granted variance; and

8.1.3 Ensure that no room or any portion of the lodging establishment is rented unless the room or portion of the lodging establishment is safe and sanitary.

8.2 Hot water capacity and handwashing.

8.2.1 Each licensee shall ensure that the hot water capacity is sufficient to meet the hot water demands of the entire lodging establishment.

8.2.2 A handwashing reminder sign shall be posted in each handwashing area, except in guest rooms.

8.2.3 Each licensee shall ensure that all handwashing sinks meet all of the following requirements:

8.2.3.1 Hot and cold potable water shall be supplied under pressure to each sink in enough capacity to meet handwashing needs.

8.2.3.2 The temperature of the hot water shall be at least 100 degrees Fahrenheit. If a mixing valve or combination faucet is not used, the temperature of the hot water shall not exceed 120 degrees Fahrenheit.

8.2.3.3 A supply of hand soap and either towels or an electric drying device shall be available at all times at each handwashing sink.

8.2.3.3.1 In public areas, cloth towels may be provided for one-time use by an individual. A receptacle for the soiled cloth towels shall be provided.

8.2.3.3.2 The use of a common cloth towel shall be prohibited, except in guest rooms.

8.3 Toilets and toilet rooms.

8.3.1 A toilet room that is accessible at all times to employees shall be provided. A public toilet room may be used by employees in lieu of a separate employee toilet room.

8.3.2 A public toilet room or rooms shall be provided and accessible to the public if the lodging establishment provides space for guest or public gatherings or functions, including conferences, meetings, seminars, receptions, teas, dances, recitals, weddings, parties, wakes, and other events.

8.3.3 There shall be at least one handwashing sink in or immediately adjacent to each toilet room. Each sink shall meet the requirements specified in subsection 8.2.

8.3.4 Each toilet and urinal shall be sanitary, maintained in good repair, and operational at all times.

8.3.5 Each toilet and urinal shall be cleaned and sanitized daily or more often if visibly soiled.

8.3.6 The floor in each toilet room shall be constructed of smooth, nonabsorbent, easily cleanable materials and maintained in good repair. Carpeting shall be prohibited as a floor covering in toilet rooms.

8.3.7 Except as specified in this paragraph, the storage of items in any toilet room shall be prohibited. A small amount of commonly used toilet room supplies may be stored, including toilet paper, hand soap, and paper towels.

9.0 Personnel: Employee Health, Cleanliness, and Clothing

9.1 Each licensee shall ensure that all of the following requirements are met:

9.1.1 Health of employees. Each employee with any of the following health condition shall be excluded from areas of the lodging establishment where disease can easily be transmitted to other employees or guests in the normal course of employment:

9.1.1.1 The employee is infected with a communicable disease, or

9.1.1.2 The employee is a carrier of organisms that cause a communicable disease.

9.1.2 Cleanliness of employees.

9.1.2.1 Each employee shall wash his or her hands in accordance with paragraph 9.1.2.2 before handling clean utensils or dishware, ice, beverages, food, or clean laundry.

9.1.2.2 Each employee shall wash that employee's hands and any exposed portions of that employee's arms with soap and water in a sink by vigorously rubbing together the surfaces of the lathered hands and arms for 15 seconds to 20 seconds and thoroughly rinsing with clean water.

9.1.3 Clothing of employees. Each employee providing services directly to guests or performing housekeeping functions shall wear clean outer clothing.

10.0 Guest and Public Safety

10.1 All establishments must comply with any relevant state and local fire and life safety laws and regulations.

10.2 Each licensee shall ensure that all repairs, construction, renovations, and maintenance are conducted in a manner that provides safe conditions for the guests and the public.

10.3 The operation and maintenance requirements for each lodging establishment shall include all of the following:

10.3.1 Each lodging establishment shall meet the requirements of all applicable building codes, fire codes, and ordinances.

10.3.2 Foam or plastic materials or other highly flammable or toxic material shall not be used as an interior wall, ceiling, or floor finish unless approved by the regulatory authority.

10.3.3 The doors in any public areas that lead outside the lodging establishment shall not be locked or blocked in such a way as to, prevent egress when the building is occupied. No exit doors shall be concealed or obscured by hangings, draperies, or any other objects.

10.3.4 Required portable fire extinguishers shall be inspected annually by a qualified company and monthly by the establishment.

10.3.5 A photo-electric smoke detector shall be installed in each guest sleeping room and anywhere else required by the Department of Public Safety, Division of Fire Safety.

10.3.5.1 All smoke detectors shall be maintained in operating condition.

10.3.6 An evacuation route diagram shall be posted in a conspicuous location in each guest room. The diagram shall include the location of the guest room, the layout of the floor, and the location of the nearest available exits. If the door of a guest room opens directly to the outdoors at ground level, the diagram shall not be required to be posted.

11.0 Guest Rooms. Each licensee shall ensure that each guest room is kept clean, is in good repair, and is maintained with regard to the health and safety of each guest, in accordance with all of the following requirements:

11.1 Good Repair. The walls, floors, ceilings, doors, and windows shall be constructed of materials intended for that purpose, maintained in good repair, and cleaned, painted, or replaced as necessary.

11.1.1 All junctures between floors and walls shall be constructed, covered, or finished with a baseboard and readily cleanable.

11.1.2 All floors and floor coverings shall be cleaned as needed. The methods for cleaning shall be suitable to the finish and material.

11.1.3 All floor maintenance, repair, or replacement shall be done in a manner that prevents slipping or tripping hazards to any guest.

11.1.4 A guest room that has visible mold on the floors, walls, ceiling, or windows shall not be rented until mold cleanup is completed.

11.2 Furnishings. All furnishings, including draperies, beds, appliances, furniture, lamps, and decorative items, shall be kept clean and in good repair. The methods for cleaning shall be suitable to the material and finish.

11.3 Toilet Rooms. Each guest room shall have a connecting toilet room and bathing facilities, including a bathtub or shower, except for the following:

11.3.1 If the lodging establishment is a bed and breakfast home or listed on the state historical register and documentation is provided to the regulatory authority, at least one toilet room with bathing facilities shall be provided for every four guest rooms, unless otherwise specified by the regulatory authority.

11.3.2 If the lodging establishment is a lodge with dormitory sleeping areas or a self-catered cottage, at least one easily accessible toilet and at least one bathtub or one shower shall be provided for every ten guests.

11.4 Sinks. Each handwashing sink shall meet the requirements specified in subsection 8.2.

11.5 Kitchenette. Each extended-stay room shall include a kitchenette or access to a shared full kitchen space for guests.

11.6 Housekeeping service. Housekeeping shall be required at guest turnover and offered daily during the guest's stay if the stay is seven days or fewer. The following shall be provided unless the guest requests that all or part of the room not be serviced:

11.6.1 Clean bathroom linens, including towels and washcloths, shall be provided. If bathmats are provided, the bathmats shall be clean.

11.6.2 Clean bed linens shall be provided as needed, and the bed shall be made.

11.6.3 All floors shall be swept or vacuumed if visibly soiled. All hard-surface floors shall be wet-cleaned if visibly soiled.

11.6.4 Each toilet, sink, bathtub, and shower area shall be cleaned if visibly soiled.

11.6.5 Each trash container shall be emptied and shall be cleaned if visibly soiled. A trash container liner may be reused during the same guest's stay if the liner is not visibly soiled.

11.6.6 If provided, all soap and prepackaged guest toiletry items shall be replenished as necessary.

11.6.7 All toilet paper shall be replenished as necessary.

11.6.8 If provided, clean ice bucket liners shall be replaced, as necessary and upon request of the guest.

11.6.9 All glassware and cups, if provided, shall be replaced with clean and sanitized dishware as needed. Single-service cups, if provided, shall be replenished.

11.6.10 If a coffeemaker is present in the guest room, the coffeemaker shall be rinsed. If the coffeepot is visibly soiled or contaminated, it shall be washed, rinsed, and sanitized. A fresh supply of coffee, condiments, and any single-service articles shall be replenished if provided.

11.7 If the same guest continuously occupies the same room for seven or more days, housekeeping shall be offered at least once every seven days.

11.8 **Guest Turnover.** Each guest room that is available shall be serviced and cleaned before each new guest. In addition to the required service activities in subsection 11.6, each guest room cleaning shall include the following:

11.8.1 All floors shall be swept or vacuumed, and wet-cleaned if appropriate to the finish.

11.8.2 All toilets, sinks, bathtubs, and shower areas shall be cleaned and sanitized in a manner that is appropriate to the finish.

11.8.3 All sinks, bathtubs, and shower areas shall be kept free of hair, mold, and mildew.

11.8.4 Bed linens and bath linens shall not be used for cleaning or dusting.

11.8.5 All trash containers shall be emptied and cleaned, and if provided, container liners shall be replaced.

11.8.6 If provided, all used guest toiletries and soap shall be replenished.

11.8.7 The guest room shall be visually inspected for any evidence of insects, rodents, and other pests.

11.9 Linens and Beds. All bedspreads, top-covering linens, blankets, mattress pads, mattresses, box springs, and beds shall be cleaned and maintained in good repair according to all of the following requirements:

11.9.1 All linens with tears or holes shall be repaired or replaced and all soiled and stained linen shall be cleaned.

11.9.2 All bedspreads, blankets, top-covering linens, and mattress pads shall be kept clean and shall be removed and replaced if visibly soiled or stained.

11.9.3 All mattresses and box springs shall be kept clean. Each damaged or soiled mattress and box spring shall be repaired or cleaned.

11.9.4 Each mattress that is not kept in sanitary condition shall be replaced.

11.9.5 The interior and surface of each enclosed mattress platform shall be cleaned if visibly soiled and either maintained in good repair or replaced.

11.10 Coffeepots. No coffeemaker or coffeepot shall be located within a toilet room and each coffeepot shall be cleaned before each new guest.

11.11 Drinkware. All drinkware provided in guestrooms shall be either glass/ceramic cleanable materials or shall be pre-packaged single-service drinking glasses or protected in a dispenser.

11.12 Kitchen and Kitchenette Provisions. All food and condiments provided in each unit shall be individually prepackaged.

11.13 Refrigerator. If a refrigerator unit is provided in a guest room, the unit shall be cleaned before each new guest.

11.14 Appliances. Each appliance provided for guest use, including microwaves, stoves, dishwashing machines, coffeemakers, hair dryers, clothing irons, radios, televisions, remote controls, and video equipment, shall be operational and in good repair. All cooking appliances, including microwaves and stoves, shall be cleaned before each new guest.

11.15 Except as specified in this subsection, the use of portable electrical or open-flame cooking devices shall be prohibited in a guest room. These devices shall include hot plates, electric skillets and grills, propane and charcoal grills, camping stoves, and any similar cooking devices. These devices shall not include slow cookers or microwaves and toasters that are provided in a guest room by the lodging establishment.

11.16 Pests. Each guest room shall be free of any evidence of insects, rodents, and other pests.

11.16.1 If a guest room has been vacant for at least 30 days, the licensee shall visually inspect that room for any evidence of insects, rodents, and other pests within 24 hours of occupancy by the next guest.

11.16.2 No guest room that is infested by insects, rodents, or other pests shall be rented until the infestation is eliminated.

11.16.3 The presence of bed bugs, which is indicated by observation of a living or dead bed bug, bed bug carapace, eggs or egg casings, or the typical brownish or blood spotting on linens, mattresses, or furniture, shall be considered an infestation.

11.16.4 All infestations shall be treated by a commercially-certified structural pest control operator (PCO).

11.16.5 All pest control measures, both mechanical and chemical, shall be used in accordance with the manufacturer's recommendations.

11.16.6 A licensee shall not store rodenticides, pesticides, or insecticides in a guest room or in any area that could contaminate guest supplies, food, condiments, dishware, or utensils.

11.17 Pets and Service Animals

11.17.1 The licensee of each lodging establishment that allows pets into any guest room shall advise consumers that the establishment is "pet-friendly" by posting a sign in a conspicuous place at the front desk and notification at the time reservations are made to alert guests that pets are allowed.

11.17.2 The licensee of each lodging establishment where pets or service animals have been in a guest room shall meet one of the following requirements:

11.17.2.1 The guest room is deep cleaned before the next guest. Deep cleaning shall include servicing and cleaning the guest room as specified in subsections (11.6) and (11.9), as well as vacuuming and shampooing the carpet and upholstered furnishings and vacuuming the mattress. All bed linens, including sheets, mattress pads, blankets, bedspreads or top coverings, and pillow cases, shall be replaced with clean bed linens; or

11.17.2.2 If the room is not deep cleaned, the licensee shall not offer that room to any guest without giving notification to that guest that a pet or service animal was in the room previous to the new guest.

11.18 Smoking in Rooms. Smoking in lodging establishment is prohibited pursuant to 18 V.S.A. § 1421. If anyone has smoked in a guest room, the licensee of any lodging establishment shall deep clean the room as specified in paragraph 11.17.2.1.

11.19 Room Locks. Each guest room or unit shall be provided with a means for locking each entrance both from the inside and from the outside, according to all of the following requirements:

11.19.1 The key, entry code, or key card furnished to each guest shall not unlock the door to any other guest room.

11.19.2 At least one secondary lock, including a dead bolt lock, thumb bolt, chain lock, or a similar device, shall be provided in addition to the primary key lock and shall be installed in accordance with the manufacturer's specifications.

11.19.3 All locks shall be in good repair and fully operational.

11.20 Each pair of connecting guest rooms shall have two doors in the connecting doorway. Each connecting door shall be equipped with a lock on only the guest room side of that door.

11.21 Cribs. If cribs are provided upon request, the cribs shall be easily cleanable, safe, and in good repair. Each crib rail, pad, and mattress shall be cleaned and sanitized after each guest.

12.0 Dishware and Utensils. Each licensee shall ensure that all of the following requirements are met:

12.1 General:

12.1.1 All dishware and utensils that are designed for repeat use shall be made of safe, durable, and nonabsorbent material and shall be kept in good repair. No cracked or chipped dishware or utensils shall be provided for use by guests or employees.

12.1.2 All single-service articles shall be constructed of safe, durable, and nonabsorbent materials.

12.1.3 All single-service drinking glasses and utensils shall be prepackaged or protected in a dispenser.

12.1.4 No single-service articles may be reused.

12.2 Storage:

12.2.1 All clean dishware and utensils and all single-service articles shall be protected from dirt, dust, liquids, insects, vermin, and any other sources of contamination at all times.

12.2.2 Each licensee shall provide storage facilities for dishware and utensils in a clean, dry location at least six inches above the floor.

12.2.3 No dishware and utensils shall be stored under an exposed sewer line or a dripping water line.

12.2.4 No dishware, utensils, single-service articles, ice buckets, and food containers shall be stored within a toilet room.

12.3 Cleaning and sanitization. Each licensee shall use either manual cleaning and sanitizing equipment or mechanical cleaning and sanitizing equipment.

12.3.1 All dirty or used glasses, dishware, and utensils that are in areas other than a guest room kitchenette shall be removed from each guest room during the servicing or cleaning of the room and upon vacancy of that room. All items shall be washed, rinsed, and sanitized.

12.3.2 If the licensee provides repeat service dishware or utensils to the lodging establishment's guests or to the public, the licensee shall ensure that all dishware, utensils and any food equipment is washed, rinsed, and sanitized OR the licensee shall post the following notice conspicuously in the unit:

> Notice to Guests: Dishware, glassware, kitchenware, and/or utensils have been provided in this room as guest convenience. These items have been cleaned within this room or unit using ordinary household dishwashing facilities and agents. They have not been sanitized according to federal and state standards for public food service establishments.

12.3.3 The following methods may be used to wash, rinse, and sanitize any repeat service dishware or utensils:

12.3.3.1 Mechanical cleaning equipment. The mechanical cleaning and sanitizing of dishware, utensils, and food equipment may be done by spray-type or immersion dishwashing machines. Another type of dishwashing machine or device may be used if the machine or device meets the requirements of this regulation.

12.3.3.1.1 Each dishwashing machine and device shall be properly installed and maintained in good repair and shall be operated in accordance with the manufacturer's instructions.

12.3.3.1.2 Each dishwashing machine using hot water to sanitize shall be installed and operated according to the manufacturer's specifications.

12.3.3.1.3 All dishware, utensils, and food equipment shall be exposed to all dishwashing and drying cycles.

12.3.3.2 Manual cleaning equipment. The manual cleaning and sanitizing of dishware, utensils, and food equipment shall meet all of the following requirements:

12.3.3.2.1 A sink with at least three compartments or three adjacent sinks shall be used and shall be large enough to permit the immersion of the largest item of dishware, utensil, or food equipment articles to be cleaned. If a domestic kitchen is not equipped with a three compartment sink, a separate wash bin may be used for the purposes of sanitizing in domestic kitchens.

12.3.3.2.2 Each compartment of the sink shall be supplied with hot and cold potable running water.

12.3.3.2.3 The wash, rinse, and sanitizing water shall be kept clean.

12.3.3.3 The steps for manual cleaning and sanitizing shall consist of all of the following:

12.3.3.3.1 All dishware, utensils, and food equipment shall be thoroughly washed in the first compartment with a hot detergent solution.

12.3.3.3.2 All dishware, utensils, and food equipment shall be rinsed free of detergent and abrasives with clean water in the second compartment.

12.3.3.3.3 All dishware, utensils, and food equipment shall be sanitized in the third compartment according to one of the methods in paragraph 12.3.3.4.

12.3.3.4 The food contact surfaces of all dishware, utensils, and food equipment shall be sanitized during manual ware washing by one of the following methods:

12.3.3.4.1 Immersion for at least 30 seconds in clean hot water with a temperature of at least 171 degrees Fahrenheit;

12.3.3.4.2 Immersion in a clean solution containing a sanitization chemical that is approved by the Vermont Department of Health and used at concentration indicated by the manufacturer's directions on the label.

12.3.3.4.3 A chemical test kit, thermometer, or other device that accurately measures the concentration of sanitizing chemicals, in parts per million, and the temperature of the water shall be available and used daily.

12.4 Each licensee that provides dishware, utensils, and food equipment in the guest room as part of a kitchen or kitchenette shall ensure that all items are clean before each new guest and provide at least one of the following options:

12.4.1 A manual dishwashing sink for the guest's use;

12.4.2 A mechanical dishwashing machine for the guest's use; or

12.4.3 Clean dishware, utensils, and food equipment before each new guest.

13.0 Housekeeping and Laundry Facilities. Where applicable, each licensee shall ensure that all housekeeping and laundry facilities and equipment are clean and maintained in good repair. Each licensee shall ensure that all of the following requirements are met:

13.1 Housekeeping

13.1.1 Each housekeeping cart shall be designed, maintained, and operated to protect clean glasses, utensils, dishware, single-service articles, food, coffee, and condiments from dirty linens and other sources of contamination, including dirty glasses and dishware, cleaning and sanitizing agents, and poisonous or toxic materials.

13.1.2 Clean linens shall not be contaminated by dirty linens or other contaminants.

13.2 Laundry Facilities

13.2.1 Each licensee shall provide laundry facilities on the premises for housekeeping, unless a commercial laundry service is used.

13.2.2 The laundry area shall be kept clean and free from accumulated lint and dust.

13.2.3 All laundry equipment shall be functional and in good repair. Any laundry equipment that is no longer in use shall be removed from the laundry area.

13.2.4 All housekeeping and cleaning supplies and equipment shall be stored in a designated area. The storage area may be in the laundry area if the supplies and equipment are physically separated from the laundry, laundry equipment, and laundry supplies.

13.3 All laundry that is cleaned commercially off the premises shall have a segregated storage space for clean and dirty laundry and shall be located and equipped for convenient pick-up and delivery.

13.4 Single-use gloves shall be available for housekeeping and laundry staff and made available in the laundry and housekeeping areas.

14.0 Poisonous and Toxic Materials. Each licensee shall ensure that all of the following requirements are met:

14.1 Only those poisonous or toxic materials used in the operation and maintenance of the lodging establishment shall be allowed on the premises, including the following:

14.1.1 Detergents, sanitizers, cleaning or drying agents, caustics, acids, polishes, and similar chemicals;

14.1.2 Insecticides and rodenticides;

14.1.3 Building maintenance materials, including paint, varnish, stain, glue, and caulking; and

14.1.4 Landscaping materials, including herbicides, lubricants, and fuel for equipment.

14.2 The storage of poisonous or toxic materials shall meet all of the following requirements:

14.2.1 The substances listed in each of the four categories specified in subsection (14.1) shall be stored on separate shelves or in separate cabinets secured from guests except for provided detergents and sanitizers for guest use. These shelves and cabinets shall be used for no other purpose.

14.2.2 To prevent the possibility of contamination, poisonous or toxic materials shall not be stored above food, ice or ice-making equipment, linens, towels, utensils, single-service articles, or guest toiletry items. This requirement shall not prohibit the availability of cleaning or sanitizing agents in dishwashing or laundry work areas.

14.3 Each bulk or original container of a poisonous or toxic material shall bear a legible manufacturer's label.

14.4 All poisonous or toxic materials taken from a bulk container or an original container and put into another container shall be clearly identified with the common name of the material.

14.5 Each poisonous or toxic material shall be used according to the manufacturer's directions. Additional safety requirements regarding the safe use of poisonous or toxic materials may be established by the regulatory authority upon discovery of the unsafe use of these materials.

14.6 Each restricted-use pesticide shall be applied only by a certified applicator or a person under the direct supervision of a certified applicator and in accordance with all applicable statutes and regulations.

15.0 Public Indoor Areas. Each licensee shall ensure that all of the following requirements are met:

15.1 All indoor public areas shall be kept clean and free of debris.

15.2 All equipment, appliances, and fixtures shall be maintained in good repair. All equipment, appliances, and fixtures that require repair or maintenance either shall be removed for repair or maintenance or shall be designated as damaged or under repair by using signs, placards, cones, hazard tape, or other visual means to alert guests of any possible hazard.

15.3 All unused or damaged equipment, appliances, and fixtures shall be removed.

15.4 All floors and floor coverings in public areas, service areas, hallways, walkways, and stairs shall be kept clean by effective means suitable to the finish.

15.5 All floor coverings shall be maintained in good repair. All floor maintenance, repair, and replacement shall be done in a manner that prevents slipping or tripping hazards to guests.

15.6 All furniture and items of décor shall be in good repair and kept clean by effective means suitable to the material and finish.

15.7 All stairs, landings, hallways, and other walkways shall be kept free of debris and in good repair and shall meet the following requirements:

15.7.1 The storage of items shall be prohibited.

15.7.2 A minimum illumination of 10 foot-candles shall be required.

15.8 Each fitness room, bathhouse, and spa shall meet the following requirements:

15.8.1 Each area shall be cleaned and sanitized to maintain cleanliness.

15.8.2 All floors shall be maintained in good repair and have a slip-resistant finish or covering that prevents slipping when wet.

15.8.3 All equipment and fixtures that come into contact with guests, including benches, tables, stools, chairs, and fitness equipment, shall be constructed with a covering of a nonabsorbent material suitable for the use of the equipment or fixture. The following requirements shall be met:

15.8.3.1 All surfaces that come into contact with guests shall be cleaned and sanitized to maintain cleanliness.

15.8.3.2 Cleaning or sanitizing solutions shall be made available for guest use and shall be kept in clearly labeled bottles.

15.8.3.3 All showers shall be cleaned and sanitized to maintain cleanliness.

15.8.4 All equipment, fixtures, and recreational items provided for guest use shall be maintained in good repair.

16.0 Ice and Ice Dispensing. Each licensee shall ensure that all of the following requirements are met:

16.1 If ice is provided in a public area to guests or the general public, the ice shall be provided only through automatic, self-service dispensing machines that are constructed to prevent the direct access to bulk ice storage compartments by guests or the general public.

16.2 Ice machines other than the type specified in paragraph 16.1, including bin-type ice machines that allow direct access to the bulk ice storage compartments, shall not be accessible to guests or the general public.

16.3 Only ice that has been made from potable water and handled in a sanitary manner shall be provided by a lodging establishment. All ice shall be free of visible contaminants.

16.4 All ice that is not made on the premises of the lodging establishment shall be obtained from a commercial source and shall be protected from contamination during transportation and storage.

16.5 Each ice machine shall meet the following requirements:

16.5.1 Be constructed of sanitary, durable, corrosion-resistant material and be easily cleanable;

16.5.2 Be constructed, located, installed, and operated to prevent contamination of the ice;

16.5.3 Be kept clean, free of any mold, rust, debris, or other contaminants, and maintained in good repair; and

16.5.4 Be drained through an air gap.

16.6 Each ice container or ice bucket shall meet the following requirements:

16.6.1 Be made of smooth, nonabsorbent, impervious, food-grade materials and be easily cleaned;

16.6.2 Be kept clean and stored in a sanitary manner; and

16.6.3 Be cleaned and sanitized before each new guest;

16.7 No ice container or ice bucket shall be located within the room housing the toilet.

16.8 Each icemaker located in a guest room shall be kept clean and sanitary and all ice shall be removed from the icemaker's storage bin before each new guest.

17.0 Exterior Premises and Grounds

17.1 Exterior areas and surface

17.1.1 All exterior areas and surfaces, including alleys and driveways, shall be kept clean, free of debris, and in good repair.

17.1.2 All parking areas and walkways shall be illuminated for guest safety and shall be kept free of debris.

17.1.3 All exterior balconies, landings, porches, decks, stairways, and ramps shall be kept in good repair and free of debris and safety hazards and shall be illuminated for guest safety.

17.1.3.1 Storage on stairs, landings, and ramps shall be prohibited.

17.1.3.2 All guards and railings shall be attached securely and shall be kept in good repair.

17.1.3.3 All ramps shall have a slip-resistant surface.

17.2 Refuse containers

17.2.1 The area where refuse containers are located shall be kept free of debris and cleaned as necessary to prevent the attraction and harborage of insects, rodents, and other pests and to minimize odors.

17.2.2 Containers of adequate capacity or number shall be available to store all refuse that accumulates between refuse pickups. All refuse containers shall be emptied at least once each week or more frequently, if necessary to meet the requirements of these regulations.

17.2.3 All refuse container lids shall be closed.

17.3 Outdoor vector control

17.3.1 The premises shall be free of any harborage conditions that can lead to or encourage infestations of rodents, insects, and any other pests.

17.3.2 Control measures shall be taken to protect against the entrance of rodents, insects, and any other pests into the lodging establishment. All buildings shall be vermin-proofed and kept in a vermin-proof condition.

17.3.3 All doors leading outside shall be tight-fitting to eliminate entrance points for rodents, insects, and any other pests. All windows and doors that can be opened for ventilation shall have screening material that is at least 16 mesh to the inch and shall be tight-fitting and kept in good repair.

17.3.4 Identified infestation problems shall be treated by a commercially-certified structural pest control operator (PCO).

17.3.5 All control measures, both mechanical and chemical, shall be used in accordance with each manufacturer's recommendations.

18.0 Swimming Pools, Recreational Water Facilities (RWFs), and Hot Tubs

18.1 Each licensee shall ensure that all swimming pools, RWFs, and hot tubs are kept sanitary and in good repair.

18.2 Each swimming pool, RWF, and hot tub shall meet the requirements in these regulations, unless local ordinances pertaining to planning and design, lifesaving

and safety equipment, water quality, and sanitation exist and these ordinances are as restrictive or more restrictive than these regulations.

18.3 Design and safeguards.

18.3.1 Each plan for a new swimming pool or RWF and for a swimming pool or RWF undergoing major renovation, including installation of a diving board, slide, or other similar recreational devices, shall be designed by a licensed engineer, architect, or other qualified professional.

18.3.2 Each grate over a main drain in each swimming pool or RWF shall be intact, firmly affixed at all times, and designed to prevent swimmer entanglement, entrapment, or injury. Other methods to prevent swimmer entanglement, entrapment, or injury may include multiple main drains, anti-vortex drain covers, or any similar device approved by the regulatory authority.

18.3.3 The depth of water in each swimming pool or RWF shall be plainly marked with at least four-inch high numbers of a color that contrasts with the color of the pool decking or vertical pool wall.

18.3.3.1 Water depth markings for an in-ground swimming pool shall be clearly marked on the edge of the deck and visible at all times. In addition, water depth markings may be placed above the water surface on the vertical pool walls and shall be visible at all times.

18.3.3.2 Water depth markings for each above-ground swimming pool or RWF shall be on the edge of the deck and shall be visible to persons entering the swimming pool. If water depth markings cannot be placed on the edge of the deck, another means shall be used so that the water depth is visible to persons entering the swimming pool.

18.3.3.3 The water depth markings in each swimming pool or RWF shall be located in the following areas:

18.3.3.3.1 At the maximum and minimum depths. Intermediate increments of depth may be used in addition to the required maximum and minimum depths; and

18.3.3.3.2 The transition point between the shallow end, which shall be five feet or less, and the deep end, which shall be more than five feet. This transition point shall be marked by a line on the floor and the walls of the swimming pool or RWF or by a safety rope equipped with buoys.

18.3.4 Each lighting and electrical system for a swimming pool, RWF, or hot tub shall be kept in good repair at all times. The following requirements shall be met:

18.3.4.1 Artificial lighting shall be provided at each swimming pool, RWF, or hot tub if used at night and for each indoor swimming pool, RWF, or hot tub. The lighting shall illuminate all portions of each swimming pool, RWF, or hot tub.

18.3.4.2 All artificial lighting located in the water shall be designed and maintained to prevent electrical shock hazards to guests.

18.3.5 Each outdoor swimming pool and RWF shall be protected by a fence, wall, building, or other enclosure that is at least four feet in height.

18.3.5.1 Each enclosure shall be made of durable material and kept in good repair.

18.3.5.2 Openings in the barrier shall not allow passage of a 4-inch-diameter sphere.

18.3.5.3 Each gate shall have self-closing and self-latching mechanisms. The self-latching mechanism shall be installed at least four feet from the bottom of the gate.

18.3.5.4 A hedge shall not be an acceptable protective enclosure.

18.3.6 Each door leading into an indoor or enclosed swimming pool or RWF area shall have self-closing and self-latching mechanisms. The self-closing mechanism shall be at least four feet from the bottom of the door.

18.4 Lifesaving and safety equipment.

18.4.1 Each swimming pool or RWF shall have lifesaving equipment, consisting of at least one U.S. Coast Guard-approved Type IV flotation device that can be thrown into the water and at least one reaching device.

18.4.1.1 The flotation device shall be attached to a rope that is at least as long as one and one-half times the maximum width of the swimming pool or RWF. If a lifeguard is on duty, lifesaving rescue equipment, including rescue tubes, may also be used.

18.4.1.2 The reaching device shall be a life pole or a shepherd's crook-type of pole, with a minimum length of 12 feet.

18.4.1.3 Each lifesaving device shall be located in a conspicuous place and shall be accessible. The lifeguard personnel shall keep their rescue equipment close for immediate use.

18.4.1.4 Each lifesaving device shall be kept in good repair.

18.4.2 A first-aid kit shall be accessible to the lodging employees.

18.4.3 The establishment shall not permit glass containers in the swimming pool, RWF, or hot tub area.

18.4.4 Each swimming pool, RWF, and hot tub and each deck shall be kept clean of sediment, floating debris, visible dirt, mold and algae and shall be maintained free of cracks, peeling paint, and tripping hazards.

18.4.5 Each swimming pool, RWF, and hot tub shall be refinished or relined if the bottom or wall surfaces cannot be maintained in a safe and sanitary condition.

18.4.6 If handrails are not present, all steps leading into the swimming pool or RWF shall be marked in a color contrasting with the color of the interior of the swimming pool and RWF so that the steps are visible from the swimming pool or RWF deck.

18.4.7 All steps, ladders, and stairs shall be easily cleanable, in good repair, and equipped with nonslip treads. Handrails and ladders, if present, shall be provided with a handhold and securely attached.

18.4.8 The rules of operation and safety signs for each swimming pool, RWF, and hot tub shall be posted in a conspicuous place at the swimming pool, RWF, or hot tub. Each swimming pool and RWF without a lifeguard shall have posted the following sign: "Warning – No Lifeguard On Duty." The sign shall be legible, with letters at least four inches in height.

18.4.9 If chlorinating equipment is located indoors, the chlorinating equipment shall be housed in a separate room, which shall be vented to the outside or to another room that is vented to the outside. If chlorinating equipment is located outdoors and within an enclosed structure, the structure shall be vented to the outside.

18.5 Water quality and sanitation. Each licensee shall ensure that all of the following requirements are met:

18.5.1 Each swimming pool, RWF, and hot tub shall be maintained to provide for continuous disinfection of the water with a chemical process. This process shall use a disinfectant that leaves a measurable residual in the water.

18.5.1.1 If chlorine is used to disinfect the water of any swimming pool or RWF, the water shall have a free available chlorine residual level of at least 1.0 part per million (ppm) and not more than 5.0 ppm. If chlorine is used to disinfect the water of any hot tub, the water shall have a free available chlorine residual level of at least 2.9 ppm and not more than 5.0 ppm.

18.5.1.2 If bromine is used to disinfect the water of any swimming pool or RWF, the water shall have a disinfectant residual level of at least 1.0 ppm and not more than 5.0 ppm. If bromine is used to disinfect the water of any hot tub, the water shall have a disinfectant residual level of at least 2.0 ppm and not more than 5.0 ppm.

18.5.1.3 Each means of disinfection other than those specified in paragraphs (18.5.1.1) and (18.5.1.2) shall be used only if the licensee has demonstrated that the alternate means provides a level of disinfection equivalent to that resulting from the residual level specified in paragraph (18.5.1.1) or (18.5.1.2).

18.5.2 The pH of the water in each swimming pool, RWF, and hot tub shall be maintained at not less than 7.0 and not more than 8.0.

18.5.3 Each licensee shall use a chemical test kit or a testing device that is appropriate for the disinfecting chemical used and capable of accurately measuring disinfectant residual levels of 0.5 ppm to 20.0 ppm. In addition, a chemical test kit or testing device for measuring the pH of the water shall be used and capable of accurately measuring the pH of water in 0.2 increments.

18.5.4 The water in each swimming pool, RWF, and hot tub shall have sufficient clarity at all times so that one of the following conditions is met:

18.5.4.1 A black disc with a diameter of six inches is clearly visible in the deepest portion of the swimming pool or RWF.

18.5.4.2 The bottom drain at the deepest point of the swimming pool or RWF is clearly visible, and the bottom of the hot tub is clearly visible.

18.5.5 The water in each swimming pool, RWF, and hot tub shall be free of scum and floating debris. The bottom and walls shall be free of dirt, algae, and any other foreign material.

18.5.6 No chemical shall be added manually and directly to the water of any swimming pool, RWF, or hot tub while any individual is present in the water.

18.5.7 The temperature of the water in each hot tub shall not exceed 104 degrees Fahrenheit.

18.5.7.1 Each hot tub shall be operated in accordance with the manufacturer's specifications.

18.5.7.2 Each hot tub shall have a thermometer or other device to accurately record the water temperature within plus or minus two degrees.

18.6 Fecal accident in a swimming pool and RWF. If a fecal accident occurs in a swimming pool or RWF, the following requirements shall be met:

18.6.1 In response to any accident involving formed feces, the following requirements shall be met:

18.6.1.1 Direct the guests to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed. The closure times can vary since the decontamination process takes from 30 to 60 minutes;

18.6.1.2 Remove as much fecal material as possible using a net or scoop, and dispose of the material in a sanitary manner. Sanitize the net or scoop;

18.6.1.3 Raise the disinfectant level to 2.0 ppm and ensure that the water pH is between 7.2 and 7.8; and

18.6.1.4 Return the disinfectant level to the operating range specified in paragraph 18.5.1 before the swimming pool or RWF is reopened to guests.

18.6.2 In response to any accident involving diarrhea, the following requirements shall be met:

18.6.2.1 Direct guests to leave the swimming pool or the RWF, and do not allow any individuals to reenter until the decontamination process has been completed;

18.6.2.2 Remove as much fecal material as possible using a scoop, and dispose of the material in a sanitary manner. Sanitize the scoop. Vacuuming the fecal material shall be prohibited;

18.6.2.3 Raise the disinfectant level to 20.0 ppm and maintain a water pH of at least 7.2 but not more than 7.8. This level of concentration shall be maintained at least eight hours to ensure inactivation of Cryptosporidium. A lower disinfectant level and a longer inactivation time may be used according to the following table:

***Cryptosporidium* inactivation for diarrheal accident**

Disinfectant levels (ppm)	Disinfection time
1.0	6.5 days
10.0	16 hours
20.0	8 hours

18.6.2.4 Ensure that the filtration system is operating and maintaining the required disinfectant levels during the disinfection process. Backwash the filter. Do not return the backwashed water through the filter. Replace the filter medium, if necessary; and

18.6.2.5 Return the disinfectant level to the operating range specified in subsection 18.5.1.

18.7 Vomiting accident in a swimming pool or RWF. If a vomiting accident occurs in a swimming pool or RWF, the procedures in paragraph 18.6.2 shall be followed.

18.8 Body fluid spills at a swimming pool or RWF. All body fluid spills that occur on swimming pool or RWF equipment or hard surfaces, including decking, shall be cleaned and chemically sanitized. Disposable gloves shall be available for employees' use during cleanup. The following cleanup method shall be used:

18.8.1 Wipe up the spill using absorbent, disposable material. Paper towels may be used;

18.8.2 Use a bleach solution by combining one part bleach and 10 parts water. Pour the bleach solution onto the contaminated surface, leave the solution on the surface for at least 10 minutes, and rinse the surface with clean water;

18.8.3 Disinfect all nondisposable cleaning materials, including mops and scrub brushes, and allow to air-dry; and

18.8.4 Require each employee assisting with the cleanup to wash that employee's hands with warm water and soap after the cleanup is completed.

18.9 Fecal or vomiting accident in a hot tub. If a fecal accident or vomiting occurs in a hot tub, all of the following requirements shall be met:

18.9.1 All guests shall be required to leave the hot tub, and the water shall be completely drained.

18.9.2 The hot tub shall be disinfected according to the manufacturer's specifications.

18.9.3 The filtering system shall be disinfected or the filter medium shall be replaced with a clean filter medium before refilling the hot tub with clean water.

18.10 Operation and maintenance of a swimming pool, RWF, or hot tub. Each licensee shall ensure that all of the following requirements for each swimming pool, RWF, and hot tub are met:

18.10.1 Daily operational logs shall be maintained for at least one year at the lodging establishment and made available to the regulatory authority, upon request. These logs shall include the date and time the information

was collected and the name or initials of the person who collected the information. These logs shall also record the following information:

18.10.1.1 The disinfectant residuals shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for guest use or more often, if necessary to maintain the water quality as specified in subsection 18.5.

18.10.1.2 The pH test shall be recorded at least once daily when the swimming pool, RWF, or hot tub is available for guest use or more often, if necessary to maintain the water quality as specified in subsection 18.5.

18.10.1.3 The temperature reading of each hot tub shall be recorded at least once daily when the hot tub is available for guest use.

18.10.2 Each fecal and vomiting accident log shall include the time and date of the accident and the disinfection measures taken.

18.10.3 Each indoor swimming pool area and chemical storage room shall be either vented directly to the exterior or vented to a room that is vented directly to the exterior.

18.10.4 All chemicals applied to a swimming pool, RWF, or hot tub shall be used, handled, stored, and labeled in accordance with the manufacturer's specifications.

18.10.5 All recreational equipment shall be kept sanitary. Recreational equipment shall include slides, diving boards, play equipment, water sports equipment, and accessory items available to guests, including floats, tubes, air mattresses, and pads for water slides.

18.10.6 A cleaning system shall be used to remove dirt, algae, and any other foreign material from the bottom of the swimming pool or RWF.

18.10.7 All surface skimmers, strainer baskets, and perimeter overflow systems shall be kept clean and in good repair.

18.10.8 The water in each swimming pool and each RWF shall be maintained at the manufacturer's recommended level so that the water will flow into each skimmer and strainer.

18.10.9 The recirculation system serving each swimming pool, RWF, and hot tub shall operate continuously or in accordance with the manufacturer's specifications. The filtration and recirculation systems shall be maintained in accordance with the manufacturer's specifications.

19.0 Water Supply Systems. Each licensee shall ensure that all of the following requirements are met:

19.1 Sufficient potable water to meet the needs of the lodging establishment shall be provided from a source constructed and operated pursuant to Vermont Department of Environmental Conservation requirements.

19.2 No water supply system deemed unsafe by the Department or Vermont Department of Environmental Conservation shall be used as a potable water supply.

19.3 Each nonpublic water supply system shall be constructed, maintained, and operated as specified in Vermont Department of Environmental Conservation requirements.

19.4 All water from a nonpublic water supply system shall meet state drinking water quality standards.

19.5 The most recent sample report for the nonpublic water supply system used by the lodging establishment shall be retained for at least 12 months at the lodging establishment and shall be made available to the regulatory authority upon request.

19.6 During any period when a boil water order is in effect, including a precautionary boil water notice or advisory issued by the Department or Vermont Department of Environmental Conservation on a public or nonpublic water supply, the licensee shall meet the following requirements until the problem has been corrected:

19.6.1 Notify each guest, verbally upon check-in and by written notice placed in each rented guest room or unit, that the plumbed water is not potable and only potable water should be used for drinking and for brushing teeth;

19.6.2 Discard any ice that could have been made from or exposed to contaminated water; and

19.6.3 Obtain a temporary, alternate supply of potable water by using one of the following:

19.6.3.1 A supply of commercially bottled drinking water;

19.6.3.2 One or more closed, portable, bulk water containers;

19.6.3.3 An enclosed vehicular water tank;

19.6.3.4 An on-premises water storage tank; or

19.6.3.5 Any other alternative water source if approved by the Department or Vermont Department of Environmental Conservation.

20.0 Sewage Systems. Each licensee shall ensure that all of the following requirements are met:

20.1 All sewage shall be disposed of through an approved facility, including one of the following:

20.1.1 A public sewage treatment plant; or

20.1.2 An individual sewage disposal system that is constructed, maintained, and operated according to Vermont Department of Environmental Conservation requirements, and meets all applicable sanitation requirements.

20.2 A temporary sewage disposal facility shall be allowed only as approved by the Department or Vermont Department of Environmental Conservation.

20.3 All condensate drainage, rainwater, and other non-sewage liquids shall be drained from the point of discharge to disposal pursuant to Vermont Department of Environmental Conservation requirements.

21.0 Electrical Systems

21.1 Each licensee shall ensure that the electrical wiring is installed and maintained in accordance with all applicable state and local electrical codes. In the absence of local electrical codes, the electrical wiring shall be installed and maintained by a licensed electrician.

21.2 All emergency lighting shall be kept in working condition.

21.3 The permanent use of extension cords in guest rooms shall be prohibited. Individual branch circuits, including multiple-plug outlet strips that contain fuse breakers and multiple-plug outlet adapters that do not exceed the amperage for which the outlets are rated, shall be permitted.

21.4 The temporary use of extension cords shall be allowed for housekeeping and maintenance purposes if the extension cords are rated for industrial use.

21.5 The wattage of light bulbs shall not exceed the wattage rating of the corresponding light fixtures. Empty light sockets shall be prohibited.

22.0 Plumbing Systems

22.1 Each licensee shall ensure that all plumbing is installed and maintained in accordance with all applicable state and local plumbing codes. In the absence of local plumbing codes, all plumbing shall be installed and maintained by a licensed plumber.

22.2 Each licensee shall ensure that all of the following requirements are met:

22.2.1 Potable water under pressure shall be available at all times at each fixture designed to provide water. Hot water shall be provided to each fixture designed to use hot water.

22.2.2 Each toilet room, bathing facility, and laundry area shall be provided with ventilation to minimize condensation and to prevent mold, algae, and odors. Each newly constructed lodging establishment and each lodging establishment undergoing major renovation shall be required to have mechanical ventilation in each toilet room, bathing facility, and laundry area.

22.3 All backflow devices shall meet the design specifications for their intended use. All potable water supplies shall be protected from sources of potential contamination.

23.0 Heating, Ventilation and Air-Conditioning (HVAC) Systems

23.1 Each licensee shall ensure that each guest room has heating, ventilation, and related heating and ventilation equipment, unless only in operation May – September.

23.1.1 All equipment shall be installed according to the manufacturer's directions and shall be kept in operating condition.

23.1.2 A means to control the temperature in the guest room shall be provided in each guest room that is furnished with a separate heating or air-conditioning unit.

23.1.3 If the guest room has air-conditioning, the air-conditioning system shall meet the requirements specified in paragraphs 23.1.1 and 23.1.2.

23.2 Un-vented fuel-fired heaters, un-vented fireplaces, and similar devices shall be prohibited from use in all areas of the lodging establishment.

23.3 Portable electrical space heaters may be used only if UL listed, fitted with a tip over safety switch, and used in accordance with all manufacturer's instructions.

23.4 All gas and electric heating equipment shall be equipped with temperature controls.

23.5 All gas water heaters, gas furnaces, and other gas heating appliances shall be vented to the outside.

23.6 Each furnace room or room containing a gas water heater or any other fuel-fired appliance shall be provided with adequate air for circulation.

23.7 Each filter shall be changed according to the manufacturer's specifications.

24.0 Exemptions. Self-catered cottages are exempt from the following section and subsection: 11.1.1 (baseboards), 11.6 (housekeeping), and 11.7 (extended stay housekeeping).

01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

DIVISION OF QUALITY ASSURANCE AND REGULATIONS

Chapter 330: LICENSE FEES TO MANUFACTURE AND SELL FOOD & BEVERAGES

SUMMARY: The purpose of this chapter is to set forth the fee standards for licensing and applications to manufacture and sell food and beverages.

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1. Definitions. For the purposes of this chapter and unless the context otherwise indicates, the following terms shall have the following meanings.

A. **Apple Cider and Apple Juice** - means a beverage consisting of natural juice extracted from apples. Apple cider and apple juice may contain chemical preservatives.

B. **Bakery** - means any place, premises or establishment other than a home food manufacturing establishment regulated by the Department of Agriculture, Conservation and Forestry, where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

C. **Beverage Plant** - means any place, premise or establishment, or any part thereof, where beverages are assembled, processed, manufactured, bottled or converted into form for distribution or sale and such rooms or premises where beverage product manufacturing equipment and containers are washed, sanitized and stored.

D. **Commercial bakery** - means any bakery predominantly engaged in the preparation, processing or manufacture of bakery products for further distribution. All other bakeries shall be deemed retail bakeries.

E. **Commissioner** - means the Commissioner of Maine Department of Agriculture, Conservation and Forestry or the Commissioner's designee.

F. **Employee** - means the license holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in an establishment or processing plant.

G. **Food processing and manufacturing** - means an establishment in which food is processed or otherwise prepared and packaged for human consumption.

H. **Food Salvage Processing Establishment** - means an establishment that engages in reconditioning or by other means salvaging distressed foods and distributing such food either for charitable purposes or retailing on a non-profit basis.

I. **Food Storage Warehouse** - means any building, establishment or place where food is stored as a commercial venture or business, or is stored in connection with or as a part of

a business. Notwithstanding the foregoing, "food storage warehouse" does not include a storage facility for one kind of native produce such as an apple warehouse, potato warehouse, or carrot warehouse; a warehouse which is part of a "beverage plant" as defined in 32 MRSA §1751; a person's home or dwelling; or an eating establishment as defined in 22 MRSA §2491.7.

J. **Home Food Manufacturing** - means an establishment in the home in which food is processed or otherwise prepared and packaged for human consumption and offered for sale directly to the consumer or through other distribution methods.

K. **License** - means the document issued by the Department that authorizes a person to operate an establishment or a processing plant.

L. **Mobile Vendor** – means a mobile vehicle capable of moving or being moved from its site from which food is being sold or offered for sale in a form requiring further preparation or cooking before being suitable to eat or not packaged or served to the customer in a manner intended for immediate consumption. This does not include a mobile eating place which serves food for immediate consumption or a mobile vendor which sells primarily fresh produce, not including dairy and meat products.

M. **Poultry Grower/Producer Exempt** means a grower/producer of less than 1000 birds that meets the licensing requirements of CMR Chapter 348.

2. **Application and renewal**. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Each application for, or renewal of, a license to operate a food establishment must be accompanied by a fee, determined by the commissioner in accordance with subsection 6, as follows:

A. **Retail Food Establishment**

1. For 0 to 10 employees, annually.....$20.00

2. For 11 to 25 employees, annually.....$50.00

3. For 26 or more employees, annually.....$150.00

B. **Food Storage Warehouse**

1. 0 to 10 employees, annually.....$20.00

2. 11 to 25 employees, annually.....$50.00

3. 26 or more employees, annually.....$150.00

C. **Commercial Bakery**.....$50.00

D. **Bakeries**

1. 0 to 10 employees, annually.....$20.00
2. 11 to 25 employees, annually.....$50.00
3. 26 or more employees, annually.....$150.00

E. **Mobile Vendor**

1. 0 to 10 employees, annually.....$20.00
2. 11 to 25 employees, annually.....$50.00
3. 26 or more employees, annually.....$150.00

F. **Food Processing and Manufacturing**.....$50.00

G. **Home Food Manufacturing**.....$20.00

H. **Poultry Slaughter - Grower/Producer Exempt** $50.00

I. **Food Salvage**

1. 0 to 5 Employees, annually.....$30.00
2. 6 or more Employees, annually $50.00

J. **Cider and Apple Juice**

1. 0 to 10 employees, annually.....$20.00
2. 11 to 25 employees, annually.....$50.00
3. 26 or more employees, annually.....$150.00

K. **Beverage Plant License**

1. 0 to 5 employees, annually $75.00
2. 6 or more employees, annually.....$150.00

L. **Maple Syrup Processing**

1. Less than 15 Gal Production, annually..... $2.00
2. More than 15 Gal Production, annually.....$25.00

STATUTORY AUTHORITY: 22 MRSA §2168, 5, as amended by the 123rd Legislature, P.L. 539, 2167, 2514, sub-§5.

EFFECTIVE DATE:
September 21, 2008 – filing 2008-428

AMENDED:
January 13, 2010 – filing 2010-4

CORRECTIONS:
February, 2014 – agency names, formatting

HEALTH INSPECTION PROGRAM FEE SCHEDULE
TABLE 1 - LICENSE FEES

EATING PLACES	LICENSE FEES
Business Enterprise PR (Division of the Blind)	No Charge
Catering	$270.00
Correctional Facility	$270.00
Eating Place - Mobile	$270.00
Eating Place – Mobile Stick Built	$270.00
Eating Place – Takeout	$220.00
Eating Place, Tier 1: 0-29 seats	$220.00
Eating Place, Tier 2: 30-75 seats	$265.00
Eating Place, Tier 3: More Than 75 seats	$300.00
Eating Place - Temporary: 1-4 Days	$130.00
Eating Place -Temporary: 5-14 Days	$205.00
Eating Place - Limited Menu	$205.00
Eating – School	$100.00
Eating – School Catering	$100.00
Eating - School Satellite	$100.00
Eating Place - Commissary	$300.00
Vending Company	$105.00
Senior Citizen Meal Site	$30.00
LODGING PLACES	
Bed and Breakfast - 6 Rooms or More	$205.00
Bed and Breakfast - 5 Rooms or Less	$135.00
Lodging Place, Tier 1: 4 - 15 Rooms	$205.00
Lodging Place, Tier 2: 16 - 75 Rooms	$240.00
Lodging Place, Tier 3: More Than 75 Rooms	$270.00
COMBINATION LICENSE	
Eating and Catering	$300.00
Eating and Lodging	$300.00
Eating and Campground	$300.00
Food Service at Youth Camp (Eating & Catering)	$300.00
CAMPS	
Sporting/Recreational Camp	$240.00
Campground – Agricultural Fair	$270.00
Campground – Wilderness	$205.00
Campground – Self Contained RV Only	$205.00
Campground Tier 1: 5 - 24 Sites	$205.00
Campground Tier 2: 25 - 124 Sites	$240.00
Campground Tier 3: More Than 124 Sites	$270.00
Event Camping	$270.00
Youth Camp-Day	$135.00
Youth Camp-Resident Less Than 100 Campers	$260.00
Youth Camp-Resident 100-200 Campers & Property Tax-Exempt More Than 200 Campers	$285.00
Youth Camp-Resident More Than 200 Campers	$300.00
Youth Camp-Trip And Travel	$135.00
PUBLIC POOL/SPAS	
First Pool/Spa	$70.00
Additional Pools/Spas	$35.00 each
BODY ARTISTS	
Tattoo Artist	$250.00
Tattoo Artist Additional Location	$50.00
Tattoo Show	$75.00
Body Piercer	$250.00
Tattoo Artist and Body Piercer	$300.00
Electrologist	$125.00
Micropigmentation Practitioner	$150.00

Guest Body Artist	$90.00
MISCELLANEOUS FEES	
Reprint License	$25.00
Compressed Air	$10.00
Mass Gatherings	Application Review: $100/Permit: $400-750
Late Renewal Fee within 30 days of license expiration date	$25.00
Late Renewal Fee more than 30 days after expiration date	$100.00 for 1st offense + $25 for first 30 days
Additional Inspection	$100.00
Insufficient Funds	$25.00
Nonprofit – No license required if less than 12 events/year	$0.00

TABLE 2 - DELEGATED MUNICIPALITY LICENSES

DELEGATED MUNICIPAL EATING LICENSES	LICENSE FESS
Eating Place - Catering	$60.00
Correctional Facility	$60.00
Eating Place	$60.00
Eating Place - Commissary	$60.00
Eating Place - Mobile	$60.00
Eating Place – Mobile Stick Built	$60.00
Eating Place – Limited Menu	$60.00
Eating Place - Takeout	$60.00
Eating Place - Temporary	$60.00
Eating Place - School	$60.00
Eating Place – School Catering	$60.00
Eating Place – School Satellite	$60.00
DELEGATED MUNICIPAL LODGING LICENSES	
Bed and Breakfast	$60.00
Lodging	$60.00
DELEGATED MUNICIPAL COMBINATION LICENSES	
Eating & Catering	$60.00
Eating & Lodging	$60.00

RETAIL TOBACCO LICENSE FEES*

License Type	April 1 – June 30	July 1 – September 30	October 1 – December 31	January 1 – March 31
Retail Tobacco I License: < 30 % annual gross revenue from total cigarette tobacco sales	**$100**	**$75**	**$50**	**$25**
Retail Tobacco II License: > or = 30 – 50% of annual gross revenue from total cigarette tobacco sales	**$125**	**$94**	**$63**	**$32**
Retail Tobacco III License: > 50% of annual gross revenue from total cigarette tobacco sales	**$150**	**$113**	**$75**	**$38**
Seasonal Mobile Fair Tobacco Vendor License	**$50** for first fair location and $10 for each additional fair location	**$50** for the first fair location and $10 for each additional fair location	**$50** for the first fair location and $10 for each additional fair location	**$50** for the first fair location and $10 for each additional fair location
Tobacco Vending Machine License	**$50**	**$38**	**$25**	**$25**
Late Fee $25.00 if renewed after April 30th.				

***** Fees in Tobacco License Fee Table are also found in the Rules Relating to the Sale and Delivery of Tobacco Products in Maine (10-144 CMR 203).

Part F:

Business Name_____ **Landings #**_____

**Shellfish Certificates and Permits

Shellstock Shipper	☐ $50
Shucker Packer	☐ $50
Reshipper	☐ $50
Depuration processor	☐$200
Wet Storage Permit, Flow through	☐$100
Wet Storage Permit, Off Shore	☐$100
Wet Storage Permit, Recirculating	☐$200
Wet Storage Permit, Recirculating. Non-DMR Testing	☐$100
Buying Station Permit	☐$100
Bulk Tagging Permit	☐ $50

TOTAL ADDITIONAL COST $_____

For more information on whether you need to obtain these certificates or permits, please contact DMR at: 207-633-9515

DEPURATION TAGS: Number seals requested_____

DEALER WHOLESALE SEAFOOD (WITH LOBSTER)
License Year: APRIL 1, 2023 TO MARCH 31, 2024

(If you **did not** hold this license last year, this license will not be valid until **April 1, 2023**

Part A: Applicant Information ***LANDINGS#_____***

Business Name: _____

Fed Employer ID or SS#: _____

If a corporate entity, you must fill out primary ownership information in Part E (page 3) or your application will be returned.

Mailing Address of Business: _____

City: _____ State: _____ ____ Zip Code: _____

Physical Address _____

If different than mailing address (please include full address including city, state & zip code)

Email_____ Landline: (____) ____ - _____ Cell Phone: (____) _____-_____

Contact person_____ Phone#_____ Fax#_____

Part B: Fishery Information

Wholesale applicants must answer questions 1-6 in Part C

Wholesale Seafood W/Lobster ***ABMO*** $ 443 Primary Cost

Surcharge ***B*** +$ 1,200

Total ☐ **$1,643**

Wholesale Seafood Supp ***AE*** for each vehicle & facility

$87 ea.X # _____=$_____

ADD SURCHARGE ON TOTAL NUMBER OF SUPPLEMENTALS

Lobster Transportation ***F*** ☐ $ 312 =$_____

*If **NOT** applying for Wholesale Seafood with Lobster you must pay fee and $1,200 surcharge* ***B*** ☐ +$ 1,200 =$_____

Total **$1,512**

Lobster Trans Supp. ***EF*** for each vehicle

$ 63 ea. X #_____=$_____

Total # of supplemental for Wholesale & Lobster _____ ADD SURCHARGE ON TOTAL NUMBER OF ALL SUPPLEMENTALS

SURCHARGE COSTS – These must be added to **ALL** wholesale supplemental **AND** Lobster Transportation Supplemental Licenses:

Up to 2 supplementals ☐ +$ 600

3to 5 Supplementals ☐ +$1,200

6 or more supplementals ☐ +$1,800

Total Cost of Wholesale & Transportation Licenses with Supplementals **$_____**

Lobster Processor ***H*** ☐ $ 500 Primary Cost

Surcharge if < 1,000,000 lbs. raw ☐ +$ 1,000

Product processed **Total** **$1,500**

OR

Surcharge if > 1,000,000 lbs. raw ☐ +$4,000

Product processed **Total** **$4,500**

Total cost of Lobster Processor **$_____**

Lobster Meat Permit ***S*** ☐ $ 159

Lobster Tails Only ***H*** ☐ $ 159

Retail Seafood** ***M ☐ $ 100

Do you buy or intend to buy any marine species from harvesters (fishermen)? ***M*** Yes☐ No☐

Enhanced Retail Seaf. Certificate ***MR*** ☐ $ 100

Must obtain Retail Seafood Lic. when purchasing the Enhanced Retail seaf.

GRAND TOTAL (INCLUDE SURGHARGES) $_____

NOTES:

A – You must buy a Wholesale Seafood license

B – Maine Lobster Marketing Collaborative Surcharge

E - An additional supplemental license is required for each additional place of business and/or vehicle being licensed

F – License allows transportation of lobsters beyond the state limits.

H – You must also buy a wholesale seafood w/Lobster license to obtain one of these facility-only licenses.

M – Mandatory reporting with primary buyer permit (see Part C). First time applicants must contact DMR Landings Program (207-633-9500) for reporting requirements.

O – If handling oversized lobsters, please fill out Part C (2), and order # of tags on the back in Part E.

R. – A facility inspection must be completed prior to applying for this license. Please contact DMR at 207-633-9515 to schedule an inspection.

S – You must hold a wholesale seafood w/lobster or a retail seafood license

Part C: Additional Information

ANY ADDITIONAL SUPPLEMENTALS SHOULD BE ON THE SECOND PAGE OF THIS APPLICATION

Fill out all information completely. False statements or misrepresentations will result in the revocation of the license and prosecution in Court.

Please complete if licensing a vessel:

Registration/Documentation #_____

Vessel Name_____ Boat Length_____

Primary Town of Anchorage_____ State_____

PLEASE COMPLETE ONLY IF you are licensing a vehicle as the primary license on your Wholesale Seafood with Lobster or Lobster Transportation License

Please complete if licensing a vehicle: Is this vehicle owned____ leased____ rented_____ State of Registration_____

Registration (Plate)# _____ Make _____

Vehicle ID No _____

Model _____ Year _____ Color _____

ALL QUESTIONS BELOW MUST BE ANSWERED

1. Do you buy or intend to buy any marine species from harvesters (fishermen)? ***M*** Yes☐ No☐

If yes, your license will reflect a primary buyer permit (PBP), allowing you to buy directly from harvesters. Reporting required.

2. Lobster Import/Export Permit Yes☐ No☐

If yes, your license will reflect a Reconsignment Permit. To order tags see Part E.

3. If you are a harvester using your own product under the dealer license, you must select yes - your license will reflect a primary buyer permit (PBP)***M***

Yes☐ No☐

4. In the wholesale trade do you buy, sell, process, ship or transport:

Dogfish***M*** (purchased from harvesters) Yes☐ No☐

Black Sea Bass ***M*** (purchased from harvesters) Yes☐ No☐

Herring***M*** (purchased from harvesters) Yes☐ No☐

Shrimp***M*** (purchased from harvesters) Yes☐ No☐

Scallop ***M*** (purchased from harvesters) Yes☐ No☐

(Dogfish permit must be purchased by April 15th)

5. Do you sell lobster bait? Yes☐ No☐

Part D: Certification

I hereby declare that the foregoing information is true and correct. **Making any false statement on this license application is punishable under Title 17-A MRS section 453.**

Signature_____ Date__/___/___

(Owner or an Authorized Official of the Firm) (Month/Day/Year)

PRINT NAME_____

Under Title 12, §6306, (1)(2) and (3), a person licensed by the Department of Marine Resources has a duty to submit to inspection, search and seizure by a Marine Patrol Officer. Failure to comply with this duty may result in a license suspension.

Business Name________________________________ **Landings #**_________________

CHECK WHETHER THE SUPPLEMENTALS ARE FOR WHOLESALE OR LOBSTER -

PLEASE COMPLETE IF LICENSING ADDITIONAL SUPPLEMENTAL VEHICLES

Check below whether the supplemental licenses are for Wholesale or Lobster Transportation. If the same vehicle is being used for both, please check both areas and ensure you have purchased a supplemental license on the front page of this application for each vehicle & license. Include the SURCHARGE FEE within the Grand Total.

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned___ leased____ rented_____ State:___________
Registration (Plate)# ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased______ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned___ _leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned___ _leased______ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned____ leased____ _rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

Wholesale suppl.___________ **Lobster Transportation suppl.**_______
Is this vehicle owned___ _leased_____ rented______ State: ___________
Registration (Plate) # ___________________ Make _________________
Vehicle ID No. ____
Model _______________ Year ___________ Color _________________

PLEASE COMPLETE IF LICENSING SUPPLEMENTAL FACILITIES OR VESSELS

Check below whether the supplemental licenses are for additional facilities and ensure you have included the cost for the supplemental license on the front page of this application for each facility—along with the SURCHARGE FEE.

(Please fill this section out - if different from mailing address.)
Need Federal Permit if buying certain species directly from federally permitted dealers. Please contact NOAA directly for more information.

Street ____
Town _______________________________Zip code____________
Federal Permit # ___________________

(If different from mailing address.)
Street ____
Town _______________________________Zip code____________
Federal Permit # ___________________

(If different from mailing address.)
Street ____
Town ______________________________Zip code____________
Federal Permit # ___________________

(If different from mailing address.)
Street ____
Town _______________________________Zip code____________
Federal Permit # ___________________

(If different from mailing address.)
Street ____
Town ______________________________Zip code____________
Federal Permit # ___________________

Vessel Information:

Registration/documentation #___________________________________
Vessel name: ______________________________ Boat length:________
Primary town of Anchorage: __________________________ State: _____

Vessel Information:

Registration/documentation #___________________________________
Vessel name: _______________________________ Boat length:________
Primary town of Anchorage: __________________________ State: ______

Vessel Information:

Registration/documentation #___________________________________
Vessel name: _______________________________ Boat length:________
Primary town of Anchorage: __________________________ State: ______

Part E: ***Primary owner information required*****.**

For Corporations or LLC's with six or fewer shareholders, please fill out the highest percentage. Please print legibly.

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

Last Name_____ First Name_____ DOB_____ SS#_____ %_____

For Corporations/LLC's with greater than six shareholders, please identify Agent's name that is listed on your corporation documents.

Last Name_____ First Name_____, Address_____
City_____, State _____zip_____, Phone #_____

Part E – Reconsignment for Oversized Lobsters:

Plastic Truck Seals (sealing the outside of the truck)
Number seals requested_____ x $0.20 each Total_____

Plastic Zip Tie Crate Seals (sealing lobster crates)
Number seals requested_____ x $0.20 each Total_____

Orange Waterproof paper seals (Shipping tags-for alternative boxes, i.e., Styrofoam)
Number seals requested _____x $0.10 each Total_____
All plastic seals and waterproof paper seals may be ordered in groups of 100 – not to exceed 1000.

Instructions:
Complete the information in **Part A** on the front of this form. Check license(s) requested in **Part B** and calculate the total fees. Fill out all applicable information in **Part C**. **Certify your application with your signature in Part D**. **Complete Part E if you are requesting a Lobster Import/Export Permit (Reconsignment for oversized lobsters)**. Enclose this document in an envelope along with a check or money order payable to **Treasurer, State of Maine** or fill out the section below for **credit card payments,** affix a stamp and put it in the mail**. We cannot accept applications by fax or phone.** If you have questions call (207) 624-6550 (option 2)

Mail to: Licensing Division, Department of Marine Resources, 21 State House Station, Augusta, ME 04333

PAYMENT INFORMATION:

Please make all checks payable to: Treasurer, State of Maine

Your check will be processed as an electronic funds transfer (EFT).

☐ Please check this box if your bank does NOT accept EFT transactions so we can manually submit your check to the bank for processing. Please be aware that if an EFT transaction gets rejected by your bank, you will be responsible for the payment as well as a $20.00 bank fee.

Credit/debit card payments: I authorize the State of Maine, Department of Marine Resources, Licensing Division, to charge my VISA ☐ MasterCard ☐ Discover ☐ Debit card ☐

First Name_____ Last Name_____
MUST BE AS IT APPEARS ON CARD – PLEASE PRINT LEGIBLY AS THIS MAY AFFECT PROCESSING OF APPLICATION

Card No. _____ CVV#_____ expiration date _____

Signature of Cardholder: _____ Date: _____

Your credit card or checking account will be charged for what you have applied for on this application.

State of New Hampshire Fee Schedule for Permitting of Food Service Establishments

Restaurants, Bars/ Lounges/ Bakeries

CLASS	CATEGORY	DESCRIPTION	ANNUAL LICENSING FEE
16A2	Food establishment with 200 seats or more	Food establishment, restaurant, or bar where food is prepared food and has an indoor seating capacity of 200 or greater	$875
16B2	Food establishment with 100-199 seats	Food establishment, restaurant, or bar where food is prepared food and has an indoor seating capacity between 100-199 seats	$450
16C3	Food establishment with 25-99 seats	A food establishment, restaurant, or bar where food is prepared food and has an indoor seating capacity between 25-99 seats	$350
16C4	Bar/lounges with food prep area	Bar/lounge/brewery with food preparation	$350
16D1	Food establishment with 0-24 seats	Food establishment, restaurant, or bar where food is prepared food and has an indoor seating capacity between 0-24 seats	$225
16F6	Bakeries which do not serve TCS food	Food establishment that offers non-TCS* bakery products only or other prepackaged foods or beverages	$150
16G1	Bar/lounges with no food prep area that serve alcohol	Bar/lounge/brewery with no food preparation area-offers non-TCS foods only	$100

Retail Food Stores

CLASS	CATEGORY	DESCRIPTION	ANNUAL LICENSING FEE
16A3	Retail food store with 4 or more food prep areas	Food store with four or more separate food prep areas-ie. bakery, deli, meat room, seafood room	$875
16B1	Retail food store with 2-3 food prep areas	Food store with 2-3 separate food prep areas-ie. bakery, deli, meat room	$450
16C1	Retail food store with one food prep area	Food store with 1 food prep area-ie. deli	$350
16D4	Retail food store-self services	Food store that offers consumer self service items such as coffee, hot dogs, machine dispensed foods or beverages	$225
16F3	Retail food store-no food prep area	Food store with no food preparation limited to cold holding of frozen or TCS* packaged foods; no coffee service	$150
16F7	Farm store	Food store with no food preparation limited to cold holding of frozen or TCS* packaged local foods; no running water available	$150
16G3	Retail food store servicing pre-package ice cream only	Food store limited to offering frozen, prepackaged ice cream	$100

Mobile Food Units

CLASS	CATEGORY	DESCRIPTION	ANNUAL LICENSING FEE
16D3	Cook unit-units which cook/prepare food or distribute refrigerated food	Enclosed vehicle-mounted food establishment that prepares cooks, holds and serves food.	$225
16F1	Home delivery-packaged or frozen food	Vehicle that dispenses prepackaged TCS or frozen foods via home delivery	$150
16F2	Push cart & other mobile food units-including but not limited to those serving packaged foods & non TCS foods only	Push cart that dispenses steamed frankfurters, packaged foods & non TCS* foods only or vehicle that dispenses commercially processed, individually packaged foods such as an ice cream truck	$150

State of New Hampshire Fee Schedule for Permitting of Food Service Establishments

Other Food Establishments such as Schools, Institutions, Fraternities, Warehouses, Lodging, Concessions, Senior Meal Sites, Seller of Frozen Meat and Caterers-

CLASS	CATEGORY	DESCRIPTION	ANNUAL LICENSING FEE
16C2	Caterers off-site	Food operation that prepares meals in a commercial kitchen for service at an off-site location	$350
16D2	Fraternities and sororities	Food operation that prepares meals for members of a fraternity or sorority	$225
16D6	Servicing areas	Commercial space designed for food storage or warewashing in support of mobile food unit operation; no food preparation	$225
16D7	Arena/theater serving TCS food	Sports or arts entertainment facility that prepares or offers TCS* food	$225
16E1	Bed and breakfast	Lodging facility limited to serving in-house guests breakfast only by onsite innkeeper's residential kitchen	$175
16E3	Lodging facilities serving continental breakfast	Lodging facility limited to offering in house guests cereal, baked goods, uncut fruit, juice and coffee ONLY, no cooked foods such as eggs	$175
16F4	Wholesalers/distributors TCS food	Warehouse that holds TCS* foods for distribution to other food establishments	$150
16F5	On-site vending machines or unattended markets-serving TCS food	Unattended retail food establishment where commercially prepackaged, time/temperature control for safety foods or ready-to-eat fruits and vegetables are offered for sale	$150
16G2	Arena/theater concessions serving non-TCS food	Sports or arts entertainment facility that prepares or offers non-TCS* food	$100
16G4	Institutions including state, county and municipal institutions	Food service operation in an institution such as a prison or other government facility	$100
16G5	Private schools, schools with cafeteria operated by caterer	Food Service operation in a private school or in a public school operated by a caterer	$100
16G6	Senior meal sites	Food service operation distributing meals to seniors	$100
16G7	Sellers of prepackaged frozen USDA meat or poultry	Food operation limited to a freezer holding USDA meat or poultry for resale	$100

***"TCS" – Time/Temperature Control for food safety**

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MAIL TO: BUREAU OF FINANCE/RECEIPTS UNIT-FOOD PROTECTION
129 PLEASANT ST, CONCORD, NH 03301
Telephone: 603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964
Website: www.dhhs.nh.gov E-mail: foodprotection@dhhs.state.nh.us

APPLICATION FOR ANNUAL FOOD PROCESSING PLANT LICENSE

NOTE: See Reverse for Instructions.

RS-405263

[1]**Full Legal Name of Corporation, LLC or Owner(s)** _____

[2]**Name of Establishment** _____

[3]**Location** (Street) _____ (Town, State) _____ (Zip) _____

[4]**Mailing Address** (if different) _____ (Town, State) _____ (Zip) _____

[5]**Telephone # of Establishment** (_____) _____ [6]**Emergency Contact Telephone #** (_____) _____

[7]**Email Address** _____

[8]**Name of Person in Charge at Establishment** _____

[9]**Schedule of Operation** _____

[10]**Renting/Space Sharing with another licensee?** ___**No** ___**Yes(enter name)** _____

[11]**Type of Ownership**
- ☐ Sole Proprietorship
- ☐ Corporation
- ☐ Joint Venture
- ☐ Limited Liability
- ☐ Partnership
- ☐ Other (Specify)

[12]**Type of License**
- ☐ New Establishment
- ☐ Change in License Class
- ☐ Change of Ownership

[13]**Town Water** Yes or No
[13]**Town Wastewater** Yes or No
[14]**Public Water System/(EPA) #**_____

[15]Commercially Processing More than 100,000 packages of food/year
☐ **Class A ($875)**

[15]Commercially Processing Less than 100,000 packages of Time/temp control food/year
☐ **Class C ($350)**

[15]Commercially Processing or Packaging Less than 100,000 of Non-Time/Temp Control for Safety Bulk Food
☐ **Class G ($100)**

***Submit all supporting documentation. Incomplete applications will be returned.**

☐	[16]New and Renewal: Please submit a complete product list.
☐	[16]New and Renewal: Copies of product testing results, if applicable.
☐	[16]New and Renewal: Please submit a copy of a sample of finished product labels per He-P 2309.04. • The common or usual name of the product. • The name and address of the manufacturer's, packer's, or distributor's business. • The ingredients in descending order of predominance by weight. • The net weight, volume, or numerical count in both U.S. customary and metric; • Known allergens • A product code which includes date of manufacture, container size, and product lot or batch number to aid in a recall of product in case of a public health hazard.
☐	[16]New and Renewal: Written results of laboratory water for bacteria, nitrates and nitrites.(n/a if Town water or Public Water System)
☐	[16]**New only:** HACCP Plan
☐	[16]**New only:** Floor Plan-Include additional $75.00 review fee. See Application Form PRAPP 07-01-15.
☐	[16]**New only:** Septic Approval for Construction or Approval for Operation if on private septic system.(n/a if Town Wastewater)

I, (print name & title)[17,18]_____, certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.

SIGNATURE OF APPLICANT: [19]_____ DATE OF APPLICATION: [20]_____

- DO NOT WRITE BELOW THIS LINE-FOR OFFICE USE ONLY- -
Date Received_____ **License Fee Invoice#**_____ **Plan Review Invoice#**_____

INSTRUCTIONS FOR COMPLETING
APPLICATION FOR FOOD PROCESSING PLANT LICENSE

Please fill in all blanks, if not applicable enter "NA", except steps 14 and 15 (leave blank if not known).

1. **Full Legal Name of Corporation or Owner** - provide the full legal name of the corporation or owner(s) of the establishment.
2. **Name of Establishment** - provide the full name of the establishment.
3. **Location** - provide location of establishment to include street number, street name, city/town, state, and zip code.
4. **Mailing Address** - provide mailing address if different than establishment location.
5. **Telephone # of Establishment** - provide the on-site telephone number for the establishment.
6. **Emergency Contact Telephone Number** - provide telephone number for individual who should be contacted in an
7. **Email Address** - provide Email address.
8. **Name of Person in Charge at Establishment** - provide the name of the individual who is in charge at the establishment.
9. **Schedule of Operation**-provide hours,days, and weeks per year this establishment will operate.
10. **Renting/Space Sharing**-if yes, indicate name and location of other licensee.
11. **Type of Ownership** - check the appropriate ownership type of the establishment, if other please specify.
12. **Type of License** - check the appropriate license type that you are applying for.
13. **Town Water/Town Wastewater** - circle "Yes" if establishment has town water or wastewater, "No" if it does not. If "No" refer to water and wastewater requirements document.
14. **Public Water System/(EPA) Number** – water results sampling number, if applicable.
15. **Class of License** - check highest class and class category. Example; ☒ Class A More than 100,000 packages of food/year.
16. **Requirements** – check each item applicable and submit supporting documentation.
17. **Printed Name** - print full name of establishment's legal owner signing application or officer of legal owner who applies for the license.
18. **Title** - provide title of establishment's applicant.
19. **Signature** - provide original signature of establishment's applicant.
20. **Date** - provide current date.

Contact NH Public Health Laboratories at 603-271-4661 for information on pH and water activity testing.

For a list of food processing authorities, refer to www.dhhs.nh.gov.

Please note, there are fifteen Self-Inspecting Cities/Towns in the state of NH, in which case you will need to contact directly for licensing if food establishment is located in one of those areas. They are: Bedford, Berlin, Claremont, Concord, Derry, Dover, Exeter, Keene, Manchester, Merrimack, Nashua, Plaistow, Portsmouth, Rochester and Salem. For contact information, please refer to www.dhhs.state.nh.us.

SUBMITTING YOUR APPLICATION

1. Payment shall be made in the form of a check or money order, payable to "Treasurer, State of New Hampshire", and must accompany application. Payments are non-refundable and non-transferable.
2. Incomplete or illegible applications or applications not accompanied by payment, water test results, product list, or any other applicable attachments, will be returned. Completed application(s) should be forwarded to Bureau of Finance/Receipts Unit-Food Protection,129 Pleasant St, Concord, NH 03301.
3. **For "Change in License Class, New or Change of Ownership" applications. Thirty (30) days after forwarding this application with all the required applicable paperwork to the Food Protection Section, call (603) 271-4589 to leave a message for your inspector to arrange for an inspection of your facility. (Please allow seven (7) business days notice for inspection appointment)**

For additional information or for further assistance, please contact the NH Department of Health and Human Services, Division of Public Health Services, Food Protection Section at (603) 271-4589 or dhhs.foodprotection@dhhs.nh.gov

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAIL TO: BUREAU OF FINANCE/RECEIPTS UNIT-FOOD PROTECTION
129 PLEASANT STREET, CONCORD, NH 03301
Telephone: 603-271-4589 FAX: 603-271-4859 TDD Access: 1-800-735-2964
Website: www.dhhs.nh.gov E-mail: dhhs.foodprotection@dhhs.nh.gov

APPLICATION FOR NEW SHELLFISH CERTIFICATION

Note: Payment to be in the form of a check or money order made payable to Treasurer State of NH

RS-407582

[1]**Full Legal Name of Dealer (Corporation, LLC or Owner)** _____

[2]**Name of Shellfish Dealer** _____

[3]**Location of Shellfish Dealer** (Street) _____ (Town, State) _____(Zip) _____

[4]**Mailing Address** (if different) _____ (Town, State) _____(Zip) _____

[5]**Telephone # of Facility** (_____) _____ [6]**Emergency Contact Telephone #** (_____) _____

[7]**Email Address** _____

[8]**Name of Person in Charge**_____

[9]**Type of Ownership**

☐ Sole Proprietorship ☐ Corporation
☐ Joint Venture ☐ Limited Liability
☐ Partnership ☐ Other (Specify)

[10] **Town Water** ☐ **Yes** ☐ **No**
[10] **Town Wastewater** ☐ **Yes** ☐ **No**

[11] **Class of Certificate**

[a] ☐ **Reshipper ($175.00)** [b] ☐ **Shellstock Shipper ($350.00)** [c] ☐ **Repacker ($875.00)**
[d] ☐ **Shucker Packer ($1100.00)** [e] ☐ **Depurator ($1750.00)**

[12]**Permit Designation** ☐ N/A

[a] ☐ **Aquaculture** [b] ☐ **Post-Harvest Processing** [c] ☐ **Wet Storage**

***Submit all supporting documentation. Incomplete applications will be returned.**

[13]☐	**Type of Shellfish to be processed**_____
[14]☐	**Shellfish dealer schedule of operation: a) Weeks per year**_____ **b) Days of week of operations**_____ **c) Hours of Operation**_____
[15]☐	**Written results of laboratory analysis of water for bacteria, nitrates and nitrites. Results must be less than 6 months old. (n/a if Town Water)**
[16]☐	**Copy of Certificate of Approval for Operation of the septic system. (n/a if Town Wastewater or if applying for Reshipper certification)**
[17]☐	**HACCP Plan**

I, (print name & title)[18,19]_____, certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided.

SIGNATURE OF APPLICANT: [20]_____ **DATE OF APPLICATION:** [21]_____

----------DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY----------

Date App Received_____ **Check #**_____ **Check Amount**_____

Date approved by SSO or SSI_____ **Certification #**_____ _____

INSTRUCTIONS FOR COMPLETING APPLICATION FOR SHELLFISH CERTIFICATION

Please fill in all blanks, if not applicable enter "NA"

1. **Full Legal Name of Dealer** - provide the full legal name of the corporation, LLC or owner(s) of the Shellfish Dealer.
2. **Name of Facility**- provide the full name of the Shellfish Dealer.
3. **Location** - provide location of Dealer to include street number, street name, city/town, state, and zip code.
4. **Mailing Address** - provide mailing address if different than Dealer location.
5. **Telephone # of Facility**- provide the on-site telephone number for the Shellfish Dealer.
6. **Emergency Contact Telephone Number** - provide telephone number for individual who should be contacted in an emergency.
7. **Email Address** – provide Email address.
8. **Name of Person in Charge** - provide the name of the individual who is in charge at the shellfish operations.
9. **Type of Ownership** - check the appropriate ownership type of the establishment, if other please specify.
10. **Town Water/Town Wastewater** - circle "Yes" if establishment has town water or wastewater, "No" if it does not. If "No" refer to water and wastewater requirements document.
11. **Type of Certificate** - check the appropriate classification.
    a. **Reshipper-(RS)** means a person who purchases shellfish from dealers and sells the product without repacking or relabeling to other dealers, wholesalers or retailers.
    b. **Shellstock Shipper-(SS)** means a dealer who grows, harvest, buys, or repacks and sells shellstock. They are not authorized to shuck shellfish nor to repack shucked shellfish. A shellstock shipper may also buy, repack and sell in-shell product as well as ship shucked shellfish.
    c. **Repacker-(RP)** means any person, other than the original certified shucker-packers, who repackages shucked shellfish into other containers.
    d. **Shucker Packer-(SP)** means a person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.
    e. **Depurator Processor**-(**DP**) means a person who harvests or receives shellstock from growing areas in the approved or conditionally approved, restricted or conditionally restricted classification and submits such shellstock to an approved depuration process.
12. **Type of Permit** – check the appropriate permit designation that you are applying for. Check N/A if not applicable.
    a. **Aquaculture-(AQ)** means cultivating shellfish in controlled conditions for human consumption.
    b. **Post-Harvest Processing-(PHP)** means any process which uses validated processes to reduce pathogenic hazards below the appropriate FDA or ISSC action levels.
    c. **Wet Storage-(WS)** means the storage of shellstock from growing areas in approved classification or in open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.
13. **Types of Shellfish to be processed** – List all types of shellfish processed, including clams, oysters or mussels either shucked or in shell, fresh or frozen, whole or in part.
14. **Schedule of operations**-Provide the following: a) Weeks of operation, b) Days of operations, c) Hours of Operations.
15. **Water Source** - The dealer shall provide a potable water supply in accordance with applicable federal, state and local regulations. If the water supply is from a private source, the dealer shall make arrangements to have the water supply sampled by persons recognized by the Authority and tested at laboratories sanctioned or certified by the Authority: 1) Prior to use of the water supply; 2) Every six (6) months while the water supply is in use; and 3) After the water supply has been repaired and disinfected. Written results of laboratory analysis of water for bacteria, nitrates and nitrites must be submitted. Results must be less than 6 months old. (n/a if Town Water)
16. **Wastewater** – Provide copies of Certificate of Approval for operations of septic system. (n/a if Town Wastewater or if applying to be a Reshipper)
17. **HACCP Plan –** Provide a Hazard Analysis Critical Control plan specific to the shellfish Dealer's activities.
18. **Printed Name**.-Print full name of Shellfish Dealer's legal owner, signing application or officer or legal owner who applies for the license.
19. **Title of applicant**-Provide title of Dealer's applicant.
20. **Signature of Applicant**-Provide original signature of Shellfish Dealer's applicant.
21. **Date of Application**-Provide current date of application.

SUBMITTING YOUR APPLICATION

1. Payment shall be made in the form of a check or money order payable to "Treasurer, State of New Hampshire", and must accompany application. Payments are non-refundable and non-transferable.
2. Incomplete or illegible applications or applications not accompanied by payment, water test results, product list, or any other applicable attachments, will be returned. Completed application(s) should be forwarded to Bureau of Finance/Receipts Unit-Food Protection, 129 Pleasant St, Concord, NH 03301.

For additional information or for further assistance, please contact the NH Department of Health and Human Services, Division of Public Health Services, Food Protection Section at (603) 271-4589 or dhhs.foodprotection@dhhs.nh.gov

MAINE RADIATION CONTROL PROGRAM

Initial X-Ray Registration Form (not for renewal)

Unit / units to be registered to a new state facility (check box if applicable) ☐

If Unit/Units are to be registered to a facility currently registered with the state enter Maine Facility ID:: _____

Registration fees:

Number of new units x $60: (each unit to be registered needs an accompanying HHE-805) _____

Fee for replacement (OF CURRENTLY REGISTERED) unit or replacing lost certificate: $30 per unit: _____

Total: _____

Radiation Shielding Assessment Number (RSA): Your registration will not be processed without this number or a copy of the radiation shielding plan acceptance letter you received from the state for this facility**.** Additionally, if modifying the facility or adding one or more units to it, you must consult with your Medical Physicist to verify that the radiation shielding is still adequate or complete and sign "Request for Variance of Radiation Shielding Plan" (form HHE-804A)

RSA # _____

(RSA # MUST be filled in unless unit is a *bone densitometer, portable or industrial cabinet type units or shielding plan is included in your registration package)*

This Unit has Been Taken *OUT* of Service:

Make and Model: **State ID # :** **(please return registration certificate)**

****

Name of Lead Physician/Facility Supervisor: _____

Name of Facility:_____

Facility ID#:_____

Address: _____

Phone Number: _____

Make Check Payable to : ***Treasurer, State of Maine.***

Mail Forms and payment to:

X-Ray / Mammography Section
Maine Radiation Control Program
11 State House Station
286 Water Street – 4th Floor
Augusta, Maine 04333-0011

Questions ? Call 207-287-5676 or email radiation.dhhs@maine.gov

Table 4070.2 Annual Fees for Radiation or MRI Machine Registration

Type of Radiation or MRI Machine	Annual fee Number of Sources Controlled by Machine 1	2	3 or more
A. X-ray machines for diagnostic or visualization purposes in the healing arts or veterinary medicine			
1. Radiographic x-ray machines for dental purposes, including, but not limited to, dental intraoral, dental cephalometric, and dental panoramic x-ray machines, and machines combining those functions	$145	$254	$362
2. Radiographic x-ray machines for podiatric purposes	$145		
3. Radiographic x-ray machines for healing arts or veterinary medicine purposes designed to be portable as defined in He-P 4041.02	$145		
4. Radiation machines for the generation of information in the healing arts or veterinary medicine, including bone mineral densitometers and medical x-ray cabinets	$145		
5. Non-portable diagnostic x-ray machines for healing arts or veterinary medicine purposes, including general purpose radiographic machines, mobile x-ray machines, mini c-arm units, micro-computed tomography units, dedicated chest units, conventional tomography machines, cone-beam computed tomography machines, veterinary, chiropractic, and standard mammography machines	$275	$482	
6. X-ray machines with fluoroscopic capability without regard to whether they also have radiographic capabilities, including radiographic-fluoroscopic combination machines, C-arm units, angiographic machines, and therapy simulators	$400	$600	$800
7. Computed tomography (CT), stereotactic mammography machines and 3D mammographic machines	$400	$600	$800
B. Machines for therapeutic use in the healing arts or veterinary medicine			
1. X-ray machines capable of being used at potentials of 500,000 volts or less	$500		
2. X-ray machines capable of being used at potentials greater than 500,000 volts	$2000		
3. Particle accelerators capable of being used at energies of 500,000 electron volts or less	$1000		
4. Particle accelerators capable of being used at energies greater than 500,000 electron volts	$2000		
5. Electronic Brachytherapy	$1000		
C. Machines not used for diagnostic or therapeutic purposes on humans or animals			
1. Particle accelerators			
a. Ion implanters	$850		
b. Irradiators	$850		
c. For the production of radioactive material	$2500		
d. Other accelerators, including research accelerators	$2000		
2. Industrial Machines			
a. Cabinet x-ray system as defined in He-P 4034.03	$320	$560	
b. Industrial radiographic units	$800		
3. Analytical x-ray machines as defined in He-P 4043.03			
a. X-ray fluorescence machines	$350		
b. X-ray diffraction machines	$350		

Type of Radiation or MRI Machine	Annual fee Number of Sources Controlled by Machine 1	2	3 or more
4. X-ray gauges (thickness/level)	$400		
5. Items of electronic equipment that produce radiation incidental to their operation for other purposes (SEM or TEM) and which are not exempt from registration under the provisions of He-P 4040.06(a)	$125		
D. Non-ionizing radiation equipment			
Magnetic resonance imaging machines	$500		
E. Other circumstances			
1. Radiation or MRI machines not otherwise specified above used for the following purpose:			
a. Diagnostic	$400		
b. Therapeutic	$600		
c. Industrial	$400		
F. Exempt from Fee Proration			
1. Radiation or MRI machines registered as in storage under the provisions of He-P 4040.11	$100		
2. Radiation or MRI machines used solely for educational demonstration (non-human use) purposes	$100		
4. Reciprocal recognition of out-of-state radiation or MRI machine registration	Half annual fee of applicable machine type		

STATE OF NEW HAMPSHIRE
Department of Health and Human Services
Division of Public Health Services
Radiological Health Section

Application for Reciprocal Recognition of Out-of-State Machines

(Machines that do not use radioactive material)

1. Applicant's name, address, telephone number, and email address:	2. Applicant's state of registration or licensure and registration or license number (enclose copy of registration or license, if applicable):
3. Address(es) or location(s) of proposed activities:	4. Proposed date(s) and time(s) of use:
5. Description of proposed activities:	6. Make, model, serial #, and type of radiation machine(s) designed to be used for proposed activities:
7. Name(s) of equipment operator(s) for proposed activities:	8. Contact person(s) and telephone number(s) for in-state operations:
9. Name and title of management representative and date of application:	10. Signature of management representative:

Information and Instructions

Persons proposing to bring a radiation machine (e.g., an x-ray machine) or MRI machine into New Hampshire from out of state on a temporary basis are required to provide the Department of Health and Human Services Radiological Health Section (DHHS/RHS) with specific information in accordance with the provisions of Section He-P 4040.11 of the New Hampshire Rules for the Control of Radiation (the Rules), part of the state's Code of Administrative Rules. We call this an application for "reciprocity."

In addition to providing the information the section of the Rules requires, there is also a provision in He-P 4070, Fees, for the payment of a fee. The fee is due the first time in each calendar year you apply for reciprocity. The amount due equals one half of the fee for the category of machines (with a single source) you propose to bring into the state. It is due with the first application of the calendar year. Should you propose to bring a machine requiring a higher fee into the state during the same year, you will owe one half of the difference between the annual fees for the two machine categories. The fee schedule is located on the last page.

You should apply for reciprocity three business days in advance of the date you want to begin operations in the state. On written application from you, we may agree to waive the application period if such a waiver would be to protect an individual's or the public's health and safety.

The instructions below are keyed to the blocks on the form but apply to a letter as well. If you need to, attach supplementary information to the form.

Block 1. Provide your organization's name, mailing & e-mail addresses, and telephone number. Also include physical address if different from organization's address.

Block 2. Provide the state of registration or licensure for your machine(s) and the registration or license number(s) [if applicable].

Block 3. Provide the complete physical address(es) and any other necessary information (contact person's name and telephone number(s) for the location(s) at which the machine(s) will be used. Post office box and rural route numbers are not acceptable. Please provide a map with written directions.

Block 4. Provide the date(s) and time(s) of day during which the machine(s) will be in use.

Block 5. Describe the proposed activities. Provide sufficient information (Operating and emergency procedures) to allow someone not familiar with your operations to understand and evaluate the safety implications of the activity what you propose to do. Add any additional information reasonably necessary to assure an accurate and timely review of your application.

Block 6. Provide the make, model, serial # and type of machine(s) design to be used.

Block 7. Provide the name(s) of equipment operator(s) and copy of their qualification/training records.

Block 8. Provide telephone number(s) (if available) at which we can reach the individual(s) named below in Block 5 during the reciprocity period.

Block 9. Provide the name and title of the management representative making application for reciprocity. Also provide the date of the application.

Block 10. Have the management representative sign the form.

If you propose to conduct a program of **healing arts screening** in New Hampshire, the Rules require that you receive prior approval from DHHS/RHS. When requesting such approval, you must provide additional information. The information required is found in He-P 4045.04 of the Rules. A copy of the points to be covered is available on request.

The New Hampshire Rules for the Control of Radiation will govern your operations while in the state. The Rules require, among other things, that:

- Form RHS-5, "Notice to Employees", be posted (or if posting is impossible, that your workers be provided with them);
- Parts He-P 4019 through He-P 4022 of the Rules be posted or otherwise available to your workers on site;
- Your workers be instructed in their rights and responsibilities under the Rules;
- Your workers be provided with written instructions for carrying out their radiation-related duties, that they understand them, and that they are competent to carry them out.

Be aware that your equipment and operations will be subject to unannounced inspection by DHHS/RHS pursuant to He-P 4040.11(l).

For New Hampshire Rules for the Control of Radiation (NHRCR), please visit the DHHS/RHS website at: http://www.dhhs.nh.gov/dphs/radiological/rules.htm (Ctrl+Click to follow link)

Please complete and submit an original signed and dated reciprocity application to:

Department of Health and Human Services
Radiological Health Section
29 Hazen Drive
Concord, New Hampshire 03301-6503

CHECKS MUST BE MADE PAYABLE TO THE: TREASURER – STATE OF NEW HAMPSHIRE

You are not authorized to possess or use an out-of-state radiation machine in New Hampshire if you have not notified DHHS/RHS. If you have applied for reciprocal recognition, do not proceed without prior authorization.

On behalf of the NH Division of Public Health Services and the Radiological Health Section, we appreciate your cooperation in this matter. If you have any further questions or concerns regarding the machine reciprocity registration process, please contact our main office at (603) 271-4588. DHHS/RHS facsimile number is (603) 225-2325. Thank you.

Division Of Public Health Systems

Maine Center for Disease Control & Prevention

A Division of the Maine Department of Health and Human Services

DHHS → MeCDC → Public Health Systems → Data Research → Vital Records Fri 15 Sept 2023 → Order Records

Ordering a Vital Record

All Maine's records of birth, death, fetal death, marriage, divorce and domestic partnership are housed at the Department of Health and Human Services (DHHS), Maine Center for Disease Control and Prevention (Maine CDC), Data, Research, and Vital Statistics (DRVS) office and most all municipal offices statewide.

Maine officially started preserving vital records on January 1, 1892. Vital records created prior to 1892 may be obtained from the municipal offices where the vital event took place or from the Maine State Archives.

Maine is a closed record State. Individuals requesting a certified copy of a vital record must complete a written request or application, provide acceptable identification, and depending on the record requested, may have to demonstrate their direct and legitimate interest and/or lineage. We offer more information on public access to non-restricted and restricted vital records, as well as frequently asked questions.

How to Order Maine Vital Records

The cost for a certified copy of a vital record is $15.00 and $6.00 for each additional copy of the same record. The cost for a non-certified copy of a vital record is $10.00 and is stamped "not for legal purposes". Individuals not listed on the record must prove relationship or demonstrate a direct and legitimate interest in the requested record. Please refer to the public access to non-restricted and restricted vital records link above to determine eligibility.

- **Mail a written request** with payment by check or money order. Please enclose a copy of your photo ID and a self-addressed, STAMPED envelope with your request. Download and complete an applications for a vital record.
- **Place your order by credit card**. DRVS does not accept credit card information over the phone or online orders. Although, for your convenience, DRVS has partnered with VitalChek Network, Inc. to provide this service. Visit VitalChek online, or by contact them by phone at 1-877-523-2659. An additional fee to expedite the order may be charged by VitalChek for using this service. Individuals have the option to send the copy of the vital record by mail or by UPS. All major credit cards are accepted, including American Express, Discover, MasterCard or Visa.

New Hampshire Secretary of State

NOTICES

Campaign Finance Guidance 12.17.21

E-Notarization Law Information

Windham Election Audit

Press Release-Windham Forensic Audit Team's Report

Voter Registration & Motor Vehicle Law Jointly Issued FAQs

View All

How can we help you today?

Home / ARCHIVES VITAL RECORDS RECORDS MANAGEMENT / Vital Records / Request for Certificates

Request for Certificates

The application form for requesting a certified copy of a birth, death, marriage, divorce, or civil union is available below:

Certificate Application
Click Here

Submit the completed application (with payment in U.S. funds ONLY and photo identification) to:

NH DEPARTMENT OF STATE
DIVISION OF VITAL RECORDS ADMINISTRATION
REGISTRATION / CERTIFICATION
9 RATIFICATION WAY
CONCORD, NH 03301-2455

In addition to all 234 local City and Town Clerks, the Division of Vital Records Administration (DVRA) issues certified copies of birth, death, marriage, divorce and civil union certificates to qualified individuals and agencies that provide a "direct and tangible" interest in obtaining a record. Click here to find out about your access rights to our records.

In order to obtain certified copies of Vital Records, you must complete the above application and send it to the DVRA or visit your local City or Town Clerk and pay a search fee. The current fee is $15, plus any additional expenses incurred for credit card transactions. This fee is payable whether or not a record is found. Alternative pricing may be made for state agencies and federal government agencies for non-certified copies or verification of vital events. Additional copies of the same record issued at the same time are $10.

All individuals requesting a certified copy of a record (RSA 5-C:102, VI) must present positive identification including, but not limited to, a driver's license, passport or other picture identification or in the absence of acceptable picture identification shall complete the form Documentation Evidence for Individuals Not Possessing An Acceptable Picture Identification.

**Note: Click on the file to open it in Adobe Reader. The file can be filled out online, then printed or saved to your computer for printing later. To download the file, right click on the icon and choose "Save Target As ....." (in Internet Explorer) or "Save Link As...." (in Firefox). If you do not have Adobe Reader installed on your computer, it is available for free; download by clicking here; the Adobe website will open in a new window.

State House, Room 204, 107 North Main Street, Concord, N.H. 03301

Phone: 603-271-3242 | elections@sos.nh.gov
Phone: 603-271-3246 | corporate@sos.nh.gov
Phone: 603-271-4650 | vitalrecords@sos.nh.gov

TDD Access: Relay NH 1-800-735-2964

§1405. Cremation

A person, firm or corporation within the State, after obtaining a license from and paying a license fee to the Department of Health and Human Services may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the rules of the department, may cremate such bodies and dispose of the ashes of the same. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 225, §1 (AMD).]

The body of a deceased person may not be cremated within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner or medicolegal death investigator appointed pursuant to Title 22, section 3023-A that the medical examiner or medicolegal death investigator has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition may not refuse to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner must receive a fee of $25 payable by the person requesting the certificate. This fee may be waived at the discretion of the Chief Medical Examiner. [PL 2019, c. 87, §3 (AMD).]

Human remains may not be removed, transported or shipped to a crematory unless encased in a casket or other suitable container. Following cremation, the crematory shall label the container containing the cremated remains with the name of the person who was cremated. [PL 2017, c. 101, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 56 (AMD). PL 1975, c. 293, §4 (AMD). PL 1977, c. 232, §5 (AMD). PL 1979, c. 538, §§12,13 (AMD). PL 1985, c. 611, §§11,12 (AMD). PL 1997, c. 210, §40 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 225, §1 (AMD). PL 2017, c. 101, §4 (AMD). PL 2017, c. 284, Pt. GGG, §1 (AMD). PL 2019, c. 87, §3 (AMD).

N.H. Rev. Stat. § 325-A:18

Current through Chapter 243 of the 2023 Legislative Session

Section 325-A:18 - Medical Examiner's Certificate

I. The body of a deceased person shall not be cremated within 48 hours after his or her decease unless he or she died of a contagious or infectious disease. If the death occurred within the state, the body shall not be cremated by the crematory authority until the crematory authority has received the certificate of burial permit required by law before burial, and a certificate from a medical examiner that he or she has viewed the body and made personal inquiry into the cause and manner of death, and is of the opinion that no further examination or judicial inquiry concerning the same is necessary. If the death occurred within the state but the body is being transferred out of state for cremation, the transfer shall not occur until the medical examiner has conducted such a view and inquiry and has issued a certificate. If the death occurs without the state, the reception and cremation of the body of a deceased person shall be governed by rules adopted by the board after consultation with the chief medical examiner.

II. The crematory authority shall forward a copy of the cremation certificate to the office of the chief medical examiner, accompanied by a $60 fee. The fee shall be deposited in the medico-legal investigative fund established pursuant to RSA 611-B:28.

RSA 325-A:18

2006, 288:2. 2007, 324:16. 2008, 197:1, eff. June 11, 2008.

Department of Environmental Protection

Fee Schedule

Effective: November 1, 2022 to October 31, 2023

Air Quality

Code	Description	Processing Fee	Licensing Fee
70	part 70 air license (c. 140)	(see I & II below)	(see I & II below)
71	major & minor source license (c.115)	(see I & II below)	(see I & II below)
-	general permit (c. 149, 164 and 165)	-	$132
75	property, sales and use tax exemption certification	$509	$41

I. All licensed air emission sources pay an annual license fee assessed based on the sum of all license allowed criteria air pollutants, except for carbon monoxide, and reported emissions of hazardous air pollutants.

A. The annual license fee is:

Annual license allowed emissions, in tons	**Fee per ton**
from 1 to 1,000	$11.11
from 1,001 to 4,000	$22.24
additional emissions over 4,001	$33.33

The minimum annual license fee is $510 and the maximum annual license fee is $306,942.

B. An **air quality surcharge** of $4.34 for every 1,000 air quality units is added to the annual license fee for sources subject to Chapter 137 reporting requirements for hazardous air pollutants. Air quality units are determined by multiplying the toxicity score of each emitted hazardous air pollutant by the reported emissions of that pollutant.

The minimum annual air quality surcharge is $204.38, and the maximum annual air quality surcharge is $102,347.18.

II. Billing dates for the annual license fee and surcharge ("annual fees") are based on the anniversary date of the original license. A source's annual fees will be due by the end of February, May, August or November every year, as billed by the Department. Failure to pay annual fees within 30 days of the quarterly due date is grounds for revocation of the license.

III. A new application must include the payment of the estimated annual license fee before that application is accepted for processing. There are no additional fees for minor revisions, amendments, transfers or renewals.

Land Resources – Dams and Hydropower

Code	Description	Processing Fee	Licensing Fee
32	FERC water quality cert. storage	$2,040	-
33	FERC water quality certification,no increase in capacity	$612[1]	$101[1]
34	MWDCA maintenance/repair only	$285	$101
35	MWDCA new constrcution/expanded generating capacity	$917[1]	$101[1]
36	water levels petitions	$1,291	$1,291
3D	dams, release of impoundment (hydropower and non-hydropower)	$1,291	-
3A	FERC hydropower licensing, first consultation	$1,996	-
3B	FERC hydropower licensing, second consultation	$1,996	-

[1]Fee per megawatt

The fee for a **minor revision, condition compliance or transfer** is $192. The fee for an **amendment** is one half the processing fee, plus one half the licensing fee. The **minor amendment** fee is $1,761 .The fee for a **renewal** is one half the processing fee, plus the full licensing fee. If the Commissioner determines that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.

Land Resources – Mining and Excavations

Code	Description	Processing Fee	Licensing Fee
-	notice of intent to comply w/ borrow pit or quarry standards	-	$250
-	notice of borrow pit or quarry expansion	-	$250
-	variance from excavation standards: general	-	$250
-	variance from excavation standards: excavation below the water table or externally drained	-	$500
-	variance from excavation standards: topsoil salvage	-	$125
-	variance from quarry standards: general	-	$250
-	variance from quarry standards: excavation below the water table or externally drained	-	$500
-	variance from quarry standards: topsoil salvage or air blasts & ground vibration	-	$125
-	fee if <2500 cubic yards extracted	-	$100[2]
-	fee if >2500 cubic yards extracted	-	$400[2]

[2]Licensing Fee assessed annually.

Land Resources – Natural Resources Protection Act

The fees in the following table apply to all projects subject to the Natural Resources Protection Act (NRPA). Fees for projects which alter 15,000 square feet or more of freshwater wetland are wholly based on the pro-rata table at the end of this section.

Code	Description	Processing Fee	Licensing Fee
-	NRPA permit by rule (PBR) notification	$288	-
08	water quality certification other than hydropower	$285[3]	-
2A	shoreline stabilization on a great pond	$285	$101
2B	other activity on a great pond	$285	$101
2C	fragile mountains areas	$285	$101
2D	irrigation ponds	$285	$101
AP	agricultural irrigation pond	$285	$101
2E	cranberry bogs	$285	$101
CW	cranberry cultivation	$285	$101
2F	activity adjacent to protected natural resources	$285	$101
2G	fill or alteration of wetlands of special significance	$285	$101
DW	significant wildlife habitat: deer wintering area	$285	$101
IW	significant wildlife habitat: inland waterfowl area	$285	$101
TW	significant wildlife habitat: tidal waterfowl area	$285	$101
BN	significant wildlife habitat: seabird nesting island	$285	$101
FS	significant wildlife habitat: shorebird feeding & staging areas	$285	$101
VP	significant wildlife habitat: significant vernal pools	$285	$101
3E	non-hydropower dams	$285	$101
GW	significant groundwater extraction well	$6,978	$2,989
OS	offshore wind energy demonstration project	$489[4]	$122

Code	Description	Processing Fee	Licensing Fee
OT	offshore energy development	$489[4]	$122
4C	coastal wetland, fill or structure >1,000 sq. ft. and below highest annual tide or over wetland vegetation	$489	$122
4D	shoreline stabilization in a coastal wetland	$489	$122
4E	other activity on a coastal wetland	$489	$122
4P	coastal: docks, piers, & wharves	$489	$122
4F	sand dune: commercial building >2,500 sq. ft.; single or multi-family residence >5000 sq. ft.; or any structure >35 ft. tall unless height related to posts	$7,139	$2,989
4G	sand dune: beach nourishment or restoration on a sand dune	$285	$101
4H	other activity on a sand dune	$489	$122
4I	sand dune: residential building >2,500 sq. ft. & <5000 sq. ft. & <35 ft. tall	$958	$240
4J	sand dune: front dune building	$489	$122
4K	sand dune: back dune building	$489	$122
4L	sand dune: front dune, new house variance	$1,259	$419
4M	sand dune: post or piling variance	$956	$240
L4	stream alteration, fill in floodway	$285	$101
L5	stream alteration, shoreline stabilization	$285	$101
L6	stream alteration, other	$285	$101
MB	mitigation bank	$285	$101
MC	mitigation credit	$191	-
TA	freshwater wetland, Tier 1 / 0 - 4,999 sq. ft.	$35	-
TB	freshwater wetland, Tier 1 / 5,000 - 9,999 sq. ft.	$75	-
TC	freshwater wetland, Tier 1 / 10,000 - 14,999 sq. ft.	$150	-
TE	freshwater wetland fill, Tier 2 / 15,000 - 43,560 sq. ft.	(see below[5])	-
TF	freshwater wetland alteration, Tier 2 / 15,000 - 43,560 sq. ft.	(see below[5])	-
TG	freshwater wetland fill, Tier 3, > 43,560 sq. ft.	(see below[5])	-
TH	freshwater wetland alteration, Tier 3, > 43,560 sq. ft.	(see below[5])	-

[3] The Processing Fee for water quality certifications is to be charged only for stand-alone applications. Where a water quality certification finding is required as part of another NRPA application, the Code 08 fee is not charged.

[4] The department may use "outside reviewers" pursuant to 38 M.R.S. §344-A for which the applicant must pay all costs in addition to the processing fee.

[5] The following table is used to calculate the fees for projects which alter 15,000 square feet or more of freshwater wetland; square feet proposed for alteration is multiplied by each fee.

Code	Description	Processing Fee	Licensing Fee
	alteration involving fill or structure	0.0297/sq.ft.	0.0099/sq.ft.
	alteration; other (e.g., removal of vegetation, flooding, dredging)	0.0076/sq.ft.	0.0026/sq.ft.[6]

[6] not to exceed $9,111

The fee for a **minor revision** and **conditional compliance** of all NRPA permits except codes TA, TB & TC is $192; the fee for a **minor revision** of permit codes TA, TB & TC is $35 if there is no change in square footage. The fee for an **amendment** is one half the processing fee, plus one half the licensing fee, except amendment of permits with type code TA is $35. NRPA permits are **transferred** or **extended** using a permit by rule application. For projects that involve additional wetland impacts at a site with previously permitted wetland impacts, the fee is based on the total cumulative wetland impact for the project. If the Commissioner determines that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.

Land Resources – Small-Scale Wind Energy Developments

Code	Description	Processing Fee	Licensing Fee
ES[7]	certification of small scale wind development	$1,354	$627

[7]The department may use "outside reviewers" pursuant to 38 M.R.S. §344-A for which the applicant must pay all costs in addition to the processing fee.

The fee for a small-scale wind energy development **minor revision, amendment, condition compliance, or transfer** is $192. If the Commissioner determines that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.c

Land Resources – Site Location of Development Act

Code	Description	Processing Fee	Licensing Fee
06	delegation of authority	-	-
18	airport	$8,160	$4,080
19	medical facility	$8,160	$4,080
20	paper mill	$8,160	$4,080
21	sawmill, lumber products	$8,160	$4,080
22	school	$8,160	$4,080
23	shopping center	$8,160	$4,080
24	utilities, not hydro	$8,160[8]	$4,080
25	warehouse	$8,160	$4,080
26	other structure, not residential	$8,160	$4,080
27	pipeline	$8,160	$4,080
28	recreational site	$8,160	$4,080
39	industrial park/commercial	$937[9]	$937[9]
85	transient lodging	$8,160	$4,080
87	multi-family/condominium	$8,160	$4,080
L0	great american neighborhood	$101[9]	$101[9]
L1	res. Subdiv./afford. housing	$101[9]	$101[9]
L2	res. Subdiv./pub. water & sewer	$356[9]	$356[9]
L3	res. Subdiv./all others	$509[9]	$509[9]
MX	mixed use:		
	residential/condo	(see below[10])	(see below[10])
	residential/non-residential	(see below[11])	(see below[11])
L7	metallic mineral mining[12]	-	-
PS	Solar Projects	$8,160	$4,080
TP	MDOT/MTA	-	-
-	planning permit (pertains to any site type project except subdivisions)	$8,160	$4,080
-	notice of intent to comply, roundwood	-	$250

[8]Grid-scale wind energy developments are typically subject to the special fee provisions of 38 M.R.S. §352.

[9]Fee per lot; all residential subdivisions capped at $30,000.

[10]Processing and licensing fee for types L1, L2, L3, and 87.

[11]Processing and licensing fee for types L1, L2, L3, and 39.

[12]Metallic mineral mining is subject to the fee provisions of 38 M.R.S. §352.4-A.

The fee for a **minor revision, condition compliance, renewal,** or **transfer** is $192. The fee for an **amendment** is one half the processing fee, plus one half the licensing fee; the **minor amendment** fee is $1,761. If the Commissioner determines

that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.

Land Resources – Solar Decommissioning

Code	Description	Processing Fee	Licensing Fee
DP[13]	Decommission plans of solar project more than three acres	$433	$108

[13]This fee does not apply to submission of solar energy development decommissioning plans simultaneously filed with a first-time Site Location of Development Act application for a new solar energy development – type code PS – listed in the table above.

The fee for a **minor revision, condition compliance,** or **transfer** is $192. The fee for an **amendment** is one half the processing fee, plus one half the licensing fee. If the Commissioner determines that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.

Land Resources – Maine Construction General Permit

Code	Description	Processing Fee	Annual Licensing Fee
E1	NOI - 1 to 3 acres	$129	-
E2	NOI - 3 to 5 acres	$172	-

Land Resources – Stormwater Management Law[14]

Code	Description	Processing Fee	Licensing Fee
NA	stormwater (sw) at risk - vegetative, impervious (20,000 to 1 acre)	$286	$73
-	each additional whole acre for NA	$143	$36
NB	sw at risk - structural, impervious (20,000 to 1 acre)	$573	$146
-	each additional whole acre for NB	$286	$73
NI	sw, all other - vegetative, impervious (≥ 1 acre)	$286	$73
-	each additional whole acre for NI	$143	$36
NJ	sw, all other - structural, impervious (≥ 1 acre)	$573	$146
-	each additional whole acre for NJ	$286	$73
-	sw permit-by-rule - transfer	$79	-

[14]If DEP has a memorandum of agreement with the local Soil and Water Conservation District to review projects, the processing fees for structural or vegetative erosion control will be reduced to $203 for the first acre of impervious or disturbed area, and an $100 processing fee is assessed for each additional whole acre of impervious or disturbed area. The licensing fee does not change.

The fee for a **minor revision, condition compliance,** or **transfer** is $192. The fee for an **amendment** is one half the processing fee, plus one half the licensing fee. Except for first-time renewals eligible for permit-by-rule, the fee for a **renewal** is one half the processing fee, plus the full licensing fee. If the Commissioner determines that an application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on this table, the Commissioner may designate that application as subject to special fees per 38 M.R.S. §352.

Water Quality – Industrial Stormwater

Code	Description	Processing Fee	Annual Licensing Fee
MN	multi-sector general permit - industrial facilities		$677

Water Quality – Wastewater Discharge

I. All facilities licensed to discharge pollutants to the waters of the state must pay annual waste discharge license fees. For existing licensees, the annual waste discharge fee will be the previous year fee adjusted by the Consumer Price Index. In accordance with P.L. 2019, ch. 631, *An Act To Ensure Adequate Funding for the Maine Pollutant Discharge Elimination System and Waste Discharge Licensing Program,* there will be a one-time increase of 40% from the 2019 fee in addition to the annual CPI adjustment. The 40% increase will not be applied to OBD fee codes 5A, 5B, 5C, or 5D.

II.

A. The annual fee for existing licenses is due on the anniversary date of the license or such other date initially established by the Department. This date, once established, remains the scheduled date for payment of annual fees for that license.

B. The annual fee for any new application, or existing license that is reclassified to a new license type category, will be the median fee for the assigned category and must be paid at the time of filing.

C. With the exception of transfers of licenses for discharges from residential or commercial OBDs, no additional fees are assessed for license renewals, amendments, minor modifications or other revisions.

D. A fee of $143 is required for transfer of licenses for discharges from residential or commercial OBDs.

E. Failure to pay the annual fee within 30 days of the due date is sufficient grounds for revocation of the license and may also result in collection actions or formal enforcement, including monetary penalties.

Code	Description (Category)	Type of fee	Basis (EXISTING LICENSE)(all fees below are compounded annually by the CPI)	2019 Median Base w/ annual compounded CPI (NEW LICENSE)	Water Quality Improvement surcharge
5A	residential OBD up to 600 GPD	annual fee	2019 bill amount	$329	$75
5B	residential OBD over 600 GPD	annual fee	2019 bill amount	$445	$75
5C	commercial OBD	annual fee	2019 bill amount	$634	$75
5D	publicly owned OBD up to 6,000 GPD	annual fee	2019 bill amount	$448	$75
5J	sanitary wastewater, commercial (non-OBD)	annual fee	2019 bill amount	$1,464	-
6A	POTW, <10K GPD, no sig. industrial waste	annual fee	2019 bill amount	$626	(see below[15])
6B	POTW, 10K to 100K GPD, no sig. industrial waste	annual fee	2019 bill amount	$795	(see below[15])
6C	POTW, 100K to 1M GPD, no sig. industrial waste	annual fee	2019 bill amount	$1,227	(see below[15])
6D	POTW, 1M to 5M GPD, no sig. industrial waste	annual fee	2019 bill amount	$2,588	(see below[15])
5M	POTW over 5 MGPD or with significant industrial waste	annual fee	2019 bill amount	$9,068	(see below[15])
5N	major industrial facility process water	annual fee	2019 bill amount	$39,182	-
5O	minor industrial facility process water	annual fee	2019 bill amount	$2,417	-
5P	food handling or packaging wastewater	annual fee	2019 bill amount	$1,311	-
6E	fish rearing facility <100K GPD	annual fee	2019 bill amount	$621	-

Code	Description (Category)	Type of fee	Basis (EXISTING LICENSE)(all fees below are compounded annually by the CPI)	2019 Median Base w/ annual compounded CPI (NEW LICENSE)	Water Quality Improvement surcharge
6F	fish rearing facility >100K GPD	annual fee	2019 bill amount	$1,580	-
5R	non-contact cooling water	annual fee	2019 bill amount	$381	-
5S	miscellaneous or incidental non-process wastewater from industrial or commercial sources	annual fee	2019 bill amount	$722	-
5T	municipal combined sewer overflow	annual fee	2019 bill amount	$820	(see below[15])
5U	aquatic pesticide application	annual fee	2019 bill amount	$1,280	-
5V	snow dumps	annual fee	2019 bill amount	$635	-
5W	salt and sand storage piles	annual fee	2019 bill amount	$852	-
5X	log storage permit	annual fee	2019 bill amount	$839	-
5Y	general permit coverage	annual fee	2019 bill amount	$326	-
5Z	experimental discharge license	annual fee	2019 bill amount	$1,790	-
51	creation of mixing zone	flat fee	$10,690	-	-
54	formation of sanitary district	flat fee	$800	-	-
6G	marine aquaculture facility	annual fee	2019 bill amount	$611	-
6H	marine aquaculture - general permit	annual fee	2019 bill amount	$266	-

[15]Water Quality Improvement fees for municipal dischargers and CSO communities total $25,000 and $12,000 respectively statewide. The statewide total CSO fee amount of $12,000 is divided among CSO communities based on their prior three-year average flows. The statewide total $25,000 closed area fee is divided among coastal communities based on estimates by the Department of Marine Resources of the acreage closed to harvest by each discharger.

III. The following fees are required for applications for property tax and sales and use tax exemption certification and for NPDES permit water quality certification.

Code	Description	Processing Fee	Licensing Fee
63	property tax exemption certification	$509	$42
64	sales & use tax exemption certification	$509	$42
68	water quality certification for a NPDES permit	-	-

Remediation & Waste Management – Oil

Code	Description	Processing Fee	Licensing Fee[16]
90	vessels at anchorage	-	(see below[16])
91	oil terminal / fixed facility	-	-
92	oil terminal/vessel	-	-
93	underground tank removal waiver	-	-
94	petroleum storage tank siting variance	-	-
97	waste oil storage facility	$2,500	$500

[16]Fee is ½¢ per deadweight ton each 30 days or part thereof at anchorage.

Remediation & Waste Management - Biomedical Waste

Code	Description	Processing Fee	Licensing Fee[17]

BA	biomedical waste transfer facility	$1,000	$500
BB	biomedical waste transfer facility license-by-rule	$500	$250
BC	biomedical waste treatment facility	$3,500	$1,000
BD	biomedical waste treatment facility - site law	$5,000	$1,000
BG	petition to use alternate treatment	$1,000	-
BWGS	biomedical waste generator registration – very small (<10 lb./mo.)	$50[18]	$25
BWGM	biomedical waste generator registration – small (10-50 lb./mo.)	$50[18]	$50
BWGL	biomedical waste generator registration – large (>50 lb./mo.)	$50[18]	$500

[17]Licensing Fee is assessed annually, unless noted otherwise.

[18]Initial registration fee.

Remediation & Waste Management - Hazardous Waste

Code	Description	Processing Fee	Licensing Fee[19]
H9	haz. waste ("hw") commercial storage facility	$2,500	$500
HA	hw/commercial storage facility subject to facility dev.	$2,500	$500
H8	hw/storage facility	$2,500	$500
HB	hw/storage facility subject to facility dev.	$2,500	$500
H7	hw/commercial treatment facility	$7,000	$1,000
HC	hw/commercial treatment facility subject to facility dev.	$7,000	$1,000
HD	hw/onsite treatment facility	$4,000	$1,000
HE	hw/onsite treatment facility subject to facility dev.	$4,000	$1,000
HF	hw/commercial disposal facility subject to facility dev.	$10,000	$1,500
HI	hw/disposal facility	$10,000	$1,500
H6	hw/disposal facility subject to facility dev.	$10,000	$1,500
H5	hw/commercial other facility	$2,500	$500
H4	hw/commercial other facility subject to facility dev.	$2,500	$500
H3	hw/other facility	$2,500	$500
H2	hw/other facility subject to facility dev.	$2,500	$500
H0	hw/commercial disposal facility	$10,000	$1,500
HW	hw - commercial combined facility	variable	variable
H1	hw - commercial combined facility subject to facility development	variable	variable
HX	hw - combined facility	variable	variable
HY	hw - combined facility subject to facility development	variable	variable
HZ	hw/mobile facility	$2,500	$500
HG	hw/post closure license	$2,000	$500
HJ	hw - post closure order	-	-
HK	hw - interim license	-	variable
HO	al/thermal treatment	$75/$400[20]	$100/$200[20]
HL	abbreviated license ("al") / beneficial reuse onsite	$75/$400[20]	$100/$200[20]
HM	al/beneficial reuse offsite	$75/$400[20]	$100/$200[20]
HN	al – elementary neutralization	$75/$400[20]	$100/$200[20]
HP	al/discharge to POTW's	$75/$400[20]	$100/$200[20]
HQ	al/reuse in wastewater treatment	$75/$400[20]	$100/$200[20]
HR	al/transfer facility	$400	-
HS	al/PCB storage	$400	$200
HT	al/precious metal recovery	$75/$400[20]	$100/$200[20]
HU	al/volume reduction unit	$75/$400[20]	$100/$200[20]
HV	al/other facility treatment in tank	$75/$400[20]	$100/$200[20]
RA	al/hazardous waste reuse in a solid form	$75/$400[20]	$100/$200[20]

Code	Description	Processing Fee	Licensing Fee[19]
RB	al/electronics demanufacturing facility	$75/$400[20]	$100/$200[20]

[19]Licensing Fee is assessed annually, unless noted otherwise.

[20]Lower amount is fee for ≤1,000 kilograms per month; higher amount is fee for >1,000 kilograms per month

Remediation & Waste Management - Solid Waste

Code	Description	Processing Fee	Licensing Fee
WB	existing, non-secure msw landfill <15,000 people	$7,139	$2,040[21]
WC	existing, non-secure msw landfill >15,000 people	$7,139	$7,139[21]
WD	secure landfill	$10,201	$17,340[21]
-	minor revision for secure landfill	$1,145	$190
WE	secure landfill for wood waste, land clearing, and demo debris	$5,728	$9,547[21]
-	minor revision for secure landfill for wood waste, land clearing, and demo debris	$572	$190
WF	non-secure landfill for wood waste, land clearing, and demo debris <6 acres	$1,336	$1,530[21]
WN	closing plan for secure landfills	$3,059	$3,059
WO	closing plan for non-secure landfills	$1,019	$1,019
W1	landfill closing plan, municipal, alt. approval	$509	$509
WP	application for an approval of a closure modification	$381	-
WQ	landfill - preliminary information reports	$356	$356
WR	landfill - license transfers	$1,019	$356
W5	public benefit determination	$334	$334
WG	incineration-MSW/special waste	$7,139	$10,201[21]
WW	incineration-license transfers	$356	$356
WH1	reduced procedure transfer station or storage facility	$1,126	$356[21]
WH	transfer station or storage facility	$1,530	$356[21]
WI	tire storage facility	$816	$917[21]
WK	processing facility other than composting	$1,427	$1,427[21]
WV	beneficial use - fuel substitution	$1,336	$954[21]
WL	on-going beneficial use other than utilization without risk-assessment	$1,336	$381[21]
WM	on-going beneficial use other than utilization with risk-assessment	$2,673	$954[21]
W3	one-time beneficial use other than utilization without risk-assessment	$1,336	$381
W4	one-time beneficial use other than utilization with risk-assessment	$2,673	$954
W7	beneficial use - reduced procedure	$736	$184[21]
W8	beneficial use – reduced procedure – one time	$736	$184
W2	beneficial use – authorization through notification	$194	$194[21]
WS	special waste disposal-one time < 6 cubic yards	$101	$101
WT	special waste disposal - one time > 6 cubic yards	$204	$204
WU	special waste disposal - routine	$612	$612
WX	license transfer other than landfill or incineration facility	$204	$204
WZ	pilot project	$101	$101
88	experimental license	$356	$356
-	permit by rule for on-going activities	$194	$194[21]
-	permit by rule for one-time activities	$194	$194

[21]The Licensing Fee is assessed annually. Additionally, beginning 5 years after the date the license is issued and in lieu of relicensing the facility every 5 years, an annual reporting fee is assessed. To calculate the **annual reporting fee**, add one-half the processing fee plus the full licensing fee, then divide that total by 5.

The fee for a **minor revision** at a solid waste facility other than a secure landfill is $381 **or** one half the processing fee plus one-half the licensing fee, whichever amount is less. The fee for a **condition compliance** is $192. The fee for an **amendment** is one-half the processing fee, plus one-half the licensing fee. Solid waste permits-by-rule and authorizations through notification cannot be transferred.

Remediation & Waste Management – Asbestos Abatement and Licensing

Code	Description	Processing Fee	Annual Certification and Licensing Fee
-	projects involving more than 100 sq. ft. or 100 linear ft. of ACM or any combination thereof, but less than 500 sq. ft. or 2,500 linear ft. of ACM[22]	$100	-
-	projects involving more than 500 sq. ft. or 2,500 linear feet of ACM, but less than 1,000 sq. ft. or 5,000 linear feet of ACM[22]	$150	-
-	projects involving more than 1,000 sq. ft. or 5,000 linear ft. of ACM or any combination thereof of ACM[22,23]	$300	-
-	asbestos abatement contractor	-	$650
-	asbestos consultant	-	$650
-	in-house asbestos abatement unit	-	$650
-	asbestos training provider[24]	-	$500
-	asbestos analytical laboratory	-	$400
-	asbestos abatement worker	-	$50
-	asbestos abatement project supervisor	-	$100
-	asbestos air monitor	-	$100
-	asbestos inspector	-	$100
-	asbestos abatement design consultant	-	$100
-	asbestos air analyst	-	$100
-	asbestos bulk analyst	-	$100
-	asbestos management planner	-	$100
-	reissuance of a certificate or photo ID card	-	$50

[22]For asbestos abatement activities at facilities for which an annual facility notification has been submitted, fees are per project and shall be submitted on a quarterly basis.

[23]Fees for condominium units and individual dwelling units operated as a residential cooperative, military or company house have an annual cap of $5,000. Fees shall be submitted on a quarterly basis.

[24]With prior written Department approval, the asbestos provider fees may be supplanted with the equivalent value of training of Department personnel.

An individual applying for **a certificate in more than one certification category** during the same calendar year must pay the fee for the highest category first and then pay $50 for each additional category.

Remediation & Waste Management – Lead Abatement Licensing and Certification

Code	Description	Certification and Licensing Fee
-	lead abatement worker	$75
-	lead abatement project supervisor	$125
-	lead inspector	$200
-	lead design consultant	$250
-	lead risk assessor	$250
-	lead abatement contractor	$275
-	lead consulting firm	$275

-	lead training provider[25]	$500

[25]With prior written Department approval, the lead training provider fees may be supplanted with the equivalent value of training of Department personnel.

Any individual applying **for certification for more than one discipline** shall pay the fee for the highest discipline plus $50 for each additional discipline.

Remediation & Waste Management - Septage Facilities

Code	Description	Processing Fee	Licensing Fee
S1	municipal septage management compliance (septage designation)	$101	$51
S2	septage non-utilization site (disposal)	$1,050	$509[26]
S3	septage utilization site	$1,050	$509[26]
S4	septage storage site	$101	$152[26]
S7	septage license transfer	$194	$194

[26]Licensing Fee assessed annually.

The fee for **minor revisions** is $381 **or** one half the processing fee plus one half the licensing fee, whichever amount is less. The fee for **condition compliance** is $192. The fee for **amendments** is one half the processing fee, plus one half the licensing fee. The fee for **renewals** is one half the processing fee, plus the full licensing fee.

Remediation & Waste Management - Sludge & Residuals

Code	Description	Processing Fee	Licensing Fee
SB	program approval - utilization of industrial sludge	$816	$816
SH	utilization w/program approval industrial sludge	$305	$509[27]
SC	program approval - utilization of municipal sludge	$612	$561
SI	utilization w/program approval municipal sludge	$152	$408[27]
SD	program approval - utilization of bioash	$612	$561
SJ	utilization w/program approval bioash	$152	$408[27]
SE	program approval - utilization of wood ash	$612	$152
SK	utilization w/program approval wood ash	$101	$255[27]
SF	program approval - utilization of food waste	$612	$152
SL	utilization w/program approval food waste	$101	$255[27]
SG	program approval - utilization of other waste	$612	$356
SM	utilization w/program approval other waste	$101	$255[27]
ST	utilization storage <3,500 cubic yards	$389	$340[27]
SU	utilization storage >3,500 cubic yards	$777	$340[27]
SV	utilization - other	$613	$356[27]
SX	utilization - license transfer	$204	$204
SY	utilization - one-time	$101	$101
SZ	utilization - pilot project	$101	$101
-	permit by rule for on-going activities	$194	$194[27]
-	permit by rule for one-time activities	$194	$194

[27]Licensing Fee assessed annually. Also, beginning 5 years after the date the license is issued and in lieu of relicensing the facility every 5 years, an annual reporting fee is assessed. To calculate the annual reporting fee, add one-half the processing fee plus the full licensing fee, then divide that total by 5.

The fee for **minor revisions** is $381 **or** one half the processing fee plus one half the licensing fee, whichever amount is less. The fee for **amendments** is one half the processing fee, plus one half the licensing fee. The fee for **condition**

compliance is $192. The fee for **amendments** is one half the processing fee, plus one half the licensing fee. Sludge and residuals program permits-by-rule cannot be transferred.

Remediation & Waste Management - Composting & Residual Processing

Code	Description	Processing Fee	Licensing Fee
CB	type IA leaf and yard waste	$305	$305[28]
CF	type IB & IC residual <750 yds3/yr	$305	$305[28]
CG	type IB & IC residual >750 yds3/yr	$305	$305[28]
CH	type II <3,500 yds3/yr	$1,336	$954[28]
CI	type II >3,500 yds3/yr	$2,673	$1,623[28]
CJ	type III <3,500 yds3/yr	$1,336	$954[28]
CK	type III >3,500 yds3/yr	$2,673	$1,623[28]
CL	all other septage and residual processing <750 yds3	$713	$713[28]
CM	all other septage and residual processing >750 yds3	$1,426	$1,426[28]
CX	compost - license transfer	$190	$190
CZ	compost - pilot project	$95	$95
-	permit by rule for on-going activities	$190	$190[28]
-	permit by rule for one-time activities	$190	$190

[28]Licensing Fee is assessed annually. Also, beginning 5 years after the date the license is issued and in lieu of relicensing the facility every 5 years, an annual reporting fee is assessed. To calculate the annual reporting fee, add one-half the processing fee plus the full licensing fee, then divide that total by 5.

The fee for **minor revisions** is $381 **or** one half the processing fee plus one half the licensing fee, whichever amount is less. The fee for **condition compliance** is $192. The fee for **amendments** is one half the processing fee, plus one half the licensing fee. Composting and residual processing permits-by-rule cannot be transferred.

Remediation & Waste Management – Bottle Bill

Code	Description	Annual Registration Fee	Annual Licensing Fee
K1	wine registration fee	$1	-
K2	all other beverage label registration fee	$4	-
K3	initiator of deposit license fee for brewer/vintner and small beverage manufacturers producing less than 50,000 gallons annually	-	$50
K4	initiator of deposit license fee for water bottlers producing less than 250,000 containers annually	-	$50
K5	initiator of deposit license fee for all others	-	$500
K6	contracted agent licensing fee	-	$500
K7	redemption center licensing fee	-	$100

ENVIRONMENTAL
Fact Sheet

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

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ARD-60 2020

Asbestos Certification and Licensing Requirements

As described in RSA 141-E and Env-A 1800, *Asbestos Management and Control*, NHDES has the authority to issue seven categories of asbestos certifications and two types of asbestos licenses. Each certification and license is designed to ensure that every individual and entity performing asbestos work in New Hampshire is correctly trained and qualified to do the work. To ensure that applications can be processed in a timely manner, NHDES requires that the application is completely and accurately filled out with all required attachments and fees. Individuals and entities must not engage in any work activities until NHDES has issued a certificate or license. Each certificate or license type is described below.

Asbestos Worker Certificate:
An asbestos abatement worker can perform asbestos abatement work under the authority of a licensed asbestos abatement entity and the direct supervision of a NH certified asbestos abatement supervisor.

Asbestos Abatement Supervisor Certificate:
An Asbestos Abatement Supervisor can perform minor asbestos abatement projects, as defined in Env-A 1802.36 under their own authority, and supervise certified asbestos abatement workers at major asbestos abatement projects performed under the authority of a NH licensed asbestos abatement entity.

Asbestos Inspector Certificate:
An Asbestos Inspector can perform inspections in schools under the Asbestos Hazard Emergency Response Act (AHERA).

Asbestos Management Planner Certificate:
An Asbestos Management Planner can prepare asbestos management plans for public and private, non-profit K-12 schools in NH.

Asbestos Project Designer Certificate:
An Asbestos Project Designer can prepare project designs for asbestos abatement projects to be performed within public and private, non-profit K-12 schools in NH.

ADS Worker Certificate:
An Asbestos Disposal Site (ADS) Worker can supervise ADS Workers-In-Training at ADS sites. An ADS worker is qualified to disturb waste at ADS locations across the state.

ADS Worker in Training Certificate:

An ADS Worker-in-Training can work at an ADS location in NH, under the direct supervision of an experienced and certified ADS worker.

Entity License:
An Asbestos Abatement Entity license allows an Asbestos Abatement Company (Entity) to perform major asbestos abatement projects including, stripping, encapsulating or enclosing of asbestos containing building materials (ACBM) present in or on public and private residential, industrial, and commercial buildings as well as structures and equipment located within New Hampshire.

ADS Contractor License:
An Asbestos Disposal Site (ADS) Contractor license allows the ADS company to perform construction activities at a New Hampshire ADS, that would involve the removal, consolidation or capping of asbestos waste located on or below ground surface.

Asbestos Certificate	Application Attachments	Fee
Worker	Current training certifications	$50 Per Worker
Supervisor	Current training certifications; Documentation of 12 months of work experience	$200 Per Worker
Inspector	Current training certifications; Documentation of either 6 months of experience in comparable occupation or 2 months of field experience under a certified inspector or management planner	Initial $200 fee per worker*
Management Planner	Current training certificates; Documentation of associate degree or 2-year certification in related field; Documentation of 6 months of experience in asbestos work.	Initial $200 fee per worker*
Project Designer	Current training certificates, documentation of at least 12 months experience and bachelor's degree in related field OR at least 12 months of experience in asbestos abatement and registered as an architect or engineer OR at least 2 years of experience in asbestos abatement work and design.	Initial $200 fee per worker*
ADS Worker/ ADS Worker in Training	Documentation showing applicant completed basic ADS training; records of a NHDES ADS exam being passed (70 or above) within the last 6 months; work experience record signed by work supervisors.	$50
	*Each additional certification of management planner, project designer, or inspector for the same worker is $50.	$50
Asbestos License	**Application Attachments (Must register with secretary of state)**	**Fee**
Asbestos Entity License	Documentation that a responsible person, employed by the company has completed a contractor/supervisor training course. For renewal, a detailed list of jobs performed by the entity in the last 12 months.	$1000 New $750 Renewal
ADS Contractor License	Complete application only.	$250

Readopt with amendment He-P 1601-1605, effective 9-1-11 (Document #9986), cited and to read as follows:

CHAPTER He-P 1600 LEAD POISONING PREVENTION AND CONTROL

PART He-P 1601 PURPOSE AND SCOPE

He-P 1601.01 Purpose**.**

(a) The lead paint poisoning prevention and control rules are adopted to implement the requirements of the New Hampshire Lead Paint Poisoning Prevention and Control Act, RSA 130-A.

(b) The lead paint poisoning prevention and control rules set forth standards and requirements for lead hazard reduction and inspection, licensing of lead inspectors, risk assessors, lead abatement contractors, and owner-contractors, certification of lead abatement workers and lead abatement supervisors, and for blood lead reporting by laboratories, as required by RSA 130-A, 15 USC 2681-2692, 40 CFR 745.226 and 42 USC 4821-4856.

He-P 1601.02 Scope**.**

(a) The lead paint poisoning prevention and control rules shall apply after an investigation by the commissioner identifies lead exposure hazards, or to persons engaged in lead hazard reduction as defined in He-P 1602.01(ax), or to any person subject to the provisions of RSA 130-A.

(b) Pursuant to Part 1, Article 28-a of the Constitution of New Hampshire, political subdivisions shall be exempt from the provisions of RSA 130-A and He-P 1600, except for the licensing and certification of lead educational programs and lead professionals as detailed in He-P 1611 and He-P 1612, unless:

(1) The programs and responsibilities imposed under RSA 130-A and the rules are fully funded by the State; or

(2) The subdivisions voluntarily and at their own expense comply.

PART He-P 1602 DEFINITIONS

He-P 1602.01 Definitions**.**

(a) "Abatement" means measure(s) designed to permanently eliminate lead-based paint hazards as defined in 40 CFR Part 745.223 including:

(1) Activities resulting in the permanent elimination of lead-based paint hazards, including all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures conducted by individuals certified or licensed in accordance with He-P 1612;

(2) Activities resulting in the permanent elimination of lead-based paint hazards that are conducted in response to an investigation, an order of lead hazard reduction or other enforcement action undertaken by the commissioner pursuant to RSA 130-A:5 or RSA 130-A:7, or by a local health department pursuant to RSA-130-A:11, II; or

(3) Any other measures or set of measures conducted in, or to, a residential dwelling, dwelling unit, or child-care facility designed to permanently eliminate lead-based paint hazards.

a. A lead abatement supervisor to teach a lead abatement worker or lead abatement supervisor program;

b. A lead inspector or lead risk assessor to teach a lead inspector program; or

c. A risk assessor to teach a lead inspector or lead risk assessor program;

(3) Have at least 12 hours of demonstrated classroom experience teaching workers or adults during the previous 6 months;

(4) Maintain professional competency by attending at least 12 hours of continuing education each licensing year in subject areas including, but not limited to, worker safety, hands-on skills, or related lead paint subject matter; and

(5) Organize and teach the program.

(e) The program manager shall notify the department in writing at least 30 days prior to making any changes in staff, course content, hands-on skill equipment, or classroom facilities, including documentation of the new instructor's qualifications and a description of any other program changes, as applicable.

(f) At least 10 days prior to the start of an educational program, the program manager shall provide the department with the following information:

(1) Date, time, and location of the scheduled program; and

(2) Name(s) of the program manager and all principal and guest instructors.

(g) A representative of the department shall be allowed to monitor and audit each program and to take the written examination without cost to the department.

(h) The program manager shall maintain records for a minimum of 5 years and make them available to the department upon request including:

(1) The title of each educational program presented;

(2) The dates when the program was presented;

(3) The name, address, and date of birth of each student who successfully completed the program; and

(4) The unique certificate number for each student who successfully completed the program;

He-P 1611.02 Certification of Lead Educational Programs.

(a) Any person or entity offering or providing lead educational programs for individuals to be licensed or certified by the state of New Hampshire as lead abatement workers, lead abatement supervisors, lead inspectors, or lead risk assessors shall be certified by the department in accordance with this section.

(b) The department shall certify the following programs:

(1) Lead abatement worker – initial or refresher;

(2) Lead abatement supervisor – initial or refresher;

(3) Lead inspector – initial or refresher;

(4) Lead risk assessor – initial or refresher; and

(5) State of New Hampshire rules course which shall focus on the specific New Hampshire requirements of RSA 130-A and He-P 1600 for those seeking reciprocity.

(c) No provider shall be certified to offer a refresher program without being certified to offer an initial program in the same discipline.

(d) Fees shall be as follows:

(1) For initial applicants for certification of a lead educational program:

a. The application fee shall be $300;

b. To teach a lead abatement worker course, lead abatement supervisor course or any combination of the 2, the fee shall be $200;

c. To teach a lead inspector or lead risk assessor course or any combination thereof, the fee shall be $200; and

d. To teach a NH rules course for those seeking reciprocity, the fee shall be $200; and

(2) For renewal applicants for certification of a lead educational program the application fee shall be $300.

(e) Any added disciplines or revision of course materials beyond those required by He-P 1611.01(c)(8)(b) shall be considered an initial application and follow the fee structure in (1) above; and

(f) Any lead educational program whose certificate has expired by more than 30 days shall complete an initial application and follow the fee structure in (1) above.

(g) All fees shall be non-transferable and non-refundable.

(h) The department shall process all applications under this section in accordance with RSA 541-A:29.

(i) Each applicant for certification as a lead educational program provider shall submit the following to the department at least 120 days prior to the anticipated start date of the program:

(1) A completed "Request for Training Program Certification" application (May 2020) indicating the program(s) for which certification is being requested certifying the following:

"I certify that I have read, understand, and agree to comply with the New Hampshire Lead Poisoning Prevention Rules (He-P 1600) and the Lead Poisoning Prevention Statute (RSA 130-A). I further certify that all information contained herein, including any supplements

(8) If renewing a lead inspector or risk assessor license proof of competency, as described in He-P 1612.02(e)(4) or He-P 1612.02(f)(4).

(d) A license or certificate shall be renewed if the department determines that the licensee or certificate holder:

(1) Submitted an application containing all the items required by (b) and (c) above, as applicable, no later than 60 days before the expiration of the current license or certificate; and

(2) Has paid all outstanding administrative fines that have been imposed by the department.

(e) The department shall deny a licensing or certification renewal request in accordance with He-P 1606.03.

(f) Any licensee or certificate holder who has failed to pay an outstanding administrative fine that has been imposed by the department shall submit full payment as a condition of licensure or certification renewal.

(g) If an individual's New Hampshire license or certificate lapses, the individual shall not engage in lead hazard reduction activities.

(h) If an individual's New Hampshire license or certificate lapses, the individual may apply for a new license or certificate, in accordance with He-P 1612.05 without successfully completing the initial educational program if the individual's:

(1) Proficiency examination results are at least 70% and less than 3 years old for the examination described in He-P 1612.04(a)(2);

(2) Annual ongoing education requirements listed in He-P 1612.02 are current; and

(3) The renewal application is received by the department within 6 months after the expiration of the current license or certificate.

(i) Duplicate licenses shall be obtained by submitting a written request to the department with a current, clear photograph of the licensee and corresponding fee as listed in He-P 1612.08(a)(7).

(j) Duplicate licenses shall not be issued if the approved license or certificate has expired.

He-P 1612.08 License and Certificate Fees.

(a) Fees for initial and renewal licenses or certificates shall be as follows:

(1) For a lead abatement worker, $75.00;

(2) For a lead abatement supervisor, $125.00;

(3) For a lead abatement contractor, $300.00;

(4) For an owner-contractor with 4 to 6 dwelling units, $150.00;

(5) For a lead inspector, $100.00;

(6) For a risk assessor, $250.00;

(7) For a duplicate license, $15.00;

(8) There shall be no fee for an owner-contractor with less than 4 dwelling units; and

(9) Individuals applying for more than one discipline shall pay the highest fee plus $25 per additional discipline.

(b) Application fees received by the department are non-transferable and non-refundable.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 1608.04(a)(1), (a)(2), (b), (d)(3), and (e); He-P 1608.07(a), (c)(2); He-P 1608.08(a); He-P 1608.12(h) and (i); He-P 1608.14(h), (i); He-P 1611.03(b)(2)b.2., (d)(2)b.2.; and He-P 1612.04(a)(2)	"Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (2012 Edition)	Publisher: U.S. Department of Housing and Urban Development Cost: Free to the Public The incorporated document is available at: https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines
He-P 1608.12(g)(4), and He-P 1609.03(c)(2)	ASTM E1796-03, "Standard Guide for Selection and Use of Liquid Coating Encapsulation Products for Leaded Paint in Buildings" (2016 edition)	Publisher: ASTM International Cost: $48.00 The incorporated document is available at: https://www.astm.org/Standards/E1796.htm
He-P 1609.03(q)(1)	ASTM E 1795-17, "Standard Specifications for Non-Reinforced Liquid Coating Encapsulation Products for Leaded	Publisher: ASTM International Cost: $48.00 The incorporated document is available at: **http://www.astm.org/cgi-bin/resolver.cgi?E1795**

Maine Department of Environmental Protection

Safer Chemicals - Fee Structure Policy for Manufacturers of Regulated Products

Maine law 38 M.R.S. §§ 1691-1699-B and 06-096 C.M.R. ch. 881 authorizes the Department to collect fees from regulated entities reporting Priority Chemicals in products sold in Maine.

The Department's fee structure starts with a base fee and then puts emphasis on the number of product categories and the number of units sold contained in a single report.

Base Fee: $100

Dollar Amount	Number of Product Units Sold in Maine Reported
$50	< 50,000
$100	50,001 - 200,000
$150	200,001 - 450,000
$200	450,001 - 600,000
$250	600,001 - 750,000
$300	> 750,000

Fee Calculation Formula

Base Fee + Dollar Amount for Number of Units Sold for Each Product Category = Fee

Example

Manufacturer Y Inc. reported Priority Chemical B in 5 product categories:

1 category reported for < 50,000 Units Sold: $50 * 1 category
4 categories reported for 125,000 Units Sold: $100 * 4 categories

Fee Calculation: Base $100 + $50 + $400 = **$550 Fee**

Credits

Chapter 1 – Board Rules

Subchapter 1 –

RULES OF THE BOARD OF MEDICAL PRACTICE

SECTION I. GENERAL PROVISIONS

1.0 Overview

1.1 Purpose

The purpose of the Board of Medical Practice is to protect the public health, safety and welfare. The Board does this by setting standards for issuing licenses and certifications, by licensing and certifying only qualified applicants, by investigating unprofessional conduct and unlicensed practice of medicine, by disciplining and regulating the practices of license and certificate holders, and by providing licensees with guidelines, policies, and continuing medical education.

1.2 Authority

This rule is adopted pursuant to 26 V.S.A. § 1351(e) and 3 V.S.A. § 831(d).

1.3 Scope

This rule establishes requirements for the licensing or certification, and regulation of physicians, physician assistants, podiatrists, anesthesiologist assistants, and radiologist assistants by the Board of Medical Practice.

2.0 Definitions

2.1 "ABMS" means the American Board of Medical Specialties.

2.2 "Accredited Medical School" means a medical school accredited by the LCME or the Canadian equivalent.

2.3 "ACGME" means the Accreditation Council for Graduate Medical Education.

2.4 "AMA" means the American Medical Association.

2.5 "Board" means the Board of Medical Practice created by 26 V.S.A. Chapter 23.

2.6 "Board-approved medical school" means a medical school that:

2.6.1 Appears on the official California Recognized Medical Schools list; or

2.6.2 A foreign medical school that has been accredited under the system for medical school accreditation established by the Educational Commission for Foreign Medical Graduates (ECFMG) and deemed to meet the minimum requirements substantially equivalent to the requirements of medical schools accredited by the Liaison Committee on Medical Education or the Committee on Accreditation of Canadian Medical Schools; or

2.6.3 A medical school that was approved as provided by the standards established by the United States National Committee on Foreign Medical Education and Accreditation Certification, but only if the applicant holds American Board of Medical Specialties board certification, or meets all eligibility requirements for such certification and is only lacking current licensure.

2.7 "CACMS" means the Committee on Accreditation of Canadian Medical Schools.

2.8 "CFPC" means the College of Family Physicians of Canada.

2.9 "CME" means continuing medical education as defined by the Accreditation Council for Continuing Medical Education (ACCME).

2.10 "CPME" means Council on Podiatric Medical Education of the American Podiatric Medical Association.

2.11 "ECFMG" means the Educational Commission for Foreign Medical Graduates.

2.12 "Fifth pathway" means a program of medical education that meets the following requirements:

2.12.1 Completion of two years of pre-medical education in a college or university of the United States.

2.12.2 Completion of all the formal requirements for the degree corresponding to doctor of medicine except internship and social service in a medical school outside the United States which is recognized by the World Health Organization.

2.12.3 Completion of one academic year of supervised clinical training sponsored by an approved medical school in the United States or Canada.

2.12.4 Completion of one year of graduate medical education in a program approved by the Liaison Committee on Graduate Medical Education of the American Medical Association.

2.13 "FLEX" means the Federation Licensing Examination.

2.14 "Foreign medical school" means a legally chartered medical school in a sovereign state other than the United States or Canada.

2.15 "Immediate family" means the following: a spouse (or spousal equivalent), parent, grand-parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or any other person who is permanently

residing in the same residence as the licensee. The listed familial relationships do not require residing in the same residence.

2.16 "Lapsed license" means a license that has expired or is no longer valid due to the licensee's failure to complete the requirements for renewal of that license.

2.17 "Limited temporary license" means a license issued for the purpose of completing post-graduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed physician in an ACGME-accredited training program.

2.18 "LCME" means the Liaison Committee on Medical Education of the AMA.

2.19 "LMCC" means the Licentiate of the Medical Council of Canada.

2.20 "MCCQE" means Medical Council of Canada Qualifying Examination.

2.21 "National Boards" means the examination given by the National Board of Medical Examiners.

2.22 "NCCPA" means National Commission for the Certification of Physician Assistants.

2.23 "PA" means physician assistant.

2.24 "Participating Physician" means a medical doctor or osteopathic physician who holds a full Vermont medical license, who meets the requirements of Vermont law and this rule to be the Participating Physician for a PA, and who has executed a practice agreement to act as the Participating Physician for a Vermont PA.

2.25 "Physician" means a medical doctor or holder of an equivalent degree that qualifies a person to be licensed as an allopathic physician. It does not mean doctor of osteopathy when used in this rule unless specified.

2.26 "PMLexis" means the Podiatric Medical Licensure Examination for States.

2.27 "Professional" means a member of one of the health care professions licensed by the Board: medical doctor; physician assistant; podiatrist; anesthesiologist assistant, and radiologist assistant.

2.28 "RCPSC" means the Royal College of Physicians and Surgeons of Canada, which is the accrediting body for postgraduate medical education in Canada.

2.29 "RRC" means the Residency Review Committee of the ACGME.

2.30 "Specialty Board certification" means the certification granted upon successfully completing the educational and examination requirements of a specialty board of the American Board of Medical Specialties.

2.31 "USMLE" means the United States Medical Licensing Examination.

2.32 "Verification" means documentation that is provided to the Board that comes directly from the original issuing authority, or recognized successor entity, in a format acceptable to the Board, or from the Federation Credential Verification Service (FCVS) or other record repository as may be recognized by the Board.

2.33 "V.S.A." means Vermont Statutes Annotated.

3.0 Hearings Before the Board

3.1 **Hearing Panel:** The Executive Director may designate a hearing panel of no fewer than 3 members, with a minimum of one public member and one physician member of the Board, to conduct hearings that would otherwise be heard by the full Board. When a hearing is conducted by a hearing panel, the panel shall report its findings and conclusions to the Board within 60 days of the conclusion of the hearing unless the Board grants an extension.

3.2 **Full Board Hearing:** Hearings before the Board require five members, including at least one public member and at least one physician member. Members of a hearing panel designated under section 26 V.S.A. § 1372 shall not participate in or be present during deliberations of the Board but may be present for all other parts of the hearing.

3.3 Hearings shall be open to the public, except when required or permitted to be closed pursuant to law.

4.0 Applicant's Right to a Written Decision

4.1 The Board must document, in writing, all decisions on whether an applicant is granted or denied a license or certification. The Board may stay its decision on an application for a license or certification from an applicant who is the subject of an unresolved licensing board investigation or a criminal complaint in another jurisdiction that involves or relates to the practitioner's care of patients or fitness to practice medicine. If an application is stayed, the Board may require the applicant to update some or all parts of the application when the stay is removed and the application is to be considered.

4.2 Whenever the Board intends to deny an applicant a license, it shall first issue a Notice of Intent to Deny, which shall include:

4.2.1 The specific reasons for the license denial;

4.2.2 Notice that the applicant has the right to request a hearing at which the Board shall review the preliminary decision, and that such request must be filed with the Board within 30 days of the date the decision was sent to the applicant.

4.3 If the applicant requests a hearing in writing, a hearing panel shall be appointed as provided by 26 V.S.A. § 1372 and 26 V.S.A. § 1398.

4.4 At the hearing to review the preliminary decision to deny the license application, the applicant shall be given the opportunity to show compliance with the licensing requirements.

4.5 After the hearing, the Board shall affirm or reverse the preliminary decision, and shall issue a final written decision and order setting forth its reasons for the

decision. The decision and order shall be signed by the chair or vice-chair of the Board and the Board shall enter the order. A decision and order is effective upon entry.

4.6 Notice of both the preliminary decision and the final decision and order shall be sent to the applicant by certified mail.

5.0 Applicant's Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision to the Vermont Supreme Court, as provided by 26 V.S.A. § 1367, by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice. For further rules concerning appeals, see 3 V.S.A, ch. 25 Administrative Procedures and the Vermont Rules of Appellate Procedure.

6.0 Fees

6.1 Application fees are established in 26 V.S.A. § § 374, 378, 1401a, 1662, 1740, and 2862.

6.2 Physician fee waivers.

6.2.1 Pro Bono Clinic Waiver. A physician who will limit practice in Vermont to providing pro bono services at a Board-recognized free or reduced fee health care clinic, as provided by 26 V.S.A. § 1401a(c), shall meet all license requirements, but may apply for a waiver of licensing fee, by submitting a fee waiver request to the Board which shall include the following information:

6.2.1.1 The name and address of the free or reduced fee health clinic(s) where the pro bono services shall be performed;

6.2.1.2 Certification that the licensee shall perform only pro bono services in Vermont, and shall only perform such services at the listed clinics;

6.2.1.3 The clinic director's certification that the licensee shall perform only pro bono services at the clinic.

6.2.2 Medical Reserve Corps Waiver. A physician who will limit practice in Vermont to service with the Medical Reserve Corps, as provided in 26 V.S.A. § 1401a(c) shall meet all license requirements, but may apply for a waiver of licensing fee, by submitting a fee waiver request to the Board using the appropriate form.

6.2.3 A physician granted a waiver request must reapply for the waiver at each biennial renewal. A physician may obtain a fee waiver under each basis; if volunteering under each basis, the necessary documentation must be submitted for each. The licensee's failure to follow the terms of the certifications submitted or the provisions of this rule may constitute

unprofessional conduct as set forth in 26 V.S.A. §§ 1354 and 1398 and may result in disciplinary action.

7.0 Renewing a License or Certification

7.1 Licenses and certifications are renewed on a fixed biennial schedule. A professional must renew his or her license or certification before it lapses. The date on which a license or certification shall lapse is printed on it. 90 days before such date, the Board will provide each professional with notice of renewal to the email address last provided to the Board. If a professional does not complete the renewal application, submit all required documentation, and pay the renewal fee to the Board by the date on which the license or certification shall lapse, the license or certification will lapse automatically.

7.2 A professional whose initial license or certification is issued within 90 days of the next-occurring renewal date, will not be required to renew or pay the renewal fee. Instead, the license or certification will be issued with an expiration date at the end of the next full period of licensure or certification. A professional who is issued an initial license or certification more than 90 days prior to the next-occurring expiration date will be required to renew and pay the renewal fee or the license or certification will lapse.

7.3 Professionals have a continuing obligation during each two-year renewal period to promptly notify the Board of any change to the answers on the initial or renewal application last filed with the Board, including but not limited to disciplinary or other action limiting or conditioning the license, certification, or ability to practice in any jurisdiction. Failure to do so may subject the professional to disciplinary action by the Board.

7.4 Limited training licenses (LTLs) are issued on a fixed annual schedule. Otherwise, these provisions apply to holders of LTLs.

7.5 Additionally, specific requirements for renewal as a physician assistant, radiologist assistant, or anesthesiologist assistant are listed in the sections specific to those professions.

8.0 Lapsed Licenses or Certifications

If a license or certification has not been renewed by the required date, it lapses. A professional regulated by the Board may not legally practice in Vermont after a license or certification has lapsed. The professional must halt practice immediately and completely until the license or certification has been reinstated.

9.0 Reinstatement of a License or Certification

9.1 Reinstating a License or Certification after It Has Been Lapsed for Less Than One Year (364 days or fewer).

9.1.1 To seek reinstatement after failing to renew, a professional must complete in full the renewal application and tender it to the Board with any required documentation and a late fee, in addition to the fee required for renewal, within a year of lapsing. The Board may seek or request such additional information as it deems needed to make a determination as to the renewal application. The Board may deny the renewal of a license or certification on grounds of unprofessional conduct as set forth under Vermont law, after notice and opportunity to be heard has been provided to the professional.

9.2 Reinstating a License or Certification after It Has Lapsed for One Year or More (365 days or more).

9.2.1 If a license or certification has been lapsed for one year or more the professional must complete a reinstatement application in full and pay the application fee for an initial application. The reinstatement application requires additional information beyond that required in the standard renewal application. This includes but is not limited to the requirement to submit a chronological accounting of all professional activities in other jurisdictions during the period the Vermont license or certification was lapsed.

9.2.2 The professional submitting a renewal for a license or certification lapsed for one year or more must provide:

9.2.2.1 For physicians or any other professional who held hospital privileges, a form completed by the chief of staff of the hospital where privileges were most recently held during the period when the Vermont license was lapsed;

9.2.2.2 For professionals who are required to practice under supervision, a form completed by each supervisor who provided supervision during the period when the Vermont license or certification was lapsed; and

9.2.2.3 A verification from each state in which the professional held an active license or certification during the period when the Vermont license or certification was lapsed.

9.2.3 Reinstatement may be denied on grounds of unprofessional conduct as set forth under Vermont law or for other good cause, after notice and opportunity to be heard has been provided to the professional. The provisions of section 4.0 regarding license denial apply to denial of reinstatement.

10.0 Stale Applications

10.1 An application that becomes stale under these provisions is terminated without Board action and without refund of any fees paid.

10.2 An application becomes stale if six months pass from the time that the applicant is notified that additional information or documentation is needed and the information or documentation has not been provided. Once an application has become stale, verifications and documentation as determined by the Board must be resubmitted and the fee must be paid again if the applicant desires to resume the application process.

10.3 An application that has been forwarded to the licensing committee may be determined by the licensing committee to be incomplete. An application becomes stale while before the licensing committee if the licensing committee requests additional information and the information is not submitted within sixty days. An applicant may request more time from the licensing committee, which shall rule finally on all matters of whether the application was completed in a timely matter.

11.0 Enforcement of Child Support

The Board licenses or certifies five professions: Physicians, Physician Assistants, Podiatrists, Anesthesiologist Assistants, and Radiologist Assistants. Per 15 V.S.A. § 795, the Board may not issue or renew a professional license or certification to practice these professions or be a trainee if the applicant is under an obligation to pay child support and is not in good standing or in full compliance with a plan to pay the child support due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is not under an obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed.

12.0 Tax Compliance

The Board licenses or certifies five professions: Physicians, Physician Assistants, Podiatrists, Anesthesiologist Assistants, and Radiologist Assistants. Per 32 V.S.A. § 3113, the Board may not issue or renew a professional license or certification to practice those professions or be a trainee unless the applicant is in good standing with respect to or in full compliance with a plan to pay any and all taxes due. The Board requires that each applicant for the issuance or renewal of a license or certification sign a statement that the applicant is in good standing with respect to or in full compliance with a plan to pay any and all taxes due.

13.0 Professional Standards.

13.1 Change of Name or Address.

All professionals are responsible for notifying the Board within 10 days of any change of name, mailing address, or telephone number. All professionals who hold a Vermont license or certification are required to keep the Board informed of a current email address; email is used to provide important notices to all professionals regulated by the Board. A professional who holds a Vermont

license but who has not been engaged in practice in Vermont shall notify the Board at least 30 days in advance of the intended starting date of the Vermont practice.

13.2 Self-Prescribing and Prescribing for Family Members.

13.2.1 Controlled Substances: It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe or dispense controlled substances listed in US Drug Enforcement Agency ("D.E.A.") Schedules II, III, or IV for the licensee's own use. It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe or dispense Schedule II, III, or IV controlled substances to a member of the licensee's immediate family, as defined in subsection 2.16, except in a bona fide emergency, of short-term and unforeseeable character. Prescribing for self or immediate family members, as defined in this rule, constitutes a violation of 26 V.S.A. § 1354.

13.2.2 Non-controlled Substances: It is discouraged for a licensee to prescribe or dispense non-controlled prescription substances for the licensee's own use. It is also discouraged for licensee to prescribe or dispense non-controlled prescription substances to a member of the licensee's immediate family, as defined in subsection 2.16. Licensees who do prescribe non-controlled substances for their own use or that of a family member are required to meet all standards of appropriate care, including proper establishment of a professional relationship with the patient and maintenance of appropriate patient records.

13.3 Methadone Prescribing. Federal law prohibits prescribing methadone outside of a certified opioid treatment program, unless it is prescribed or dispensed as an analgesic. A licensee must include the words "FOR PAIN" in a prescription for methadone.

SECTION II. PHYSICIANS

14.0 License Required

No one may practice medicine in the state unless licensed by the Board, or when exempt under the provisions contained in 26 V.S.A. § 1313. Before allowing a physician who is not licensed in Vermont to practice pursuant to the exemption stated in 26 V.S.A. §1313(a)(4), a medical school or teaching hospital must first verify through primary source verification the physician's qualifications and credentials, including that the physician has a valid, unrestricted license to practice medicine in the current jurisdiction of practice. Such documentation shall be submitted to the Executive Director for review; the Executive Director may approve the exemption or may elect to refer the matter to the Licensing Committee and/or Board. If referred directly to the Board, there is no requirement for review by the Licensing Committee.

15.0 Requirements for Licensing

15.1 In order to be granted a license to practice medicine an applicant must meet the following eligibility requirements:

15.1.1 At least 18 years of age;

15.1.2 Competent in speaking, writing, and reading the English language;

15.1.3 Completed high school and at least two years of college or the equivalent;

15.1.4 A graduate of a Board-approved medical school, or a medical school accredited by the LCME or CACMS;

15.1.5 Meets the Board's criteria for Postgraduate Training;

15.1.6 Meets the Board's criteria for License by Examination; or License by Appointment to the faculty of a Vermont medical college; and

15.1.7 Meets requirement for moral character and professional competence.

15.2 For each applicant for licensure as a physician the Board must receive, in a form satisfactory to the Board:

15.2.1 A complete online application;

15.2.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

15.2.3 If applicable, an ECFMG certificate. An ECFMG certificate is required if an applicant graduated from a medical school outside of the United States or Canada, unless the applicant successfully completed a fifth pathway program.

15.2.4 Evidence of completion of high school and at least two years of college;

15.2.5 For each medical school attended, the Uniform Application Medical School Verification Form for primary source documentation of graduation from a Board-approved medical school or a medical school accredited by the LCME or CACMS;

15.2.6 For each postgraduate training program attended, the Uniform Application Postgraduate Training Verification Form for primary source documentation of all postgraduate training;

15.2.7 Verification of every medical license ever held in any state, territory, or province to practice medicine at any level, including permanent, temporary, and training licenses.

15.2.8 Verification of medical licensing examination results; sent directly by the applicable examining authority in accordance with the Board of Medical Practice examination requirements;

15.2.9 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician staff members of the hospital where the applicant currently holds, or most recently held, privileges. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other physicians who have knowledge of the applicant's moral character and professional competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard;.

15.2.10 The Uniform Application Affidavit and Authorization for Release of Information Form;

15.2.11 American Medical Association Profile. This must be a current Profile issued within 60 days of submission of the application;

15.2.12 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application;

15.2.13 The applicant's CV (curriculum vitae) or résumé; and

15.2.14 If specialty board-certified, a copy of the specialty board certificate.

15.3 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

15.4 At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

16.0 Satisfaction of Licensing Requirements by Practice in Another United States Jurisdiction

16.1 A physician can meet the licensing requirements stated in Sections 15.1.2 and 15.1.6 by demonstrating that:

16.1.1 they have been practicing medicine full-time in another United States jurisdiction while continuously holding a full, unrestricted, and unlimited license in good standing for at least three years preceding the day on which the Vermont license is to be granted; and

16.1.2 they meet the education and training requirements stated in 26 V.S.A. § 1395(a).

16.2 For each applicant for licensure as a physician under 26 V.S.A. § 1395(a) the Board must receive, in a form satisfactory to the Board:

16.2.1 A complete online application;

16.2.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

16.2.3 For each medical school attended, the Uniform Application Medical School Verification Form for primary source documentation of graduation from a Board-approved medical school or a medical school accredited by the LCME or CACMS;

16.2.4 For each postgraduate training program attended, the Uniform Application Postgraduate Training Verification Form for primary source documentation of all postgraduate training;

16.2.5 Verification of the medical license that the applicant relies upon to qualify to apply under the endorsement procedure;

16.2.6 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician staff members of the hospital where the applicant currently holds, or most recently held, privileges. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other physicians who have knowledge of the applicant's moral character and professional competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard;.

16.2.7 The Uniform Application Affidavit and Authorization for Release of Information Form;

16.2.8 American Medical Association Profile. This must be a current Profile issued within 60 days of submission of the application;

16.2.9 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application;

16.2.10 The applicant's CV (curriculum vitae) or résumé; and

16.2.11 If specialty board-certified, a copy of the specialty board certificate.

16.3 All applicants must submit a completed Board endorsement application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

16.4 At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

17.0 License by Examination

17.1 All applicants entering the examination system after December 31, 1994 must use and pass the USMLE three-step sequence. Primary source documentation of a passing grade on each of the three USMLE steps is required. All three steps must be completed within seven (7) years of the first examination attempt, or ten (10) years if the applicant completed an MD/PhD or equivalent program. Applicants may retake USMLE Step I and II multiple times without limit until successful, subject to the time limit of seven or ten years. Applicants may retake USMLE Step III two times, for a total of three attempts. Additional attempts, even if successful, do not qualify the applicant for a Vermont license unless granted a waiver as provided in Section 17.2 below.

17.2 Applicants who do not meet the requirement to have passed all three Steps of the USMLE within a seven-year period, or ten-year period for an MD/PhD applicant, or have required more than three attempts to pass Step III may apply for a waiver of the requirement if they meet all the following criteria:

17.2.1 Hold a full unrestricted license in another U.S. or Canadian jurisdiction;

17.2.2 Hold an active ABMS, RCPSC, or CFPC specialty certification; and

17.2.3 Have successfully completed an ACGME, RCPSC, or CFPC approved post-graduate training program.

17.3 Applicants who first took a medical licensing exam on or before December 31, 1994, must satisfy at least one of the following criteria, as evidenced by primary source documentation:

17.3.1 Applicants who successfully completed the National Boards Parts 1, 2, and 3 or FLEX Component 1 and 2 with a grade of at least 75 on all segments of either exam meet the examination criteria of the Board. All segments of either exam must have been completed within seven (7) years. The final clinical segment (Part 3 or Component 2) must have been passed on the first or second attempt to qualify for a Vermont license; or

17.3.2 Applicants who entered, but did not complete, either the NBME or FLEX sequences before the discontinuance of FLEX or National Boards may combine some parts (components) from the two discontinued exam systems with USMLE for completion of an acceptable examination sequence. Each of the following combinations are acceptable:

(1)	NBME Part I or USMLE Step 1	plus	NBME Part II or USMLE Step 2	plus	NBME Part III or USMLE Step 3
OR					
(2)	FLEX Component I	plus	USMLE Step 3		
OR					

(3)	NBME Part I Or USMLE Step 1	plus	NBME Part II Or USMLE Step 2	plus	FLEX Component 2

17.3.3 Applicants who took and passed a medical licensing examination administered by one of the United States or its Territories with a minimum passing grade of 75% meet the examination requirements.

17.3.4 Graduates of Canadian medical schools, in addition to the above examination options, can qualify for a Vermont license by successfully passing the MCCQE, Part I and Part II.

18.0 License by Faculty Appointment

The Board may license without examination a resident of a foreign country who is a licensed physician in good standing in the country of residence and who presents verifiable evidence of outstanding academic and clinical achievements and potential. To qualify for a Vermont license under this rule the applicant must present evidence that the applicant will be appointed to the University of Vermont College of Medicine full-time faculty at the rank of associate professor or higher. The license is issued only for the duration of the faculty appointment and is dependent on favorable faculty evaluations conducted according to the usual College of Medicine procedures. The licensee shall share these evaluations with the Board if requested.

19.0 Postgraduate Training Requirements

19.1 Graduates of accredited U.S. or Canadian medical schools must have successfully completed two years of postgraduate training accredited by the ACGME, RCPSC, or CFPC. The training should be a progression of directed experience. Multiple first-year programs are not acceptable. Applicants who are currently licensed and in good standing in another U.S. or Canadian jurisdiction who were first licensed to practice in the U.S. or Canada on or before December 31, 1994, must have successfully completed one year of a postgraduate training program accredited by the ACGME, RCPSC, or CFPC.

19.2 Graduates who hold a diploma from a Board-approved medical school outside of the United States or Canada must complete one of the following additional requirements:

19.2.1 Three years of postgraduate training in programs approved by the ACGME, the RCPSC, or the CFPC. The training should be a progression of directed experience, preferably in a single program. Multiple first year programs are not acceptable;

19.2.2 Specialty certification by a specialty board recognized by the ABMS, the RCPSC, or CFPC may be substituted for Section 19.1 or

19.2.3 Three years as a full-time faculty member at or above the level of assistant professor in a clinical discipline in a medical school approved by the LCME, with documentation of the applicant's clinical training and competence and the school's method of evaluating that competence. The evaluation must be part of the school's normal established procedure. The documentation shall include letters from the chairperson and two senior members of the applicant's department, special honors or awards that the applicant has achieved, and articles that the applicant has published in reputable medical journals or medical textbooks.

19.3 Fifth Pathway graduates are not required to submit an ECFMG certificate and are eligible for a Vermont license after three years of postgraduate training in an ACGME, RCPSC, or CFPC-accredited program.

20.0 Application to Take USMLE in Vermont

20.1 The Federation of State Medical Boards and the National Board of Medical Examiners administer the United States Medical Licensing Examination (USMLE). Applicants for Vermont licensure shall contact the Federation to apply to take the USMLE.

20.2 General eligibility requirements to take USMLE Step 3 are:

20.2.1 Certification of graduation from an accredited medical school in the United States or Canada, or a Board-approved medical school located in another country;

20.2.2 Verification of ECFMG certificate if the applicant is a graduate of a medical school outside the United States or Canada. Fifth Pathway graduates are not required to submit an ECFMG certificate;

20.2.3 Certification that the applicant has completed at least seven months of postgraduate training in a program approved by the ACGME, the RCPSC, or the CFPC.

21.0 Limited Temporary License

21.1 A limited temporary license is issued for the purpose of completing postgraduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed physician in an ACGME-accredited training program. The applicant must be enrolled in an ACGME-accredited program of postgraduate training or in sub-specialty clinical fellowship training in an institution that has an accredited program in the parent specialty. A limited temporary license may be renewed or reissued, upon submission of a completed renewal application.

21.2 Application for a limited temporary license shall include:

21.2.1 Completed online application;

21.2.2 The required fee;

21.2.3 A copy of the applicant's medical school diploma;

21.2.4 A supervising physician's/ program director's statement, acknowledging statutory responsibility for the applicant's negligent or wrongful acts or omissions;

21.2.5 Direct verification of medical education;

21.2.6 ECFMG if applicable;

21.2.7 Verification of other state licensure;

21.2.8 NPDB self-query; and

21.2.9 Any additional forms or documentation required by the Board.

22.0 Professional Standards Specific to Physicians

22.1 Additional professional standards that apply to all professionals are in Section 13.0 of this rule**.**

22.2 It is unprofessional conduct for a physician to delegate professional responsibilities to a person whom the physician knows or has reason to know is not qualified by training, experience, education, or licensing credentials to perform. See 26 V.S.A. § 1354(a)29.

22.3 Requesting or Receiving a Prescription from a Physician Assistant for whom the Physician Acts as Participating Physician. A physician shall not request or receive the dispensing of or a prescription for controlled substances listed in D.E.A. Schedules II, III, or IV for the physician's own use from a physician assistant for whom the physician acts as participating physician.

22.4 Requesting or Receiving a Prescription from an Advanced Practice Registered Nurse with Whom the Physician Has an Agreement to Act as the Collaborating Provider. A physician shall not request or receive the dispensing of or a prescription for controlled substances listed in D.E.A. Schedules II, III, or IV for the physician's own use from an advanced practice registered nurse with whom the physician has an agreement to act as the collaborating provider.

23.0 Continuing Medical Education

23.1 Minimum Education Requirement - Hours and Subjects

23.1.1 Each physician applying for renewal of a license to practice medicine must complete at least thirty hours of qualifying CME during the most recent two-year licensing period.

23.1.1.1 The licensee is not required to file documentation of CME that verifies completion at the time that it is reported, however, it is the licensee's responsibility to retain documentation for four years from the time the information is submitted to the Board.

23.1.1.2 The Board may audit records of CME for up to four years from the time of submission; a licensee is required to promptly submit documentation of CME completion in response to a request from the Board.

23.1.2 For physicians licensed in Vermont for the first time during the most recent two-year licensing period, if licensed in Vermont for less than one year, there is no requirement for CME at the time of the first renewal. If licensed for one year or more during that initial period of Vermont licensure, the licensee shall complete at least 15 hours of approved CME activity and those 15 hours shall include any subject-specific CME required by this rule.

23.1.3 Time is calculated from the date the license was approved by the Board until the date of expiration. Any physician who has not completed the required continuing medical education shall submit a make-up plan with a renewal application, as specified in this rule.

23.1.4 Except for required subjects that are mandated by this rule, all CME hours completed in satisfaction of this requirement shall be designed to assure that the licensee has updated knowledge and skills within their own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. A licensee's "own area of practice" shall not be interpreted narrowly; it is acknowledged that training in many other fields may be reasonably related to a practitioner's own specialties.

23.1.5 Required Subject: Hospice, Palliative Care, Pain Management. 26 V.S.A. § 1400(b) mandates that the Board of Medical Practice shall require physician licensees to provide "evidence of current professional competence in recognizing the need for timely appropriate consultations and referrals to assure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services." Accordingly, all physician licensees who are required under this rule to complete CME shall certify at the time of each renewal that at least one of the hours of qualifying CME activity has been on the topics of hospice, palliative care, or pain management services.

23.1.6 Required Subject: Prescribing Controlled Substances.

All physician licensees who are required to certify completion of CME and who prescribe controlled substances shall certify at the time of each renewal that at least two hours of qualifying CME activity on controlled substances prescribing. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont

Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is registered with the D.E.A. and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement.

23.1.7 Licensees who are not in active practice shall still complete CME, including all required subjects, to be relicensed. For purposes of subsection (b), a physician not in active practice may consider the last area of practice as the area of practice to which activity shall relate, or the activity may relate to any intended new area of practice.

23.1.8 Licensees who are members of the armed forces and who are subject to a mobilization and/or deployment for all or part of a licensing cycle will be treated the same as licensees who are licensed for the first time during a licensing cycle. E.g., a licensee whose military mobilization/deployment covers a year or more is not required to complete CME for that cycle. A licensee whose military duties during the two-year cycle total less than one year shall be required to meet the CME requirement of at least 15 hours, including any required subjects.

23.1.9 A licensee who allows a license to lapse by not timely applying for renewal shall certify completion of all CME that would have been required to remained licensed in order to be granted a renewal license.

23.2 Qualifying Continuing Medical Education Activities

23.2.1 CME activities that are approved for American Medical Association Physician's Recognition Award Category 1 Credit AMA PRA Category 1 Credit™ qualify as approved Vermont CME.

23.2.2 Credit for providing training. The Board accepts all AMA PRA Category 1 Credit™ activity. The AMA PRA program grants two hours of credit for each hour of training presented by a physician. The Board recognizes those credits the same as the AMA PRA program.

23.2.3 Certain activities sponsored by the Board may qualify for CME credit even if not designated as AMA PRA Category 1 activities. If CME credit is available, it will be specifically stated by the Board.

23.2.4 Special Rule for holders of a full, unlimited license who are participants in a residency or fellowship program approved by a nationally-recognized body that approves graduate medical education (GME). Some physicians who are still in a GME program obtain full licensure in addition to a limited temporary license for training. As fully-licensed physicians, if licensed for a year or more (see Section 23.1.2) they must complete at

least 15 hours of CME. If licensed the full period, they must complete 30 hours of CME. However, the Board will recognize participation in a GME program as qualifying for CME credit to the extent provided here.

23.2.4.1 The licensee must have successfully completed the program or continue to be in good standing in the GME program throughout the licensing period to have GME count as CME.

23.2.4.2 Successful completion of a year of full-time participation in an approved program during the two-year licensing period may count for 15 hours of CME to be used to satisfy a CME requirement for that licensing period. Licensees who wish to use participation in a GME program to satisfy part of the CME requirement shall submit a letter to the Board stating so and attesting to successful completion of the GME program year.

23.2.4.3 GME students who are fully licensed must meet the subject-specific requirement for hospice, palliative care, or pain management services if fully licensed for a year or more. See section 23.1.5 GME students who are fully licensed for a year or more and who have applied for or hold a D.E.A. number must satisfy the statutory requirement for two hours of CME on controlled substances prescribing. See Section 23.1.6.

23.3 Make-Up Plans

23.3.1 Any physician who has not completed the minimum number of hours of CME, or who has not completed the required subject-specific training, as of the deadline for submission of license renewal applications, will not be granted a renewal license unless the application includes an acceptable make-up plan signed by the licensee. The Board Executive Director is authorized to review and determine if make-up plans are acceptable.

23.3.2 An acceptable make-up plan must include a timeline for making up all CME that needs to be completed to satisfy the requirements of this rule. The timeline shall identify the approved activities that the licensee plans to attend. The licensee may later substitute activities, but the plan shall indicate that it is the licensee's good faith intent to complete the activities listed at the time of submission. A licensee shall have up to one hundred twenty (120) days to complete the CME make-up plan.

23.3.3 Any licensee who will not complete a make-up plan within the time specified by the plan shall contact the Board at least 30 days in advance of the date on which the period will end to notify the Board and submit a revised plan and request for extension of time.

23.3.3.1 The request for extension of time must include an explanation of the reasons why the licensee was unable to complete the required training in accordance with the plan.

23.3.3.2 Extensions of the make-up plan period are limited to 90 days, during which the licensee shall complete the required CME. Further extensions will be granted only for good cause shown, for reasons such as: serious illness of the licensee or a family member; death of an immediate family member; significant personal hardship, such as a house fire; significant and ongoing medical staff shortage during the make-up period; or similarly compelling reasons.

23.3.3.3 The Board may delegate to the Board Executive Director the authority to approve requests to extend the time for a make-up plan in accordance with this rule. Any request for extension not granted by the Executive Director shall be considered by the Board.

23.3.4 CME activity completed as part of a make-up plan does not count toward satisfaction of the requirement to complete CME during that current licensing cycle; activity may only be counted once. If a multi-hour activity is performed partly in satisfaction of a make-up plan and partly for the CME requirement associated with the current licensing cycle, the licensee shall clearly document the allocation.

23.4 Failure to Certify Completion of Required CME, File a Make-Up Plan, or Complete a Make-Up Plan

23.4.1 A licensee who has failed to submit certification of completion of CME as required by law and this rule, or who having failed to certify completion of CME has failed to submit a make-up plan with a license renewal application, will be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either a certification of completion of CME or a make-up plan.

23.4.2 A licensee who fails to file a certificate of completion of CME at the end of a make-up period, or to file a request for an extended make-up period, shall be notified of such failure and have not more than 15 days from receipt of notice to file with the Board either a certificate of completion of CME or another request for extension of time in which to make up CME.

23.4.3 A licensee who submits a certificate of completion at the time of submission of the license renewal application, or who has filed an acceptable make-up plan with the renewal application and is in the make-up period, or who having failed to complete the first make-up plan has received approval from the Board for an extended make-up period that has not yet expired, is in good standing with respect to CME requirements.

23.4.4 Any licensee not in good standing with respect to CME requirements is subject to investigation by the Board for unprofessional conduct.

24.0 Grounds for Disciplinary Action

24.1 Grounds for disciplinary action include the conduct set forth in 26 V.S.A. §§ 1354, 1398, and 18 V.S.A. § 1852.

24.2 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section V of this rule.

24.3 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant or physician found guilty of unprofessional conduct, as provided by 3 V.S.A. § 809, and 26 V.S.A. §§ 1361(b), including but not limited to:

24.3.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of license;

24.3.2 Required completion of continuing education;

24.3.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

24.4 Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION III. PHYSICIAN ASSISTANTS

25.0 Introduction

25.1 Physician assistants practice medicine pursuant to a written practice agreement with a participating physician. Physician assistant practice is limited to medical care within the physician assistant's education, training, and experience, and subject to any restrictions stated in the practice agreement.

25.2 As provided by 26 V.S.A. § 1739, physician assistants are responsible for their own medical decision making. A participating physician in a practice agreement with a physician assistant is not, by the existence of the practice agreement alone, legally liable for the actions or inactions of the physician assistant. However, that statutory language does not otherwise limit the liability of the participating physician.

26.0 Initial Licensure

26.1 For each applicant for licensure as a physician assistant the Board must receive, in a form satisfactory to the Board:

26.1.1 A complete online application;

26.1.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

26.1.3 Verification of certification or licensure in all other states, territories, or provinces where currently or ever certified or licensed to practice at any level, including permanent, temporary, and training licenses or certifications;

26.1.4 Two reference forms from allopathic or osteopathic physicians, including one from a physician who supervised or worked closely with the applicant at their most recent practice site.

26.1.4.1 Applicants with fewer than six months of substantially full-time (at least 30 hours per week) practice must provide a reference from their physician assistant training program director in place of one of the references from a supervising physician. A reference to meet this requirement may be from a physician assistant if the training program director is a physician assistant.

26.1.5 The Board of Medical Practice's Certificate of Physician Assistant Education form for primary source documentation of completion of a Board-approved physician assistant program sponsored by an institution of higher education, completed and submitted by the institution;

26.1.6 An original certification from NCCPA. Primary source documentation of current certification sent directly to the Board by NCCPA;

26.1.7 Completed practice agreement with a qualified participating physician who holds a Vermont license as an allopathic or osteopathic physician (for applications who do not have a current employment offer when applying for licensure, see Section 26.2);

26.1.8 The Uniform Application Affidavit and Authorization for Release of Information Form;

26.1.9 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application;

26.1.10 The applicant's CV (curriculum vitae) or résumé; and

26.1.11 The required fee.

26.2 Upon written request of the applicant, an application may be considered complete and be processed by the Board without a practice agreement. However, if a license is issued it will be inoperable and the applicant will not be able to engage in Vermont practice until a practice agreement has been received by the Board. Licensees should verify that the Board has received the practice agreement by checking the Board's online system.

26.3 At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member.

27.0 Physician Assistant Renewal

A physician assistant who is not in active practice may renew an inoperable license but cannot practice until a practice agreement with a participating physician is received by the Board. Each practice agreement between a physician assistant and a participating physician must be reviewed, and if necessary updated, during the 90 days preceding submission of the physician assistant's renewal application. The physician assistant shall maintain documentation to show the date on which the practice agreement was reviewed.

28.0 Practice Agreement Requirements

28.1 Practice agreements must meet the requirements of 26 V.S.A. § 1735a. The requirement for a physician to be accessible for consultation by telephone or electronic means at all times when a physician assistant is practicing is also satisfied when a physician is in the same location and available for in-person consultation. A practice agreement may be submitted in hard copy or filed with the Board by email or fax.

28.2 A practice agreement must include the Vermont medical license number of the participating physician and the physician assistant.

28.3 A practice agreement must be reviewed by the physician assistant and the participating physician or another qualified physician, as provided by 26 V.S.A. § 1735a(d), no less frequently than at the time of the physician assistant's license renewal. The review must be documented in writing at the time that it is completed and signed by the physician assistant and reviewing physician. If changes are made to the practice agreement the revised agreement must be signed by the physician assistant and participating physician and submitted to the Board.

28.4 Submission of a New Practice Agreement upon Employment Changes. A new practice agreement must be received by the Board before a physician assistant may practice after a change in employment. A new practice agreement must be submitted to the Board whenever a physician assistant begins practice with a new employer. This includes both leaving one employment and beginning at another and adding a new employer while continuing to work for a current employer. There must be a practice agreement that applies to each practice setting. If a physician assistant's practice agreement includes restrictions that limit its application to a new practice setting with the same employer, such as by geographic location, by department, or by scope of practice allowed, a new practice agreement must be submitted for a new practice setting beyond those restrictions.

28.5 Submission of a New Practice Agreement Upon Unavailability of Participating Physician Who Is a Sole Practitioner. When a physician assistant's participating physician is the only physician in the practice and without prior knowledge

becomes unavailable as the result of serious illness, injury, or death, the physician assistant may continue to practice for up to 30 days without entering a practice agreement with a new participating physician. After 30 days the physician assistant may not practice unless a new practice agreement has been submitted to the Board.

28.6 Submission of a New Practice Agreement Upon Unavailability of Participating Physician – General Rule. As soon as it is known that a physician assistant's participating physician will be unavailable and is expected to be unavailable for 30 days or more in any circumstances other than as described in Section 28.5, the physician assistant must submit a new practice agreement with a participating physician and may not practice after the participating physician becomes unavailable until the new practice agreement has been submitted to the Board.

28.7 Practice Agreements When a Physician Assistant Has Multiple Practice Sites. While separate practice agreements are not required for each practice setting of a PA who has multiple practice settings, in some cases it may not be possible for a single practice agreement to cover each of a PA's practice settings, such as when a PA works for two different employers, or when a participating physician within one employing organization is not willing to act as the participating physician for an additional practice site with the same employer. Although a single practice agreement may apply to more than one practice setting, in instances where a practice agreement does not work for one or more of a PA's additional practice sites there must be a practice agreement in place that applies to each practice setting.

29.0 Physician Assistant Professional Standards; Disciplinary Procedures

29.1 Prescribing Controlled Substances for Participating Physician

It is unprofessional conduct for a physician assistant to prescribe or dispense controlled substances listed in D.E.A. Schedules II, III, or IV for a physician who is the PA's participating physician.

29.2 Prescribing for or Treating Participating Physician

It is discouraged for a PA to prescribe or dispense non-controlled prescription substances for the PA's participating physician. PAs who treat their participating physician are required to meet all standards of appropriate care, including proper establishment of a professional relationship with the patient and maintenance of appropriate patient records.

29.3 Practice Without a Practice Agreement in Place

It is unprofessional conduct for a physician assistant to practice without having a valid practice agreement that applies to the practice setting and the care provided, unless one of the two exceptions stated in 26 V.S.A. § 1734c(b) and 26 V.S.A. § 1735a(e) applies. The practice agreement must be on file with the Board.

Licensees should verify that practice agreements were received by the Board by checking the Board's online system.

29.4 Continuing Education

29.4.1 As evidence of continued competence in the knowledge and skills of a physician assistant, all physician assistants shall complete a continuing medical education program of 100 approved credit hours every two years. A minimum of 50 credit hours shall be from Category 1. Proof of completion shall be submitted to the Board with the application for renewal of certification.

29.4.2 Certification or recertification by the NCCPA at any time during a 2-year licensure period may be accepted in lieu of 100 hours continuing medical education credits for that 2-year period. PAs must also comply with any applicable continuing medical education requirements established by Vermont law or Board Rule.

29.4.3 **Required CME for PAs With D.E.A. Number**

All licensees who prescribe controlled substances shall certify at the time of each renewal that they have completed at least two hours of CME activity on controlled substances prescribing. The activity must be accredited as AMA PRA Category 1 Credit™ training, American Academy of Physician Assistants Category 1 training, or be specifically designated as qualifying by the Board. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is registered with the D.E.A. and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement. Any physician assistant who is required to certify completion of this CME to renew, but who cannot, will be subject to the provisions regarding makeup of missing CME in subsections 23.3 and 23.4.

29.5 Grounds for Disciplinary Action

Grounds for disciplinary action include the conduct set forth in 26 V.S.A. § 1736. Under 26 V.S.A. § 1734(e), failure to maintain competence in the knowledge and skills of a physician assistant may result in revocation of license, following notice of the deficiency and an opportunity for a hearing.

29.6 Disciplinary Action

29.6.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section V of this rule.

29.6.2 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant or physician assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. § 809, and 26 V.S.A. §§ 1361(b) and 1737, including but not limited to:

29.6.2.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of license;

29.6.2.2 Required completion of continuing education;

29.6.2.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

29.7 Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION IV. PODIATRISTS

30.0 License Required

No person shall practice or attempt to practice podiatry or hold themself out as being able to do so in this state without possessing a valid, current license issued by the Board. In addition, no person shall use in connection with the person's name letters, words, or insignia indicating or implying that the individual is a podiatrist unless licensed by the Board.

31.0 General Requirements for Licensing

31.1 In order to be granted a license to practice podiatry an applicant must meet the following eligibility requirements:

31.1.1 Be at least 18 years of age;

31.1.2 Be competent in speaking, writing and reading the English language;

31.1.3 Hold a diploma or certificate of graduation from a school of podiatric medicine accredited by the CPME and approved by the Board;

31.1.4 Have satisfactorily completed one year's postgraduate training in a United States hospital program or preceptorship which is approved by the Board and which meets the minimum requirements set by the CPME;

31.1.5 Have successfully completed the following examinations given by the National Board of Podiatry Examiners: Part I and Part II of the National Board of Podiatric Medical Examiners examination followed in sequence by the PMLexis examination; and

31.1.6 Meet the requirements for moral character and professional competence.

31.2 For each applicant for licensure as a podiatrist the Board must receive, in a form satisfactory to the Board:

31.2.1 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

31.2.2 For each podiatric medical school attended, the Board of Medical Practice Poidiatric Medical Education Form;

31.2.3 For each postgraduate training program attended, the Board of Medical Practice Verification of Postgraduate Podiatric Training Form for primary source documentation of all postgraduate training;

31.2.4 Verification of podiatric medical licensing examination results; sent directly to the Board by the National Board of Podiatric Medical Examiners;

31.2.5 Verification of all podiatric medical licenses ever held in any state, territory, or province at any level, including permanent, temporary, and training licenses;

31.2.6 The Uniform Application Affidavit and Authorization for Release of Information Form.

31.2.7 Federation of Podiatric Medical Boards Disciplinary Inquiry Report. This must be a current report issued within 60 days of submission of of application.

31.2.8 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

31.2.9 The applicant's CV (curriculum vitae) or résumé.

31.2.10 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician or podiatrist staff members of the hospital where the applicant currently holds, or most recently held, privileges. At least one reference must be from a podiatrist. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other podiatrists or physicians who have knowledge of the applicant's moral character and professional

competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard.

31.3 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

31.4 At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

32.0 Licensure Without Examination

32.1 To qualify for licensure without examination, an applicant must present evidence satisfactory to the Board that the applicant:

32.1.1 Holds a current and unrestricted podiatrist license in another jurisdiction;

32.1.2 Has met licensing requirements in the other jurisdiction that are substantially equal to the Board's requirements for podiatric licensure;

32.1.3 Has presented current reference letters as to moral character and professional competence; and

32.1.4 Is professionally qualified; the Board may, in its discretion, require an applicant to take and pass the PMLexis examination prior to licensure.

32.2 At the discretion of the licensing committee, any applicant may be required to be interviewed by a Board member.

33.0 Satisfaction of Licensing Requirements by Practice in Another United States Jurisdiction

33.1 A podiatrist can meet the licensing requirements stated in Sections 31.1.2 and 31.1.5 by demonstrating that:

33.1.1 They have been practicing podiatry full-time in another United States jurisdiction while continuously holding a full, unrestricted, and unlimited license in good standing for at least three years preceding the day on which the Vermont license is to be granted; and

33.1.2 They meet the education and training requirements stated in 26 V.S.A. § 372(b)(1).

33.2 For each applicant for licensure as a podiatrist under 26 V.S.A. § 372(a) the Board must receive, in a form satisfactory to the Board:

33.2.1 A complete online application;

33.2.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

33.2.3 For each podiatric medical school attended, the Board of Medical Practice Poidiatric Medical Education Form showing graduation from a school of podiatric medicine accredited by the CPME and approved by the Board;

33.2.4 For each postgraduate training program attended, the Board of Medical Practice Verification of Postgraduate Podiatric Training Form for primary source documentation of all postgraduate training.

33.2.5 Verification of the podiatry license that the applicant relies upon to qualify to apply under the endorsement procedure;

33.2.6 Board of Medical Practice Reference Forms completed and submitted directly by the chief of service (or equivalent) and two other active physician or podiatrist staff members of the hospital where the applicant currently holds, or most recently held, privileges. At least one reference must be from a podiatrist. If an applicant has not held privileges at a hospital within two years of the date of submission of the application, or cannot provide references as indicated, the Board in its discretion may accept references from other podiatrists or physicians who have knowledge of the applicant's moral character and professional competence. An applicant shall indicate in the application if asking the Board to accept references that do not meet the above-stated standard.;.

33.2.7 The Uniform Application Affidavit and Authorization for Release of Information Form;

33.2.8 A Federation of Podiatric Medical Boards Disciplinary Inquiry Report. This must be a current report issued within 60 days of submission of of application.

33.2.9 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application;

33.2.10 The applicant's CV (curriculum vitae) or résumé; and

33.3 All applicants must submit a completed Board endorsement application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

33.4 At the discretion of the licensing committee or the Board any applicant may be required to be interviewed by a Board member.

34.0 Limited Temporary License

34.1 A limited temporary license may be issued for the purpose of completing postgraduate training and allows the licensee to practice under the supervision and control of a Vermont-licensed podiatrist in a CPME-accredited training program. The applicant must be enrolled in a CPME-accredited program of postgraduate training or in sub-specialty clinical fellowship training in an institution that has an accredited program in the parent specialty. A limited temporary license may be renewed or reissued, upon submission of a completed renewal application, including fee and required documentation.

34.2 Application for a limited temporary license shall include:

34.2.1 Completed online application;

34.2.2 The required fee;

34.2.3 A copy of the applicant's podiatric medical school diploma;

34.2.4 A supervising podiatrist's / program director's statement acknowledging statutory responsibility for the applicant's negligent or wrongful acts or omissions;

34.2.5 Direct verification of medical education;

34.2.6 ECFMG if applicable;

34.2.7 Verification of other state licensure;

34.2.8 NPDB self-query; and

34.2.9 Any additional forms or documentation required by the Board.

35.0 Podiatrists' Professional Standards

35.1 Continuing Medical Education. Required CME: Prescribing Controlled Substances. All podiatry licensees who prescribe controlled substances shall certify at the time of each renewal that they have completed at least two hours of CME activity on controlled substances prescribing. The activity must be accredited as AMA PRA Category 1 Credit™ training or Council on Podiatric Medical Education approved training, or be specifically designated as qualifying by the Board. The following topics must be covered, as required by Vermont law: abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering and cessation of the use of controlled substances; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances. Each licensee who is registered with the D.E.A. and who holds a D.E.A. number to prescribe controlled substances, or who has submitted a pending application for one, is presumed to prescribe controlled substances and must meet this requirement. Any podiatrist who is required to certify completion

of this CME to renew, but who cannot, will be subject to the provisions regarding makeup of missing CME in Sections 23.3 and 23.4.

35.2 Grounds for Disciplinary Action

Grounds for disciplinary action are set out in 3 V.S.A. § 129a, 18 V.S.A. § 1852, and 26 V.S.A. § 375.

35.3 Disciplinary Action

35.3.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with this rule.

35.3.2 After notice and opportunity for hearing and upon a finding of unprofessional conduct, the Board may take disciplinary action against a licensed podiatrist, applicant, or person who later becomes an applicant as provided in 26 V.S.A. § 376 and 26 V.S.A. § 1361(b). Disciplinary action may include:

35.3.2.1 Refusal to issue or renew a license;

35.3.2.2 Suspension, revocation, limitation, or conditioning of a license;

35.3.2.3 Issuance of a warning or reprimand; and/or

35.3.2.4 Issuance of an administrative penalty.

35.3.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in such an agreement are set forth in 26 V.S.A. § 376(d).

35.4 Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision appeal to the Vermont Supreme Court, by filing a notice of appeal with the Executive Director as provided by 26 V.S.A. § 375(d).

SECTION V. PROCEDURE FOR COMPLAINTS MADE AGAINST PHYSICIANS, PODIATRISTS, PHYSICIAN ASSISTANTS, ANESTHESIOLOGIST ASSISTANTS, AND RADIOLOGIST ASSISTANTS

36.0 Initiating a Complaint

36.1 Form of Complaint; Filing

36.1.1 Any party wishing to make a complaint of unprofessional conduct against a professional regulated by the Board may file a written complaint with the Board. Written complaints must include identifying and contact information for the complainant. The Board provides a printed complaint form for this purpose. Use of a form is preferred, but not required. If applicable, a complainant must provide authorization for the release of relevant medical records using the Board's form.

36.1.2 The Board may open an investigation on its own initiative to evaluate instances of possible unprofessional conduct that may come to its attention. 26 V.S.A. § 1355(a); 3 V.S.A. § 129(b).

37.0 Notice

37.1 Notice to Complainant

The Board will send the complainant a standard letter of acknowledgment stating that the complaint has been received by the Board and that it will be investigated.

37.2 Notice to Respondent

37.2.1 The Board will send the Respondent a copy of the complaint, a copy of a release of medical records signed by the patient or other authorized person, a copy of the statutory definition of unprofessional conduct, and a standard letter stating that:

37.2.1.1 This complaint has been lodged against them;

37.2.1.2 The letter is not a notice of a formal hearing; and

37.2.1.3 The respondent must respond in writing. The response should be addressed to the Investigating Committee at the address of the Board and filed with the Board within 20 days of the date of the letter.

37.2.2 The Respondent is responsible for the accuracy of the response and must sign the response, even if also signed by an attorney.

37.2.3 The Executive Director or Investigator may grant one extension of up to 20 additional days, or more for reasonable cause, to provide the response. A request for further delay must be submitted to the assigned investigative committee.

37.2.4 In cases where the Board has initiated an investigation, the Board will send the Respondent a letter providing notice of the investigation and describing the matters for which response is requested.

37.2.5 Unlicensed Practice. No notice need be provided to the target of an investigation into unlicensed practice.

38.0 Investigation

38.1 Investigative Committee

A standing investigative committee or one specially appointed, and an Assistant Attorney General, will investigate each complaint and recommend disposition to the Board. The investigative committee shall be assisted by an investigator from the Board. After the file is received, the investigative committee will discuss the complaint and plan the investigation.

38.2 Cooperation with Investigation; Impeding an Investigation

38.2.1 Professionals are obligated to cooperate with the Board throughout an investigation. A Respondent may contest a subpoena using the appropriate mechanisms, but in the absence of a delay associated with a bona fide objection to subpoena a failure to respond to a subpoena within a reasonable time constitutes a violation of this rule.

38.2.2 Professionals are prohibited from engaging in any action that may deter a witness from cooperating with a Board investigation and from retaliating against any person based upon the filing of a complaint or cooperation in any way with a Board investigation. Professionals are prohibited from concealing, altering or destroying any evidence that is or may be pertinent to a Board investigation.

38.3 Confidentiality of investigations is governed by 26 V.S.A. § 1318.

39.0 Suspension Prior to Completion of an Investigation

39.1 Summary Suspension: the investigative committee may find that certain alleged misconduct poses so grave a threat to the public health, safety, or welfare that emergency action must be taken. In such a case, the committee will request a special meeting of the hearing panel, and recommend that the Board order summary suspension of the Respondent's license or certification, pending a hearing under the authority of 3 V.S.A. § 814(c). If the Board orders summary suspension, a hearing will be scheduled as soon as practical, and the Assistant Attorney General will present the case against the suspended professional.

39.2 Interim Suspension: grounds for entry of such an order are as follow:

39.2.1 **Criminal Convictions:** the investigative committee shall consider any criminal conviction for which a licensee may be disciplined under 26 V.S.A. § 1354(3) as an unprofessional conduct complaint and may request that the Board immediately suspend the Respondent's license or certification under the authority of 26 V.S.A. § 1365. Upon receipt of the certified copy of the judgment of conviction, the Board may order an interim suspension pending a disciplinary hearing before the Board.

39.2.1.1 The disciplinary hearing shall not be held until the judgment of conviction has become final, unless Respondent requests that the disciplinary hearing be held without delay. The sole issue to be determined at the hearing shall be the nature of the disciplinary action to be taken by the Board.

39.2.1.2 The Respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which Respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically

terminate if Respondent demonstrates that the judgment of conviction has been reversed or otherwise vacated.

39.2.2 **Out-of-State Discipline:** the committee shall consider certain out-of-state disciplinary action as set forth in 26 V.S.A. § 1366 as an unprofessional conduct complaint and may request that the Board immediately suspend the Respondent's license or certification under authority of that statute.

39.2.2.1 Upon receipt of the certified copy of the order or statement regarding the relevant out-of-state disciplinary action, the Board may order an interim suspension pending a disciplinary hearing before the Board.

39.2.2.2 The Respondent, within 90 days of the effective date of the order of interim suspension, may request a hearing concerning the interim suspension at which Respondent shall have the burden of demonstrating why the interim suspension should not remain in effect. The interim suspension shall automatically terminate if Respondent demonstrates that the out-of-state disciplinary action has been reversed or vacated.

40.0 Disposition by the Investigative Committee

40.1 Once the investigative committee determines that the investigation is complete, it shall pursue one of three possible dispositions:

40.1.1 **Concluding the Investigation:** If, after investigating the complaint, the committee and the assistant attorney general determine that the facts established by the investigation do not present cause for pursuing charges of unprofessional conduct, then the committee may recommend that the Board conclude the investigation. If approved by the Board, the case is closed without further action. A concluded investigation may be reopened if new evidence is received, a new and related complaint is made, or upon request for reconsideration.

40.1.2 **Settlement:** If, after investigating the complaint, the committee and the Office of the Attorney General determine that the facts established by the investigation present cause for pursuing charges of unprofessional conduct, the committee shall explore the possibility of stipulated settlements and consent orders, as established in a Stipulation.

40.1.2.1 Recommended Stipulations should include a concession of wrongdoing by the Respondent, terms and conditions, an understanding that this concession may be relied on by the Board in case the licensee is later found to have engaged in unprofessional conduct, and an understanding that this final disposition of the complaint is public and that the Board shall notify the Federation of State Medical Boards Board Action

Data Bank, and the National Practitioner Data Bank, and may notify other states of its contents.

40.1.2.2 When a Stipulation is filed with the Board, the complainant shall be provided with a copy of the stipulation and notice of any stipulation review scheduled before the Board. The complainant shall have the right to be heard at any stipulation review.

40.1.2.3 The Stipulation is finalized only upon acceptance by the full Board. If the investigative committee recommends a disposition in the form of a Stipulation, the Board may vote to ask the committee to change the terms of the Stipulation. If a Stipulation is not accepted by the Board within a reasonable time, the investigative committee may pursue specification of charges.

40.1.3 **Specification of Charges:** If after investigation the investigative committee and the Assistant Attorney General determine that the facts established provide a basis to allege unprofessional conduct as defined by 26 V.S.A. § 1354 and the committee believes a settlement cannot be reached or is not warranted on the facts, a Specification of Charges shall be signed by the Executive Director.

41.0 Disciplinary Proceedings

41.1 The Executive Director may designate a hearing panel composed of at least one physician member of the Board and at least one public member. Members may be appointed as provided by 26 V.S.A. § 1372. The role of the hearing panel is to hear evidence, make findings of fact, and make recommendations to the Board for a decision on the charges.

41.2 Specification of Charges; Notice; Failure to Appear; Default.

41.2.1 The Board commences disciplinary proceedings by serving a Specification of Charges and a notice of hearing upon the Respondent. The hearing is scheduled no sooner than 30 days after service. Notice shall tell the Respondent that a response may be filed within 20 days of service.

41.2.2 Notice shall be sent to the Respondent or other person or entity entitled to notice by certified mail, return receipt requested, with restricted delivery to addressee only. If service cannot be accomplished by certified mail, the Board will make reasonable attempt to accomplish service by regular mail or by personal service within the state, if feasible. A continuance may be granted upon request for good cause as determined by the Board, hearing committee, or a presiding officer. Copies of the notice shall be sent to the complainant, the Assistant Attorney General, and the Respondent's attorney.

41.2.3 If the Respondent, after proper notice, does not respond to the Specification of Charges or appear at a hearing the Board may take disciplinary action after receiving the report of a hearing panel or after hearing the evidence if a hearing panel is not used. If a Respondent who did not participate in a panel hearing attends the hearing before the Board, they may present arguments to the Board, but may not present additional evidence unless the Board grants the Respondent leave to submit additional evidence. In such circumstances, the right of the Respondent to submit evidence is subject to any limitations set by the Board or hearing officer regarding the scope of evidence that may be presented.

41.2.4 A Respondent who has defaulted may submit a written motion within 10 days of the default to request a new hearing. The Board may grant a new hearing only upon a showing of good cause for not appearing at the hearing and for not requesting a continuation of the hearing. The Board shall issue a written decision making a determination on whether to grant a new hearing.

41.3 Discovery

After a specification of charges has been filed, the Board, or a hearing officer on its behalf, shall have authority to conduct a prehearing conference or discovery conference and to issue orders regulating discovery and depositions, scheduling, motions by the parties, and such other matters as may be necessary to ensure orderly preparation for hearing.

41.4 Hearing

Hearings before a hearing panel and before the Board will be conducted according to the hearing provisions of 26 V.S.A. ch. 23 and the contested case provisions of the Administrative Procedure Act, 3 V.S.A. § 809-815. If a hearing panel is used, the parties will be allowed to present evidence to the Board only if the Board allows it. A Board hearing officer may act as presiding officer at hearings and pre- and post-hearing conferences for the purpose of making procedural and evidentiary rulings. A presiding officer may administer oaths and affirmations, rule on offers of proof and receive relevant evidence, regulate the course of the hearing, convene and conduct prehearing conferences, dispose of procedural requests and similar matters, and take any other action authorized by the Administrative Procedure Act.

41.5 Decision, Order, and Entry; Notice of Decision; Transcripts

The hearing officer will prepare the written decision and order in accordance with the Board's instructions, within a reasonable time of the closing of the record in the case. The decision and order will be entered upon being signed by the chair or vice-chair of the Board. A decision and order is effective upon entry. Notice of the decision and order will be sent to the Respondent by certified mail. Notice of the decision and order will be sent to the Respondent's attorney, the complainant, and the prosecuting attorney by regular mail or email. A transcript of the proceeding is available at cost.

42.0 Compliance Investigation, License or Certification Reinstatement or Removal of Conditions After Disciplinary Action

42.1 Assignment of Compliance Investigation

Upon entry of an order taking disciplinary action against a Respondent, a compliance investigation file will be opened. The file will be assigned to the investigative committee that was responsible for the initial investigation of unprofessional conduct. If the matter was investigated by a committee of ad hoc members, the file will be assigned to one of the standing investigative committees. The committee shall make recommendations for action to the full Board regarding compliance, requests for reinstatement, or modification or removal of conditions established by the order.

42.2 License or Certification Reinstatement or Removal of Conditions

A person licensed or certified by the Board who has been disciplined may petition at a later date for license or certification reinstatement or modification or removal of conditions from the license or certification. In addition to complying with any restrictions or conditions on reinstatement imposed by the Board in its disciplinary order, an applicant applying for reinstatement may be asked to complete a reinstatement application. An investigative committee will review such information and make a recommendation to the full Board. The Board may hold a hearing to determine whether reinstatement should be granted.

42.3 Appeals

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision to the Vermont Supreme Court.

SECTION VI. RULES FOR ANESTHESIOLOGIST ASSISTANTS

43.0 Training and Qualification

43.1 The eligibility requirements for certification as an anesthesiologist assistant are listed in 26 V.S.A. § 1654 and supplemented by this rule. The requirements for temporary certification are outlined in 26 V.S.A. § 1655 and supplemented by this rule.

43.2 Prior to being certified as an anesthesiologist assistant by the Board of Medical Practice, a person must be qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of an anesthesiologist. The applicant must submit to the Board all information that the Board requests to evaluate the applicant's qualifications.

44.0 Initial Certification

44.1 For each applicant for initial certification as an anesthesiologist assistant the Board must receive, in a form satisfactory to the Board:

44.1.1 A complete online application;

44.1.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

44.1.3 Verification of certification or licensure in all other states, territories, or provinces where the applicant is currently or ever was certified or licensed to provide medical services, including permanent, temporary, and training licenses or certifications;

44.1.4 Two Board of Medical Practice reference forms including one from a recent supervising anesthesiologist and one from another prior supervising anesthesiologist;

44.1.4.1 Applicants with fewer than six months of substantially full-time (at least 30 hours per week) practice must provide a reference form-from the director of the applicant's training program and another reference form from an anesthesiologist who has supervised the applicant in practice or in training;

44.1.5 The Board of Medical Practice's Certificate of Anesthesiologist Assistant Education form for primary source documentation of completion of a Board-approved anesthesiologist assistant program sponsored by an institution of higher education, completed and submitted by the institution;

44.1.6 Primary source documentation of current certification sent directly to the Board by the National Commission for the Certification of Anesthesiologist Assistants (NCCAA);

44.1.7 Completed Proposed Primary Supervising Anesthesiologist form signed by the applicant and supervising anesthesiologist;

44.1.8 Completed Proposed Secondary Supervising Anesthesiologist form signed by the secondary supervising anesthesiologist;

44.1.9 A protocol signed by the proposed supervising anesthesiologist;

44.1.10 A copy of the anesthesiologist assistant's employment contract;

44.1.11 The Board of Medical Practice Anesthesiologist Assistant Employment Contract form;

44.1.12 The Uniform Application Affidavit and Authorization for Release of Information Form;

44.1.13 The applicant's CV (curriculum vitae) or résumé; and

44.1.14 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

44.2 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

44.3 At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member.

45.0 Temporary Certification

45.1 The Board may issue a temporary certification to an applicant who meets the educational requirements under 26 V.S.A. § 1654(1) if:

45.1.1 The NCCAA certification examination has not been offered since the applicant became eligible to take it; or

45.1.2 The applicant has taken the NCCAA certification examination one time but has not yet received the results of the examination.

45.2 The holder of a temporary certification shall take and successfully pass the next available NCCAA examination. If the holder of a temporary certification does not take the examination, that temporary certification shall expire on the date of that examination. However, if the holder of a temporary certification can show that there was exceptional cause that prevented the individual from taking the examination, the Board may, in its discretion, and for good cause shown, renew the temporary certification until the date of the next available NCCAA examination.

45.3 If the holder of a temporary certification takes the next available NCCAA examination but does not successfully pass it, the temporary certification shall expire on the day after receiving notice of the failure to pass the examination. In that case, the Board shall not renew the temporary certification. The applicant may re-apply for certification only after having taken and passed the examination.

46.0 Renewal of Certification

46.1 Certification shall be renewable every two years on completion of the online renewal form, payment of the required fee and submission of: current contract; updated copies of primary and secondary supervision forms; updated protocol; and, verification of current, active NCCAA certification.

46.2 Lapsed licenses may be renewed under the provisions of 26 V.S.A. § 1656.

47.0 Change of Certification

47.1 The Board shall be notified and the appropriate applications and documentation filed whenever:

47.1.1 The anesthesiologist assistant's protocol changes;

47.1.2 The anesthesiologist assistant will be working at a different or an additional accredited facility; or

47.1.3 The anesthesiologist assistant will be supervised by a new or an additional anesthesiologist.

47.2 Documents already on file with the Board may be referred to and need not be resubmitted.

48.0 More Than One Supervising Anesthesiologist

48.1 In any application for initial certification, temporary certification, renewal of certification or change of certification, if there is more than one anesthesiologist at an accredited facility who will supervise an anesthesiologist assistant, then, in addition to the information required to be submitted by this rule, a document signed by all anesthesiologists who will be supervising the anesthesiologist assistant shall be filed with the Board with the application.

48.2 Additional supervising anesthesiologists may be added subsequent to the application, provided the supervising anesthesiologist files a signed document with the Board. In the document, the anesthesiologists shall affirm that each assumes responsibility for all professional activities of the anesthesiologist assistant while the anesthesiologist is supervising the anesthesiologist assistant.

49.0 Termination of Certification

If the supervisory relationship between the anesthesiologist and the anesthesiologist assistant is terminated for any reason, each party must notify the Board directly and immediately in writing. The notice shall include the reasons for the termination. The anesthesiologist assistant shall cease practice until a new application is submitted by the supervising anesthesiologist and is approved by the Board.

50.0 Practice

50.1 An anesthesiologist assistant shall perform only those tasks assigned on a case-by-case basis by the supervising anesthesiologist. The anesthesiologist assistant shall implement the personalized plan for each patient as individually prescribed by the supervising anesthesiologist after that physician has completed a specific assessment of each patient. In determining which anesthetic procedures to assign to an anesthesiologist assistant, a supervising anesthesiologist shall consider all of the following:

50.1.1 The education, training and experience of the anesthesiologist assistant;

50.1.2 The anesthesiologist assistant's scope of practice as defined in 26 V.S.A. Chapter 29 and this rule;

50.1.3 The conditions on the practice of the anesthesiologist assistant set out in the written practice protocol;

50.1.4 The physical status of the patient according to the physical status classification system of the American Society of Anesthesiologists, as in effect at the time the assignment of procedures is made. The classification system is available from the American Society of Anesthesiologists and shall be posted on the Board's website;

50.1.5 The invasiveness of the anesthetic procedure;

50.1.6 The level of risk of the anesthetic procedure;

50.1.7 The incidence of complications of the anesthetic procedure;

50.1.8 The physical proximity of the supervising anesthesiologist and the anesthesiologist assistant or assistants the anesthesiologist may be supervising concurrently; and

50.1.9 The number of patients whose care is being supervised concurrently by the supervising anesthesiologist.

50.2 The supervising anesthesiologist retains responsibility for the anesthetic management in which the anesthesiologist assistant has participated.

51.0 Supervision

51.1 A supervising anesthesiologist shall supervise an anesthesiologist assistant within the terms, conditions, and limitations set forth in a written practice protocol. Anesthesiologist supervision requires, at all times, a direct, continuing and close supervisory relationship between an anesthesiologist assistant and the supervising anesthesiologist.

51.2 Supervision does not require the constant physical presence of the supervising anesthesiologist; however, the anesthesiologist must remain readily available in the facility for immediate diagnosis and treatment of emergencies.

51.3 The supervising anesthesiologist shall be readily available for personal supervision and shall be responsible for pre-operative, intra-operative and post-operative care.

51.4 The supervising anesthesiologist shall personally participate in the most demanding procedures in the anesthesia plan, which shall include induction and emergence.

51.5 The supervising anesthesiologist shall insure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the anesthesiologist assistant. All written

entries shall be reviewed, countersigned, and dated by the supervising anesthesiologist. The supervising anesthesiologist's signature on the anesthetic record will fulfill this requirement for all written entries on the anesthetic record.

51.6 Nothing in this section shall prohibit the supervising anesthesiologist from addressing an emergency in another location in the facility.

52.0 Protocol and Scope of Practice

52.1 At no time shall the scope of practice for the anesthesiologist assistant include procedures or treatments that the supervising anesthesiologist does not perform within that practice.

52.2 The anesthesiologist assistant may assist the anesthesiologist in developing and implementing an anesthesia care plan for a patient. In so doing, the anesthesiologist assistant may, in the discretion of the anesthesiologist, do any of the following:

52.2.1 Obtain a comprehensive patient history and present that history to the anesthesiologist who must conduct a pre-anesthesia interview and evaluation sufficient to confirm the anesthesiologist assistant's evaluation;

52.2.2 Pretest and calibrate anesthesia delivery systems;

52.2.3 Monitor, obtain and interpret information from the anesthesia delivery systems and anesthesia monitoring equipment;

52.2.4 Place medically accepted monitoring equipment;

52.2.5 Establish basic and advanced airway interventions, including intubations of the trachea and ventilatory support;

52.2.6 Administer vasoactive drugs and start and adjust vasoactive infusions;

52.2.7 Administer anesthetic drugs, adjuvant drugs and accessory drugs;

52.2.8 Administer regional anesthetics;

52.2.9 Administer blood, blood products and supportive fluids;

52.2.10 Participate in administrative activities and clinical teaching activities;

52.2.11 Provide assistance to cardiopulmonary resuscitation teams in response to life-threatening situations;

52.2.12 Prescribe peri-operative medications to be used in the accredited facility; and

52.2.13 Participate in research activities by performing the same procedures listed above.

52.2.14 Any other activity that the Board approves in a protocol to allow for changing technology or practices in anesthesiology.

53.0 Prescriptive Authority

An anesthesiologist assistant shall not have authority to write prescriptions for medications that will be filled outside of the facility in which the anesthesiologist assistant works.

54.0 Places of Practice

An anesthesiologist assistant shall work only in a licensed hospital facility with the supervision of an anesthesiologist.

55.0 Patient Notification and Consent

Any physician, clinic, or hospital that uses the services of an anesthesiologist assistant must:

55.1 Post a clear notice to that effect in a conspicuous place;

55.2 Except in case of an emergency, provide the patient a consent form that includes that the anesthesiologist may use an anesthesiologist assistant; and

55.3 Require each anesthesiologist assistant to wear a name tag clearly indicating the title anesthesiologist assistant, per 26 V.S.A. § 1652.

56.0 Disciplinary Action

56.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of this rule.

56.2 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, anesthesiologist assistant trainee, or anesthesiologist assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§ 129 and 809, and 26 V.S.A. § 1658, including but not limited to:

56.2.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of certification;

56.2.2 Required completion of continuing education;

56.2.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

56.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to

those above, in such an agreement are set forth in 3 V.S.A. § 809(d) and 26 V.S.A. § 1659(d).

57.0 Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION VII. RULE FOR RADIOLOGIST ASSISTANTS

58.0 Training and Qualification

58.1 The eligibility requirements for certification as a radiologist assistant are listed in 26 V.S.A. § 2854 and supplemented by this rule. The requirements for temporary certification are outlined in 26 V.S.A. § 2855 and supplemented by this rule.

58.2 Prior to being certified as a radiologist assistant by the Board of Medical Practice, a person must be qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of a radiologist. The applicant must submit to the Board all information that the Board requests to evaluate the applicant's qualifications.

59.0 Initial Certification

59.1 An applicant for initial certification as a radiologist assistant shall submit to the Board:

59.1.1 A complete online application;

59.1.2 Proof of identity and that the applicant is at least 18 years of age as evidenced by a certified birth certificate or a copy of a naturalization certificate;

59.1.3 Verification of current licensure as a radiologic technologist in radiography in Vermont under Chapter 51 of Title 26 V.S.A.;

59.1.4 Verification of certification or licensure in all other states, territories, or provinces where the applicant is currently or ever was certified or licensed to provide medical services, including permanent, temporary, and training licenses or certifications;

59.1.5 Two Board of Medical Practice reference forms including one from a recent supervising radiologist and one from another prior supervising radiologist;

59.1.5.1 Applicants with fewer than six months of substantially full-time (at least 30 hours per week) practice must provide a reference form from the director of the applicant's training program and another reference form from a radiologist who has supervised the applicant in practice or in training;

59.1.6 The Board of Medical Practice's Certificate of Radiologist Assistant Education form for primary source documentation of completion of a Board-approved radiologist assistant program sponsored by an institution of higher education, completed and submitted by the institution;

59.1.7 Primary source documentation of current certification sent directly to the Board by the American Registry of Radiologic Technologists (ARRT);

59.1.8 Completed Proposed Primary Supervising Radiologist form signed by the applicant and supervising radiologist;

59.1.9 Completed Proposed Secondary Supervising Radiologist form signed by the secondary supervising radiologist;

59.1.10 A protocol signed by the proposed primary supervising radiologist;

59.1.11 The Board of Medical Practice Radiologist Assistant Employment Contract form;

59.1.12 A copy of the employment contract with the primary supervising radiologist or the hospital at which the radiologist practices, or in the absence of a contract, other proof of employment by the primary supervising radiologist or by the hospital at which the radiologist practices, as may be determined by the Board;

59.1.13 The Uniform Application Affidavit and Authorization for Release of Information Form;

59.1.14 The applicant's CV (curriculum vitae) or résumé; and

59.1.15 National Practitioner Data Bank Self-Query Report. This must be a current Self-Query Report issued within 60 days of submission of the application. Information about obtaining a Self-Query Report is in the instructions to the application.

59.2 All applicants must submit a completed Board application package, provide required documentation as specified in the application form or requested by the Board, and pay the application fee. Documents submitted with the application become part of the official record and will not be returned.

59.3 At the discretion of the licensing committee or the Board, any applicant may be required to be interviewed by a Board member.

60.0 Temporary Certification

60.1 The Board may issue a temporary certification to an applicant who otherwise meets the requirements of 26 V.S.A. § 2854(1), (3) and (4) if:

60.1.1 The ARRT certification examination has not been offered since the applicant became eligible to take it; or

60.1.2 The applicant has taken the ARRT certification examination one time but has not yet received the results of the examination.

60.2 The holder of a temporary certification shall take and successfully pass the next available ARRT examination. If the holder of a temporary certification does not take the examination, that temporary certification shall expire on the date of that examination. However, if the holder of a temporary certification can show that there was exceptional cause that prevented them from taking the examination, the Board may, in its discretion, and for good cause shown, renew the temporary certification until the date of the next available ARRT examination.

60.3 If the holder of a temporary certification takes the next available ARRT examination but does not successfully pass it, the temporary certification shall expire on the day after receiving notice of the failure to pass the examination. In that case, the Board shall not renew the temporary certification. The applicant may re-apply for certification only after having taken and passed the examination.

61.0 Renewal of Certification

61.1 Certification shall be renewable every two years on completion of the online renewal form, payment of the required fee, and submission of: current contract; updated copies of primary and secondary supervision forms; updated protocol; verification of current licensure as a radiologic technologist in radiography in 26 V.S.A. ch. 51; and, verification of current active ARRT certification, including compliance with continuing education requirements.

61.2 Lapsed licenses may be renewed under the provisions of 26 V.S.A. § 2856.

62.0 Change of Certification

62.1 The Board shall be notified and the appropriate applications and documentation filed whenever:

62.1.1 The radiologist assistant's protocol changes;

62.1.2 The radiologist assistant will be working at a different or an additional office or hospital; or

62.1.3 The radiologist assistant will be primarily supervised by a different radiologist.

62.2 Documents already on file with the Board may be referred to and need not be resubmitted.

63.0 More Than One Supervising Radiologist

63.1 Each application for initial certification, temporary certification, renewal of certification or change of certification shall identify the primary supervising radiologist who shall be responsible for the radiologist assistant's professional activities and sign the protocol required under 26 V.S.A. § 2853.

63.2 Subject to the scope of practice restrictions in this rule and Chapter 52 of Title 26, the radiologist assistant may also perform services under the supervision of additional board-certified radiologists working in the same office or hospital as the primary supervising radiologist ("secondary supervising radiologist[s]"), but must file a protocol regarding that supervisory relationship and a statement from the secondary supervising radiologist of the responsibility for the professional activities of the radiologist assistant performed under supervision.

64.0 Termination of Supervision

If the supervisory relationship between the primary supervising radiologist and the radiologist assistant is terminated for any reason, both parties must notify the Board directly and immediately in writing, using the Board's Termination of Contract form. The radiologist assistant shall cease practice until a new application is submitted by a primary supervising radiologist and is approved by the Board.

65.0 Practice

65.1 A radiologist assistant shall perform only those tasks assigned on a case-by- case basis by the supervising radiologist. The radiologist assistant shall implement the personalized plan for each patient as individually prescribed by the supervising radiologist after that physician has completed a specific assessment of each patient. In determining which radiologic procedures to assign to a radiologist assistant, a supervising radiologist shall consider all of the following:

65.1.1 The education, training and experience of the radiologist assistant;

65.1.2 The radiologist assistant's scope of practice as defined in Chapter 52 of Title 26 and this rule;

65.1.3 The conditions on the practice of the radiologist assistant set out in the written practice protocol;

65.1.4 The guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the ARRT, as amended from time to time;

65.1.5 The physical proximity of the supervising radiologist and the radiologist assistant or assistants the radiologist may be supervising concurrently; and

65.1.6 The number of patients whose care is being supervised concurrently by the supervising radiologist.

66.0 Supervision

66.1 A supervising radiologist shall supervise a radiologist assistant within the terms, conditions, and limitations set forth in the written practice protocol filed with the Board. Radiologist supervision requires, at all times, a direct, continuing and close supervisory relationship between a radiologist assistant and the supervising radiologist.

66.2 Supervision does not, necessarily, require the constant physical presence of the supervising radiologist; however, the radiologist must remain readily available in the facility for immediate diagnosis and treatment of emergencies.

66.3 The supervising radiologist shall ensure that, with respect to each patient, all activities, functions, services and treatment measures are immediately and properly documented in written form by the radiologist assistant. All written entries shall be reviewed, countersigned, and dated by the supervising radiologist. The supervising radiologist's signature on the medical record will fulfill this requirement for all written entries on the record.

66.4 Nothing in this section shall prohibit the supervising radiologist from addressing an emergency in another location in the facility.

67.0 Protocol and Scope of Practice

67.1 A radiologist assistant's scope of practice is limited to procedures and treatments that the supervising radiologist performs in the practice.

67.2 A radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.

67.3 The radiologist assistant may assist the radiologist in developing and implementing a radiologic care plan for a patient. In so doing, the radiologist assistant may, in the discretion of the radiologist, perform patient assessment, patient management and selected examinations as outlined below:

67.3.1 Obtaining consent for and injecting agents that facilitate and/or enable diagnostic imaging;

67.3.2 Obtaining clinical history from the patient or medical record;

67.3.3 Performing pre-procedure and post-procedure evaluation of patients undergoing invasive procedures;

67.3.4 Assisting radiologists with invasive procedures;

67.3.5 Performing fluoroscopy for non-invasive procedures with the radiologist providing direct supervision of the service;

67.3.6 Monitoring and tailoring selected examinations under direct supervision (i.e., IVU, CT program, GI studies, VCUG, and retrograde urethrograms);

67.3.7 Communicating the reports of radiologist's findings to the referring physician or an appropriate representative with appropriate documentation;

67.3.8 Providing naso-enteric and oro-enteric feeding tube placement in uncomplicated patients;

67.3.9 Performing selected peripheral venous diagnostic procedures; and

67.3.10 Any other activity that the Board approves in a protocol to allow for changing technology or practices in radiology.

68.0 Places of Practice

A radiologist assistant shall work only in the office of the primary supervising radiologist or in the hospital in which the primary supervising radiologist practices.

69.0 Patient Notification and Consent

Any physician, clinic, or hospital that uses the services of a radiologist assistant shall:

69.1 Post a clear notice to that effect in a conspicuous place;

69.2 Except in case of an emergency, include language in the patient consent form that the radiologist may use a radiologist assistant; and

69.3 Require each radiologist assistant to wear a name tag clearly indicating the title radiologist assistant.

70.0 Disciplinary Action

70.1 All complaints and allegations of unprofessional conduct shall be processed in accordance with Section IV of this rule.

70.2 After notice and an opportunity for hearing, the Board may take disciplinary action against any applicant, radiologist assistant trainee, or radiologist assistant found guilty of unprofessional conduct, as provided by 3 V.S.A. §§ 129 and 809, and 26 V.S.A. § 2858, including but not limited to:

70.2.1 Reprimand, suspend, revoke, limit, condition, deny or prevent renewal of certification;

70.2.2 Required completion of continuing education;

70.2.3 Required supervised training or practice for a specified period of time or until a satisfactory evaluation by the supervising physician has been submitted to the Board.

70.3 The Board may approve a negotiated agreement between the parties. The conditions or restrictions that may be included, without limitation, in addition to

those above, in such an agreement are set forth in 3 V.S.A. § 809(d) and 26 V.S.A. § 2859(e).

70.4 Right to Appeal

A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director of the Vermont Board of Medical Practice, as provided by 26 V.S.A. § 1367 and 3 V.S.A. § 815.

SECTION VIII. NONDISCIPLINARY FINANCIAL PENALTIES.

71. 0 Introduction

The Board has discretion to offer licensees the opportunity to resolve a violation of an applicable statute or rule by paying a nondisciplinary financial penalty as provided by 26 V.S.A. § 1377. If such an offer is made and accepted, and the specified penalty received, the matter will be closed with no further action. A licensee does not have the right to have a case resolved by nondisciplinary financial penalty if the Board does not extend an offer to resolve it in that manner.

71.1. As required by Act 126 of 2020, Sec. 8, the following table of violations and penalties is established.

71.1.1. Failure to maintain a current, valid mailing address, email address, or telephone number. $25

71.1.2. Failure to disclose a pending malpractice case at the time of application for issuance of an initial or reinstated license. $250

71.1.3. Failure to disclose a pending malpractice case at the time of application for issuance of a renewal license. $100

71.1.4. Failure to disclose a pending investigation by the licensing authority of another jurisdiction at the time of application for issuance of an initial or reinstated license. $250

71.1.5. Failure to disclose a pending investigation by the licensing authority of another jurisdiction at the time of application for a renewal license. $100

71.1.6. Failure to disclose a pending investigation by a hospital, medical staff group, health care facility, professional association, or other body that has authority to take actions regarding the applicant's employment or right to practice medicine the time of application for issuance of an initial or reinstated license. $250

71.1.7. Failure to disclose a pending investigation by a hospital, medical staff group, health care facility, professional association, or other body that has authority to

take actions regarding the applicant's employment or right to practice medicine the time of application for issuance of a renewal license. $100

71.1.8. Failure to disclose restriction or revocation of hospital privileges at the time of application for issuance of an initial or reinstated license. $250

71.1.9. Failure to disclose restriction or revocation of hospital privileges at the time of application for a renewal license. $100

71.1.10. Failure to disclose a felony criminal conviction that has not been expunged or overturned on an initial application. $250

71.1.11. Failure to disclose a felony criminal conviction that has not been expunged or overturned on a renewal application. $125

71.1.12. Failure to disclose a misdemeanor criminal conviction that has not been expunged or overturned on an initial application. $125

71.1.13. Failure to disclose a misdemeanor criminal conviction that has not been expunged or overturned on a renewal application. $75

71.1.14. Failure to disclose revocation or restriction of hospital privileges for reasons related to competence or character on an initial application. $250

71.1.15. Failure to disclose revocation or restriction of hospital privileges for reasons related to competence or character on a renewal application. $125

71.1.16. Failure to disclose voluntary surrender of a license to practice medicine or any other healing art after having been notified of an investigation that had not yet been resolved, or in lieu of a disciplinary action, on an initial application. $250

71.1.17. Failure to disclose voluntary surrender of a license to practice medicine or any other healing art after having been notified of an investigation that had not yet been resolved, or in lieu of a disciplinary action on a renewal application. $250

71.1.18. Failure to disclose licensure by other US jurisdictions on initial application. $75 (per jurisdiction)

71.1.19. Failure to disclose licensure by other US jurisdictions on renewal application. $50 (per jurisdiction)

71.1.20. Failure to inform the Board of new information of the types specified above when the applicant learns of it after the application is submitted but before an

initial or reinstated license is granted. The same amount stated above for a failure to disclose.

71.1.21. Unspecified errors and omissions on any application. $50 (per error or omission).

71.1.22. Working without a license during the first 48 hours after the license has lapsed. $250

71.1.23. Certification on a license renewal application that the licensee has completed the Health Care Workforce Census, as required to renew, if the Workforce Census has not been completed. $100

71.1.24. Certification on a license renewal application that the licensee has satisfied Continuing Medical Education requirements, if the requirements have not been completed. $100 to $250

71.2. In the event of repetition of the same violation at a later time, if the set penalty is less than $250 the amount of the penalty may be doubled up to a maximum of $250 for a single violation.

SECTION IX. PRE-APPLICATION DETERMINATION ON CRIMINAL BACKGROUND

72.0 As provided by 26 V.S.A. § 1353(12), the Board will render a pre-application determination of whether an individual's criminal background would make the individual ineligible to be licensed or certified to practice one of the professions regulated by the Board.

73.0 A complete request for a pre-application determination regarding criminal background requires all of the following:

73.1. Completion of a form requesting the pre-application determination;

73.2. Completion by the applicant of all steps necessary for the Board to receive a fingerprint-supported National Crime Information Center (NCIC) criminal background record check;

73.3. Submission of certified copies of all criminal convictions relating to each crime on the individual's criminal record;

73.4. Copies of the charges, information, or indictment relating to each conviction;

73.5. Any evidence of rehabilitation that the individual wishes to be considered by the Board in making the determination. Notarized affidavits may be submitted; live testimony will not be taken; and

73.6. Payment of the fee.

74.0 The request for determination will not be complete until all the above steps have been taken and the Board has received the NCIC record check.

75.0 The request for determination may be assigned to the Licensing Committee for the purpose of making a recommendation to the Board.

SECTION X. SPECIAL PROVISION FOR LICENSING OF SPOUSES OF US MILITARY MEMBERS TRANSFERRED TO VERMONT.

76.0 As provided by 26 V.S.A. § 1353(13)(A), the Board will take the following steps to expedite the licensure of applicants who are the spouse of a member of the United States Armed Forces who has been ordered to a duty station in Vermont, if the applicant is licensed in good standing for one of the professions regulated by the Board in another US jurisdiction and was employed in that profession at the time their spouse received orders to Vermont:

76.1. Applicants with at least one year of practice in good standing while licensed in another US jurisdiction may apply using the procedures established in Section 16.0.

76.2. For applicants who were accompanying their spouse at an overseas location, who were practicing in a position with the US government, and who were licensed in good standing in a US jurisdiction, such practice shall be accepted as the equivalent of practice in another US jurisdiction.

76.3. For documents that are required to be submitted in printed form directly from the issuing authority, the Board will accept electronic copies on a provisional basis pending receipt of the printed original. Acceptance of such substitute documents will be conditioned on the applicant agreeing that there will be good cause for the Board to revoke or suspend the license issued if the Board does not receive the original document within a reasonable period of not fewer than 90 days, or if there are any material deviations between the provisional document and the printed original later submitted to the Board.

77.0 Applicants requesting to use these special provisions must submit copies of their spouse's orders and other documentation to establish eligibility.

SECTION XI. SPECIAL FEE PROVISION FOR US MILITARY MEMBERS AND THEIR SPOUSES.

78.0 As provided by 26 V.S.A. § 1401a(4), the established fees for licensure for the professions regulated by the Board will be waived for:

78.1. An individual who is a member of the US Armed Forces and whose home of record is Vermont at the time of application to be licensed;

78.2. An individual who practices a profession licensed by the Board with the US Armed Forces and who is assigned to Vermont to practice that profession, so long as assigned to Vermont;

78.3. The spouse of a US Armed Forces member who is ordered to a duty station in Vermont so long as their spouse continues to be assigned to Vermont.

79.0 Eligibility for the fee waiver is determined at the time that the fee is due and continues through the end of the licensing period regardless of whether the military member is assigned to a different permanent duty station during the period. Individuals who request fee waiver will be required to submit copies of orders or other documentation to establish eligibility.

SECTION XI. RULES FOR REMOTE HEARINGS

80.0 Scope

80.1 Upon order of the Board of Medical Practice, or a Hearing Officer acting on the Hearing Officer's own behalf, a hearing may be held by telephone, video, or other electronic means ("Remote Hearings"). If a party objects to having all or part of a hearing conducted as a Remote Hearing the party must submit a written motion within 14 days, or sooner if specified in the order scheduling the remote hearing. In ruling on the objection, the Board or Hearing Officer shall consider the factors set forth in Vermont Rule of Civil Procedure 43.1. This section sets forth procedures for conducting Remote Hearings.

80.2 All other Sections of the Board of Medical Practice ("Sections") not modified herein continue to apply. In the case where a standard set forth for Remote Hearings conflicts with a standard set forth in other sections, the standards in this section shall govern.

81.0 Pre-Hearing Administration

81.1 Hearing Notice

81.1.1 In addition to the other information required to be included in a notice of a hearing pursuant to 3 V.S.A. § 809 and 26 V.S.A. § 1372(b)(2) the notice of a remote hearing shall contain instructions and information, including phone numbers and website links and addresses, for participating in the remote hearing by web-based visual and audio communication or by telephone. If the telephone numbers and/or website links and addresses for remote participation are not established at the time a notice is issued, the notice may instead state that the hearing will be held by remote means, that the telephone numbers and or website information will be provided to parties no later than seven days prior to the hearing, and that the information will be publicly posted on the Board's website no fewer than seven days prior to the hearing.

81.1.2 The notice of a remote hearing shall contain contact information for the Docket Clerk or another Board staff member who can be contacted during the hearing if a party encounters any difficulties with remote participation.

81.1.3 The notice shall instruct a party how to contact the Docket Clerk if the party is unable to participate in the hearing remotely.

81.1.4 A party may request a continuance in accordance with Section 41.2.2 if the party is unable to participate remotely in the hearing. The Board, hearing panel, or presiding officer shall determine whether to grant the motion for a continuance consistent with Section 41.2.2.

81.1.5 If a party needs a modification or an accommodation to be made to participate in the hearing remotely, the party may file a request. The non-requesting party shall be notified of the request for an accommodation or modification. If a requested accommodation or modification will substantially adversely affect the rights of the non-requesting party, the hearing panel shall determine whether to permit the accommodation or modification. For requested accommodations and modifications that will not adversely affect the rights on the non-requesting party, the Docket Clerk may approve accommodations or modifications after providing notice of the request to the non-requesting party.

81.2 Pre-Hearing Filings

81.2.1 Prior to the beginning of a hearing, documents may be filed by sending the filing to the Docket Clerk as an attachment to an email, by regular mail, or by facsimile. Regardless of the method of delivery, documents are only deemed filed upon receipt by the Docket Clerk.

81.2.2 Unless a different discovery and hearing schedule is issued by a hearing

officer, filings submitted prior to a hearing must be received by the Docket Clerk no later than noon on the last business day prior to the scheduled hearing. Filings not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be introduced at the hearing in accordance with Section 82.2.2.

81.2.3 Objections to the admissibility of pre-filed exhibits and responses to motions may be made at the scheduled hearing unless a discovery and hearing schedule issued by a hearing officer requires objections and responses to be filed by an earlier date. Objections to the admissibility of the pre-filed exhibit and responses to motions may also be made in writing by submitting a written objection or response to the Docket Clerk by noon on the last business day prior to the scheduled hearing.

81.2.4 Filings submitted prior to a hearing shall be served on the other party on the same day the filing is submitted to the Docket Clerk and using the same method of delivery unless otherwise agreed by the parties.

81.2.5 The procedures regarding electronic introduction of filings at a hearing set forth in Section 82.2.2 shall be followed.

81.3 Service

81.3.1 Except for filings that are required to be served by certified mail, filings may be served on the other party via email and do not require regular mail or personal service. Service by regular mail and personal service remain acceptable means of service. The filing shall be served on the other party using the same method of delivery that is used to submit the filing to the Docket Clerk unless otherwise agreed by the parties.

81.3.2 Filings that are required by statute or other sections of this rule to be served by certified mail must be served by certified mail.

81.4 Form

81.4.1 The subject line of the email containing a filing as an attachment shall indicate the name of the respondent.

81.4.2 A signature block containing the submitting party's typed-in name preceded by "/s/," or an electronic facsimile of the submitting party's signature, a scanned copy of it, or another form of electronic signature as defined in 9 V.S.A. § 271(9), will serve as a party's signature on pleadings, motions, and other documents that must be filed with a signature. This exception does not apply to affidavits, verified pleadings, or other signatures that must be notarized by statute.

81.4.3 Exhibits submitted for use during a hearing shall be marked for

identification by the party submitting the exhibit. The respondent shall mark exhibits using letters and the State shall mark exhibits using numbers.

81.5 Timing

81.5.1 Filings sent by email will be considered filed on the date sent if the email is received before 4:30 pm.

81.5.2 Nothing in these remote hearing rules extends filing deadlines.

82.0 Hearings Before a Hearing Panel

82.1 Hearing Procedures

82.1.1 Prior to Hearing

82.1.1.1 Prior to the scheduled hearing the Docket Clerk shall send the parties an email with the specification of charges, the answer, and applicable prehearing orders.

82.1.1.2 By noon on the last business day prior to the scheduled hearing, the parties and the members of the hearing panel shall provide the Docket Clerk a phone number and email address at which the party or board member can be reached during the remote hearing.

82.1.2 Commencement of Hearing

82.1.2.1 A party is responsible for connecting to the remote hearing via the web-based audio and visual system or telephone number provided in the hearing notice. Parties shall participate in the scheduled hearing using audio communication, either web-based or telephone, at a minimum. A hearing officer may order a party to participate using video upon request of a party and showing of a reasonable basis for the request.

82.1.2.2 At the beginning of a scheduled hearing, the hearing officer shall confirm the presence of both parties and their representatives, when applicable.

82.1.2.3 Parties shall be present at the time provided in the hearing notice via the web-based audio and visual communication link or by telephone. If there is more than one hearing scheduled, the order of hearings will be decided by the hearing officer. The first

hearing shall begin at the time stated on the hearing notice. Subsequent hearings will occur after the conclusion of the previous hearing.

82.1.3 Hearing Conduct.

82.1.3.1 Scheduled hearings shall be conducted in accordance 1 V.S.A. Chapter 5 and 26 V.S.A. Chapter 23.

82.1.3.2 At the beginning of the hearing, upon request from the hearing officer, each party shall state their full name for the record.

82.1.3.3 The parties shall keep the audio connection through which the party is participating in the hearing muted while not speaking.

82.1.3.4 If a party is not able to hear the hearing officer, hearing panel, or the other party, the party shall un-mute their audio communication system and notify the hearing officer.

82.1.3.5 The hearing officer shall administer oaths and affirmations, as required by law, using the audio and, if available, visual communication systems.

82.1.4 Hearing Panel Members.

82.1.4.1 When participating in a hearing remotely, hearing panel members shall comply with the requirements of 26 V.S.A. § 1318.

82.1.4.2 By noon on the day prior to the scheduled hearing, each hearing panel member shall provide to the Docket Clerk an email address for a current email account that the member can access during the hearing.

82.1.4.3 During a scheduled hearing, the Docket Clerk shall send all filings and required written communications to the hearing panel members at the email address provided to the Docket Clerk.

82.1.4.4 During a scheduled hearing, hearing panel members shall monitor the email account submitted to the Docket Clerk, and immediately review emails received from the Docket Clerk and

other Board Office staff.

82.2 Record

82.2.1 Recording and Transcript. The hearing shall be recorded. Parties may request a transcript from the Docket Clerk. The party requesting a copy of the transcript must pay to the Board Office the estimated cost of producing a copy of the transcript.

82.2.2 Introduction of Documents During Hearing

82.2.2.1 All filings to be considered by the hearing panel during a hearing shall be filed with the Docket Clerk in advance of the scheduled hearing in accordance with Section 81.2.1, or during the hearing in accordance with the procedures set forth in this subsection. Filings that are not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be submitted during the hearing.

82.2.2.2 Exhibits

82.2.2.2.1 Exhibits proffered during a hearing that a party wishes to offer to be admitted as evidence shall be emailed as an attachment to the Docket Clerk and the other party. The form of the exhibit shall comply with the form requirements of Section 81.4.

82.2.2.2.2 Once the proffered exhibit is received by the Docket Clerk, the Docket Clerk shall email the exhibit as an attachment to the hearing officer presiding at the hearing and to the other, non-filing party.

82.2.2.2.3 After receipt of the email from the Docket Clerk with the exhibit attached, the hearing officer and the other, non-filing party shall have a reasonable amount of time, as determined by the hearing officer, to review the exhibit.

82.2.2.2.4 The non-filing party shall have the opportunity to oppose the admission of an offered exhibit.

82.2.2.2.5 The hearing officer shall rule on whether to admit the exhibit in accordance with Section 41.4 and 3 V.S.A. § 810.

82.2.2.2.6 If the hearing officer rules that an exhibit is to be admitted into evidence, the Docket Clerk shall send an email with the exhibit attached to all members of the hearing panel.

82.2.2.2.7 Members of the hearing panel shall not retain any copies, including electronic or physical copies, of the exhibit after the conclusion of the hearing.

82.2.2.3 Motions

82.2.2.3.1 Written motions made during a hearing shall be emailed as an attachment to the Docket Clerk and the non-filing party. Motions may also be made orally during a hearing.

82.2.2.3.2 A written motion shall be signed in accordance with Section 81.4.2.

82.2.2.3.3 Upon receipt of a written motion during a hearing, the Docket Clerk shall send the motion to the hearing officer and the hearing panel members.

82.2.2.3.4 The non-filing party shall have the opportunity to respond to a motion.

82.2.2.3.5 The hearing officer shall decide whether to grant or deny a motion.

82.3 Witnesses

82.3.1 Witnesses called by a party shall testify by telephone or via web-based audio or visual communication.

82.3.2 The party calling the witness shall be responsible for providing the witness with the necessary information for participating in the scheduled hearing, including all necessary phone numbers, email addresses, and website addresses. It is the responsibility of the party calling the witness to ensure that the witness is available when called upon to testify during the scheduled hearing.

82.3.3 The party calling the witness shall provide the Docket Clerk with a phone number and email address for the witness. In the event of technical challenges or a need to dismiss and then recall a witness, the Docket Clerk shall telephone the witness with further instructions about when the witness is recalled to testify.

82.4 Deliberative Session

82.4.1 The hearing panel shall have the opportunity to engage in deliberations, as defined in 1 V.S.A. § 310(2), about the contested case presented at the scheduled hearing. Deliberations by the hearing panel may occur in a deliberative session in accordance with 1 V.S.A. § 312(e).

82.4.2 Prior to the scheduled hearing, the Docket Clerk shall email to the hearing panel members and the hearing officer a conference call telephone number or information for an audio and visual communication system link that shall be available only to those participating in deliberations, to be used for the deliberative session.

82.4.3 After the hearing panel votes to enter into a deliberative session, the hearing panel members shall exit the audio and visual communication system or end the telephone call through which the hearing panel member is participating in the hearing. The parties shall remain available on the audio and visual communication system or the telephone during the deliberative session. The hearing panel members shall then use the conference call telephone number or audio and visual communication system link provided by the Docket Clerk prior to the scheduled hearing. The deliberative session shall be held on the medium that is available only to those participating in the deliberations.

82.4.4 At the conclusion of the deliberative session, the hearing panel members shall reconnect to the audio and visual communication system or the telephone line on which the hearing is being held. The hearing officer will notify the Docket Clerk and the parties that the hearing is resuming and shall provide the parties and the Docket Clerk with a reasonable amount of time to resume. Decisions by the hearing panel announced following a deliberative session shall be made by motion and voted upon by the members in an open session on the record.

82.5 Hearing Panel Report

The hearing officer shall prepare a report of the hearing panel's findings of fact and recommendations to the Board in accordance with 26 V.S.A. § 1372(c) and Section 41.5. The Docket Clerk shall serve the report on the parties by sending it as an attachment to an email. The Docket Clerk shall send the report to other individuals on request.

83.0 Hearing Before the Board

83.1 Hearing Procedures

83.1.1 Applicability

All of Section 83.0applies in full to contested hearings before the Board. With regard to hearings before the Board for the purpose of consideration and approval of a stipulation and consent order, only this Section, 83.1, applies.

83.1.2 Prior to Hearing

83.1.2.1 Prior to the scheduled hearing, the Docket Clerk shall send the parties an email with the specification of charges, the answer, and applicable pre-hearing orders.

83.1.2.2 By noon on the last business day prior to the scheduled hearing, the parties shall provide the Docket Clerk with a phone number and email address at which the party can be reached in the event of a malfunction during the remote hearing.

83.1.3 Commencement of Hearing

83.1.3.1 A party is responsible for connecting to the remote hearing via the web-based audio and visual system or telephone number provided in the hearing notice. Parties shall participate in the scheduled hearing using audio communication, either web-based or telephone, at a minimum. A hearing officer may order a party to participate using video upon request of a party and showing of a reasonable basis for the request.

83.1.3.2 At the beginning of a scheduled hearing, the hearing officer shall confirm the presence of both parties and their representatives, when applicable.

83.1.3.3 Parties shall be present at the time provided in the hearing notice via the web-based audio and visual communication link or by telephone. If there is more than one hearing scheduled, the order of hearings will be decided by the hearing officer. The first hearing shall begin at the time stated on the hearing notice. Subsequent hearings will occur after the conclusion of the previous hearing.

83.1.4 Hearing Conduct

83.1.4.1 Scheduled hearings shall be conducted in accordance 1 V.S.A. Chapter 5.

83.1.4.2 At the beginning of the hearing, upon request from the hearing officer, each party shall state their full name for the record.

83.1.4.3 The parties shall keep the audio connection, through which the party is participating in the hearing, muted while not speaking.

83.1.4.4 If a party is not able to hear the hearing officer, a Board member, or the other party, the party shall un-mute their

audio communication system and notify the hearing officer.

83.1.4.5 The hearing officer shall identify the Board members who are eligible and participating in the hearing on the record.

83.1.4.6 The hearing officer shall administer oaths and affirmations, as required by law, using the audio and, if available, visual communication systems.

83.1.5 Board Members Hearing the Case

83.1.5.1 When participating in a hearing remotely, Board members shall comply with the requirements of 26 V.S.A. § 1318.

83.1.5.2 By noon on the day prior to the scheduled hearing, each Board member shall provide to the Docket Clerk an email address for a current email account that the member can access during the hearing.

83.1.5.3 During a scheduled hearing, the Docket Clerk shall send all filings and required written communications to the participating Board members at the email address provided to the Docket Clerk.

83.1.5.4 During a scheduled hearing, participating Board members shall monitor the email account submitted to the Docket Clerk, and immediately review emails received from the Docket Clerk and other Board Office staff.

83.2 Record

83.2.1 Recording and Transcript

The hearing shall be recorded. Parties may request a transcript from the Docket Clerk. The party requesting a copy of the transcript must pay to the Board Office the estimated cost of producing a copy of the transcript.

83.2.2 Introduction of Documents During Hearing

83.2.2.1 All filings to be considered by the Board during a hearing that are not already a part of the record shall be filed with the Docket Clerk in advance of the scheduled hearing in accordance with Section 81.2.1, or during the hearing in

accordance with the procedures set forth in this subsection. Filings not received by the Docket Clerk by noon on the last business day prior to the scheduled hearing must be submitted during the hearing.

83.2.2.2 Exhibits

83.2.2.2.1 Exhibits submitted during a hearing shall be emailed as an attachment to the Docket Clerk and the other party. The form of the exhibit shall comply with the form requirements set forth in Section 81.4.

83.2.2.2.2 Once the exhibit is received by the Docket Clerk, the Docket Clerk shall email the exhibit as an attachment to the hearing officer presiding at the hearing and the other, non-filing party.

83.2.2.2.3 After receipt of the email from the Docket Clerk with the exhibit attached, the hearing officer and the other, non-filing party shall have a reasonable amount of time, as determined by the hearing officer, to review the exhibit.

83.2.2.2.4 The non-filing party shall have the opportunity to oppose the admission of an offered exhibit.

83.2.2.2.5 The hearing officer shall rule on whether to admit the exhibit in accordance with Section 41.4 and 3 V.S.A. § 810.

83.2.2.2.6 If the hearing officer rules that an exhibit is to be admitted into evidence, the Docket Clerk shall send an email with the exhibit attached to members of the Board who are hearing the case.

83.2.2.2.7 Members shall not retain any copies, including electronic or physical copies, of the exhibits after the conclusion of the hearing.

83.2.2.3 Motions

83.2.2.3.1 Written motions made during a hearing shall be emailed as an attachment to the Docket Clerk and the non-filing party. Motions may also be made orally during a hearing.

83.2.2.3.2 A written motion shall be signed in accordance with Section 81.4.2.

83.2.2.3.3 Upon receipt of a written motion during a hearing, the Docket Clerk shall send the motion to the Board membershearing the case.

83.2.2.3.4 The non-filing party shall have the opportunity to respond to a motion.

83.2.2.3.5 The hearing officer shall decide whether to grant or deny a motion.

83.3 Witnesses

83.3.1 Witnesses called by a party shall testify by telephone or via web-based audio or visual communication.

83.3.2 The party calling the witness shall be responsible for providing the witness with the necessary information for participating in the scheduled hearing, including all necessary phone numbers, email addresses, and website addresses. It is the responsibility of the party calling the witness to ensure that the witness is available when called upon to testify during the scheduled hearing.

83.3.3 The party calling the witness shall provide the Docket Clerk with a phone number and email address for the witness. In the event of technical challenges or a need to dismiss and then recall a witness, the Docket Clerk shall telephone the witness with further instructions about when the witness is recalled to testify.

83.4 Deliberative Session

83.4.1 The participating Board members shall have the opportunity to engage in deliberations, as defined in 1 V.S.A. § 310(2), about the contested case presented at the scheduled hearing. Deliberations by the participating Board members may occur in a deliberative session in accordance with 1 V.S.A. § 312(e).

83.4.2 Prior to the scheduled hearing, the Docket Clerk shall email to the participating Board members and the hearing officer a conference call telephone number or information for an audio and visual

communication system link that shall be available only to those participating in deliberations, to be used for the deliberative session.

83.4.3 After the participating Board members vote to enter into a deliberative session, the members shall exit the audio and visual communication system or end the telephone call through which members are participating in the hearing. The parties shall remain available on the audio and visual communication system or the telephone during the deliberative session. The participating Board members shall then use the conference call telephone number or audio and visual communication system link provided by the Docket Clerk prior to the scheduled hearing. The deliberative session shall be held on the medium that is available only to those participating in the deliberations.

83.4.4 At the conclusion of the deliberative session, the participating Board members shall reconnect to the audio and visual communication system or the telephone line on which the hearing is being held. The hearing officer will notify the Docket Clerk and the parties that the hearing is resuming and shall provide the parties and the Docket Clerk with a reasonable amount of time to resume. Decisions by the Board announced following a deliberative session shall be made by motion and voted upon by the members in an open session on the record.

83.5 Board Decision

The Board shall issue a written decision of its findings and conclusions in accordance with 26 V.S.A. § 1374. The Board may have the assistance of the hearing officer in preparing its written decision. 26 V.S.A. § 1353(2).

83.6 Appeals

83.6.1 A party may appeal a decision of the Board in accordance with 26 V.S.A. 1367 and Section 42.3.

83.6.2 Parties may submit written notices and filings to the Docket Clerk, and otherparties by email, mail, or facsimile.

MD License

Welcome to Maine. We are pleased you've chosen to apply for a license to practice medicine here.

Please watch this video before submitting an application.

MD & PA applications and completing the UA and FCVS

On This Page:

Permanent License

Maine is now participating in the FSMB Uniform Application process. This means that there is now one place to apply for your Maine Permanent Medical License.

Please review the State of Maine Requirements for Medical Licensure (PDF) before you start the application. Also, please be aware that Maine requires credentials verification by the Federation Credentials Verification Service (FCVS). Click on the "Start Here" link in the picture below to begin your FCVS credentials verification and/or your Uniform Application for licensure.

Apply for licensure in one or more states

fsmb FEDERATION OF STATE MEDICAL BOARDS

Online Exam For MD Applicants: If you are applying for any license other than the Interstate Telemedicine Consultation Registration, there is a written test given as part of the licensure process. The exam is online here. Upon its completion, a certificate will be immediately available to you. Preview the exam review materials (PDF) and we encourage you to download and review them prior to taking the test. You must get an initial score of at least 75% to pass.

The exam must be taken every four years.

Renewal Information

Licenses must be renewed every two years.

Licensees born in even-numbered years must renew their licenses by the last day of their birth month every even-numbered year.

Licensees born in odd-numbered years must renew their licenses by the last day of their birth month every odd-numbered year.

MDs with existing licenses that are due for renewal can renew their license online

Additional License Types

Administrative License - Please use the FSMB Uniform Application

"A License Limited to the Practice of Administrative medicine" means:

A. professional managerial or administrative activities related to the practice of medicine or to the delivery of health care services, but does not include the practice of clinical medicine; and/or,
B. medical research (excluding clinical trials on humans).

If the physician's job does not include any act as defined in this rule as "clinical medicine", a License Limited to the practice of Administrative Medicine is required.

Camp License - Please use the FSMB Uniform Application for initial application and the Camp Renewal for subsequent years

Camp Licenses are used for physicians working in Summer Camps.

Consultative Telemedicine Registration Regulation - Please use the FSMB Uniform Application

For the purposes of this section, "telemedicine" as it pertains to the delivery of the health care services, means the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. "Telemedicine" does not include the use of audio-only telephone facsimile machine or e-mail.

A physician with a Consultative telemedicine Registration may not open an office in this State, does not meet with patients in this State, does not receive calls in this State from patients and agrees to provide only consultative services as requested by a physician, advanced practice registered nurse or physician assistant licensed in this State and the physician, advanced practice registered nurse or physician assistant licensed in this State retains ultimate authority over the diagnosis, care and treatment of the patient.

Educational Certificates - Please use the FSMB Uniform Application

Educational Certificates are used to apply to practice in a residency program.

This license is site specific

Emergency (100 day) License - Please use the FSMB Uniform Application

A physician who presents a full, current, active, unconditioned license from another U.S. licensing jurisdiction and who can provide reasonable proof of meeting qualifications for licensure in Maine may, without examination, be granted a temporary license for a period not to exceed 100 days, when the board deems it necessary to provide relief for declared local emergencies or for other appropriate reasons as determined by the Board. The fee for this temporary license shall be $400 (plus the $700 permanent application fee), payable at the time of application.

This license is site specific

Emeritus - Please use the Online Renewal System

You may apply for an Emeritus License if you currently have a Permanent, Administrative, or Volunteer license in Maine. An Emeritus License is a license issued to a qualified physician who is licensed in Maine and has retired from the active practice of medicine and does not render medical services or prescribe any medications. This license does not allow the clinical practice of medicine.

You may apply using the online renewal system here.

Interstate Medical Licensure Compact - Please go to http://www.imlcc.org/ for directions.

The Interstate Medical Licensure Compact allows physicians who meet certain criteria to obtain an expedited permanent license in Maine. The Compact also allows Maine licensed physicians who meet certain criteria to obtain expedited licenses in compact states.

The Compact requires that an applicant for licensure submit fingerprints or other biometric-based information for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining Maine's criminal records. 32 M.R.S. 3275-A.

Instructions for Maine Physicians: Register for fingerprinting online at https://me.ibtfingerprint.com/. If you do not register, you will not be able to have your fingerprints taken. There is a one-time fee for this process. A Letter of Qualification will not be issued until the results of the criminal background check have been received.

Reinstatement - Please use the Online System

You may apply for a reinstatement if your license has lapsed or if you have withdrawn your license within the last five years. Please go to our online system at https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=376, and choose RENEWAL, WITHDRAWAL and CONVERSION OPTIONS. Please note that you may have to take the ONLINE EXAM prior to submitting the reinstatement application. You may also download the appropriate form above and follow the attached instructions.

To be eligible to reinstate your license you will have to provide evidence of having actively engaged in the practice of medicine for the 12 months preceding the reinstatement application, or you will have to demonstrate current competency by passing a written examination or other practical demonstration as the Board may prescribe. You will also have to provide evidence of having achieved at least 40 category I CME credits in the prior 24 months.

Temporary License - Please use the Temporary Application

Any physician who is qualified under 32 MRSA, section 3275 may, without examination, be granted a temporary license for a period of time up to 6 months. That license may be extended for up to 6 months, but may not exceed one year, when the board deems it necessary to provide relief for local or national emergencies or for situations in which there are insufficient physicians to supply adequate medical services, including Locum Tenens needs.

This license is site specific

Volunteer Conversion/Renewal - Please use the Volunteer Application

The physician has retired or is retiring from the active practice of medicine and wishes to donate his or her expertise for the medical care and treatment of indigent and needy patients in the clinic setting of clinics organized, in whole or in part, for the delivery of health care services without charge.

Maine Board of Licensure in Medicine Fee Schedule Effective January 2, 2018

Modified:

Service	Fee	Explanation
Medical Doctor (MD)		
MD License Application	$600	Both application fee (600) and examination fee (100) due with application - total $700
Initial Jurisprudence Exam	$100	Both application fee (600) and registration fee (100) due with application - total $700
MD Temporary License Application (6 months)	$400	ONE RENEWAL OF 6 MONTHS (no cost if requested within 1 year) 365 DAY TOTAL Site Specific
MD Emergency 100 Day License	$400	No Renewals - Site Specific
MD Educational Certificate / Accredited Internship or Residency	$300	FOR 3 YEARS. May be prorated for 2nd / 3rd year initial applicants Site Specific

Service	Fee	Explanation
MD Camp Physician License	$100	Good only for named camp and specified dates
MD Consultative Telemedicine	$500	Renewed Biennially
MD License Renewal Biennially	$500	$500 expiration 4/30/2012 or later
MD License Renewal Late Fee	$100	Application received incomplete and/or after deadline
MD Volunteer Status	$50	Renewed Biennially
MD Emeritus License	$0	Renewed Biennially
MD License Reinstatement from Withdrawn Status	$550	Reinstatement fee $50 + current renewal fee $500
MD License Reinstatement from Lapsed Status	$600	Reinstatement fee $50 + current renewal fee $500 + late fee $50

APPLICATIONS

MD Emergency/ Permanent/ Camp/ Administrative/ Telemdicine/ Educational Application

Initial Application Affidavit (PDF)

MD Temporary (PDF)

MD Renewal (PDF)

MD Camp Renewal (PDF)

MD Reinstatement (PDF)

MD Volunteer (PDF)

Exam Review Materials (PDF)

State Exam

The Maine Board of Licensure in Medicine does NOT accept electronic notarization. You must appear physically in person to a notary and have the document notarized.

Credit

Information

Maine.gov

Site Policies

Accessibility

Comments/Questions

Board Home

Contact

Maine Board of Licensure in Medicine
137 State House Station
161 Capitol Street
Augusta, Maine 04333-0143

Telephone: (207) 287-3601
Fax: (207) 287-6590

Board of Licensure of Podiatric Medicine - Licensing - Podiatrists, Podiatrists in Residency

Podiatrist

"Podiatrist" means an individual currently licensed to practice Podiatric Medicine: The diagnosis and treatment of maladies of the human foot and ankle by medical, surgical or mechanical means. Practice of Podiatric Medicine includes the administration of local anesthesia in conjunction with the practice of Podiatry. The use of general anesthesia is permitted in conjunction with the practice of Podiatry when administered or supervised by a Medical or Osteopathic Physician who assumes responsibility for the administration of that anesthesia to a patient being treated by a Podiatrist.

How to apply

Fees

- License Fee of $500
- Criminal History Records Check Fee of $21

Please make your checks payable to: "Maine State Treasurer".

Term

- Annual (Fixed renewal date of June 30th)

Apply Now

- Apply online (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4400) ; or
- Download an Application form (PDF) (https://www.maine.gov/pfr/professionallicensing/sites/maine.gov.pfr.professionallicensing/files/inline-files/Pod_App_Standard_Endorsement_Rev_2022.pdf)

Requirements

Endorsement

Completed and signed application for licensure with all fees and required documentation.

Renewal fees and information

Fees

- Renewal fee $500

Renew Now

- Fill out the online renewal application (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4400) and submit.

The Department must verify that you have met all the conditions for renewal before your license is renewed. Online submission of your renewal application should not be construed as automatic renewal of your license.

Requirements

- A late fee of $50 is assessed for licenses renewed after the June 30 license expiration date.
- A late fee of $50 is assessed for licenses renewed 91 days to 2 years after the license expiration date.
- A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants and is required to reapply with a reinstatement application, documentation and fees.
- Continuing Education: 25 hours of continuing education is due at the time of renewal in the odd-numbered years pursuant to board rules.

Podiatrist In Residency

"Podiatrist in Residency" refers to an individual who has met all of the requirements to become a "Podiatrist," except for the residency and examination requirements.

How to apply

Fees

- License Fee of $500
- Criminal History Records Check Fee of $21

Please make your checks payable to: "Maine State Treasurer".

Term

- Annual (Fixed renewal date of June 30th)

Apply Now

- Apply online (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4400) ; or
- Download an Application form (PDF) (https://www.maine.gov/pfr/professionallicensing/sites/maine.gov.pfr.professionallicensing/files/inline-files/Pod_App_Residency_Rev_2022.pdf)

Requirements

Examination

Completed and signed application for licensure with all fees and required documentation

Renewal fees and information

Fees

Renew Now

- Renewal Fee of $500

Please make your checks payable to: "Maine State Treasurer".

- Fill out the online renewal application (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4400) and submit.

  The Department must verify that you have met all the conditions for renewal before your license is renewed. Online submission of your renewal application should not be construed as automatic renewal of your license.

Requirements

- A late fee of $50 is assessed for licenses renewed after the June 30 license expiration date.
- A late fee of $50 is assessed for licenses renewed 91 days to 2 years after the license expiration date.
- A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants and is required to reapply with an original license application, documentation and fees.
- Renewal reminders are emailed to the email address on file at least 30 days prior to the license expiration date. It is the licensee's responsibility to keep the Board informed of current contact information and to see that the license is renewed absent the renewal application.
- Continuing Education - 25 hours of continuing education is due at the time of renewal in the odd-numbered years pursuant to board rules.

Radiologic Technology Board of Examiners - Licensing - Limited Radiographer, Radiographer Technologist

Limited Radiographer

"Limited Radiographer" is defined as a person other than a licensed practitioner who applies x-radiation to specific parts of the human body, for diagnostic purposes while under the supervision of a licensed practitioner.

Please review the Board's rules, Chapter 7, for requirements that must be satisfied prior to licensure.

How to apply

Fees

- Licensure Fee of $100
- Criminal History Records Check Fee of $21

Please make your checks payable to: "Maine State Treasurer".

Term

- Biennial (Fixed renewal date of August 31st even years)

Apply Now

- Apply for a License Online (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4430)
  - For those applying for licenses online, please note that a copy of your current/valid ARRT or NMTCB national certification card must be mailed to the office. Thank you very much for your cooperation.
- Download an Application form (PDF) (https://www.maine.gov/pfr/professionallicensing/sites/maine.gov.pfr.professionallicensing/files/inline-files/rt_app_limited_Rev_8_2022_0.pdf)

Requirements

If applying for permanent licensure as a Limited Radiographer, please submit the following:

- Completed and signed application for licensure with all fees and required documentation

Renewal fees and information

Fees

- Biennial renewal fee $100

Renew Now

- Fill out the online renewal application (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4430) and submit.

  The Department must verify that you have met all the conditions for renewal before your license is renewed. Online submission of your renewal application should not be construed as automatic renewal of your license.

Requirements

- A late fee of $50 is assessed for licenses renewed after the August 31 license expiration date.
- A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants and is required to reapply with an original license application, documentation and fees.
- Continuing Education: 24 hours of continuing education pursuant to board rules.

Radiologic Technologist

"Radiologic Technologist" is defined as any person who is a Radiographer, a Radiation Therapy Technologist or a Nuclear Medicine Technologist who is licensed: "Radiographer" is defined as a person, other than a licensed practitioner, who applies ionizing radiation to human beings for diagnostic purposes by or under the supervision of a licensed practitioner. "Radiation Therapy Technologist" is defined as a person, other than a licensed practitioner, who applies ionizing radiation on human beings for therapeutic purposes, including simulation, by or under the supervision of a licensed practitioner. "Nuclear Medicine Technologist" is defined as a person, other than a licensed practitioner, who uses radionuclides on human beings for diagnostic or therapeutic purposes.

How to apply

Fees

- Licensure Fee of $100
- Criminal History Records Check Fee of $21

Please make your checks payable to: "Maine State Treasurer".

Term

- Biennial (Fixed renewal date of August 31st even years)

Apply Now

- Apply for a License Online (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4430)
  - For those applying for licenses online, please note that a copy of your current/valid ARRT or NMTCB national certification card must be mailed to the office. Thank you very much for your cooperation.
- Download an Application form (PDF) (https://www.maine.gov/pfr/professionallicensing/sites/maine.gov.pfr.professionallicensing/files/inline-files/rt_app_Rev_8_2022_0.pdf)

Requirements

If applying for permanent licensure as a Radiologic Technologist, please submit the following:

- Completed and signed application for licensure with all fees and required documentation.
- Proof of Current Certification by ARRT or NMTCB.
- Any additional information requested with the application.

Renewal fees and information

Fees

- Renewal Fee of $100

Renew Now

- Fill out the online renewal application (https://www1.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=4430) and submit.

  The Department must verify that you have met all the conditions for renewal before your license is renewed. Online submission of your renewal application should not be construed as automatic renewal of your license.

Requirements

- A late fee of $50 is assessed for licenses renewed after the August 31 license expiration date.
- A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants and is required to reapply with an original license application, documentation and fees.
- Continuing Education - 24 hours of continuing education pursuant to board rules.

Board of Medicine License Fees

License fees for the NH OPLC Board of Medicine.

Board of Medicine Home

Physician

Fee Type	Cost
Application Fee *	$378.00
Renewal Fee *	$378.00
Reinstatement Fee	$350.00
Certificate Fee	$20.00
License Verification Fee	$10.00

* Denotes inclusion of mandatory Professional Health Program (PHP) fee of $28.00 to be paid at the time of licensing. For more information on the PHP, please visit: https://www.nhphp.org/

Physician Assistant

Fee Type	Cost
Application Fee *	$203.00
Renewal Fee *	$203.00
Reinstatement Fee	$175.00
Certificate Fee	$20.00
License Verification Fee	$10.00

* Denotes inclusion of mandatory Professional Health Program (PHP) fee of $28.00 to be paid at the time of licensing. For more information on the PHP, please visit: https://www.nhphp.org/

Compact Physician

Fee Type	Cost

Fee Type	Cost
Application Fee *	$328.00
Renewal Fee *	$378.00
Reinstatement Fee	$350.00
Certificate Fee	$20.00
License Verification Fee	$10.00

* Denotes inclusion of mandatory Professional Health Program (PHP) fee of $28.00 to be paid at the time of licensing. For more information on the PHP, please visit: https://www.nhphp.org/

Locum Tenens

Fee Type	Cost
Application Fee	$150.00
Certificate Fee	$20.00
License Verification Fee	$10.00

Resident Training

Fee Type	Cost
Application Fee	$50.00
Certificate Fee	$20.00
License Verification Fee	$10.00

Temporary Physician

Fee Type	Cost
Application Fee	$50.00
Certificate Fee	$20.00
License Verification Fee	$20.00

Visiting Professor

Fee Type	Cost
Application Fee	$75.00

Fee Type	Cost
Certificate Fee	$20.00
License Verification Fee	$10.00

Camp

Fee Type	Cost
Application Fee	$75.00
Certificate Fee	$20.00
License Verification Fee	$10.00

Board of Medicine Home

Board of Podiatry License Fees

License fees for the NH OPLC Board of Podiatry.

Board of Podiatry Home

Podiatrist

Fee Type	Cost
Application Fee *	$328.00
Renewal Fee *	$328.00
Reinstatement Fee	$300.00
Certificate Fee	$20.00
License Verification Fee	$10.00
* Denotes inclusion of mandatory Professional Health Program (PHP) fee of $28.00 to be paid at the time of licensing. For more information on the PHP, please visit: https://www.nhphp.org/	

Resident Training

Fee Type	Cost	
Application Fee	$50.00	
Certificate Fee	$20.00	
License Verification Fee	$10.00	

Board of Podiatry Home

Advisory Board of Medical Imaging and Radiation Therapy License Fees

License fees for the NH OPLC Board of Medical Imaging and Radiation Therapy.

Medical Imaging and Radiation Therapy Home

Medical Imaging/Radiation Therapy

Fee Type	Cost
Application Fee	$155.00
Renewal Fee	$155.00
Reinstatement Fee	$155.00
Certificate Fee	$20.00
License Verification Fee	$10.00

Medical Imaging and Radiation Therapy Home

§1815. Fees

Each application for a license to operate a hospital, convalescent home or nursing home must be accompanied by a nonrefundable fee. Hospitals shall pay $40 for each bed contained within the facility. Nursing and convalescent homes shall pay $26 for each bed contained within the facility. Each application for a license to operate an ambulatory surgical facility must be accompanied by the fee established by the department. The department shall establish the fee for an ambulatory surgical facility, not to exceed $500, on the basis of a sliding scale representing size, number of employees and scope of operations. All licenses must be renewed annually, or for a term of years, as required by law upon payment of a renewal fee. Hospitals shall pay a $40 renewal fee for each bed contained within the facility. Nursing and convalescent homes shall pay a $26 renewal fee for each bed contained within the facility. In the case of a license renewal that is valid for more than one year, the renewal fee must be multiplied by the number of years in the term of the license. The State's share of all fees received by the department under this chapter must be deposited in the General Fund. A license granted may not be assignable or transferable. State hospitals are not required to pay licensing fees. [PL 2011, c. 257, §9 (AMD).]

SECTION HISTORY

PL 1967, c. 231, §4 (AMD). PL 1975, c. 491, §2 (AMD). PL 1981, c. 703, §A12 (AMD). PL 1989, c. 136, §4 (AMD). PL 1989, c. 572, §4 (AMD). PL 1989, c. 878, §A60 (RPR). PL 1991, c. 752, §2 (AMD). PL 2003, c. 20, §K4 (AMD). PL 2003, c. 507, §C1 (AMD). PL 2003, c. 507, §C4 (AFF). PL 2011, c. 257, §9 (AMD).

Health Facilities Administration

Health Facilities Administration (HFA) is responsible for the oversight and enforcement of basic st appropriate care of persons receiving care and treatment in hospitals and other medical facilities nonresidential health care providers.

HFA is comprised of several specific program areas, including:

- The Health Facility Licensing Unit
  - Life Safety Code
- The Health Facility Certification Unit
- The Community Residences Certification Unit
- Clinical Laboratory Improvement Amendments (CLIA) Certificates

ATTENTION: Effective July 1, 2023, any licensee or applicant desiring to make renovations or t architectural plans, fire suppression, and alarm plans to the NH Division of Fire Safety, state fir the NH Division of Fire Safety, state fire marshal's website for information on submitting plans: Safety.

Health Facility Licensing Unit

The Health Facility Licensing Unit licenses and inspects a variety of health facilities, residential fac providers including:

- Psychiatric residential treatment programs
- Adult day programs that provide services to three or more patients
- Adult family care homes
- Ambulatory surgical centers
- Assisted living residence – residential care facilities
- Assisted living residence – supported residential care facilities
- Birthing centers
- Case management agencies
- Collecting stations
- Educational health centers
- End stage renal dialysis centers
- Freestanding emergency rooms
- Freestanding megavoltage therapy
- Home care service providers
- Home health care providers
- Home health hospice providers
- Hospice houses
- Hospitals and specialty hospitals
- Individual Home Care Service Providers
- Intermediate care facilities
- Laboratories
- Non-emergency walk-in care centers
- Nursing facilities
- Residential treatment and rehabilitation facilities
- Substance Use disorder residential treatment facility

The Health Facility Licensing Unit investigates and attempts to resolve complaints filed against licensed health facilities, reside and nonresidential health care providers.

Quick Links

NH Administrative Rules

NH State Statutes

Health Facilities License Search

Civil Money Penalty Reinvestment Program (CMPRP)

NH State Police Background Checks

Adverse Event Reports

Initial Applications

Life Safety Code

COMMUNITY RESIDENCE CERTIFICATION

New Applications

If you are filling out an application for a new facility, please visit the Administrative Rules page and read the appropriate rule for the type of license you are applying for. Follow all directions in the rule and on the application. You can also read NH RSA 151.

Health Facility Certification Unit

The Health Facility Certification Unit is the contract survey agency for the NH Medicaid Office and the US Centers for Medicare and Medicaid Services (CMS). The Certification Unit certifies and inspects health facilities, nursing facilities and nonresidential health care providers that participate in the Medicare/Medicaid programs. This unit also handles Clinical Laboratory Improvement Amendments (CLIA) certifications.

Life Safety Code

Any Health Care Facility licensed by the State of NH must be in compliance with the NH State Fire Code including, but not limited to, the Life Safety Code NFPA 101 and the International Building Code. These codes and standards include requirements for sprinkler systems, fire alarms, building code issues, means of egress, and other important fire safety measures.

Community Residence Certification Unit

The Community Residence Certification Unit certifies and inspects community residences and day programs that serve individuals with developmental disabilities, mental illness and traumatic Brain Injury.

Reports and Other Resources

Sort Results by:

Alphabetical (A-Z)

Result Count: 5 | 10 | 25

Basics of Exercise Design and Administration (BEDA)
DHHS guidance to help work through the requirements for exercising your health care facility's emergency management programs.
November 2018, v. 2.0
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing, emergency preparedness, report

Health Facilities Listing
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing

HFA Initial Application and Construction Process
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing

NH Licensing Quick Code Reference
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing

Applications and Forms

Sort Results by:

Alphabetical (A-Z)

Result Count: 5 | 10 | 25

Adult Family Care Application
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing, Form, Application

Adverse Event Report Form
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing

Care Assessment Tool 2022
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing, Form

Change in Ownership
For a Change in Ownership, certified health facilities need to complete the CMS 855 A form. Completed forms need to be sent to your fiscal intermediary for processing.
Tags: *Health Facilities Administration and Licensing, Medicaid, provider, Form*

Emergency Preparedness Template
Document Format: *PDF* | ***Tags:***
Health Facilities Administration and Licensing, emergency preparedness, Form

1 2 3 ›

FAQs

What is a Health Facility?

What is a Certified Facility?

What do I do if I want to file a complaint against a facility?

What are the licensing fees for each facility type?

Licensing fees vary by facility type, and are as follows:

- **Hospitals (General, CAH, Psychiatric, Rehabilitation)** - $25.00 per licensed bed
- **Nursing Homes** - $25.00 per licensed bed
- **Psychiatric Residential Treatment Programs** - $25.00 per licensed bed
- **Residential Treatment and Rehabilitation Facilities** - $25.00 per licensed bed
- **Hospice Houses** - $25.00 per licensed bed
- **Home Health Hospice Providers** - $250.00
- **Home Health Care Providers (809)** - $250.00
- **Individual Home Care Service Providers** - $25.00
- **Personal Care Providers (822)** - Less than 10 clients: $25.00; 10 or more clients: $100.00
- **Non-Emergency Walk-In Care Centers** - $500.00
- **End Stage Renal Dialysis Centers** - $500.00
- **Ambulatory Surgical Centers** - $500.00
- **Educational Health Centers** - $500.00
- **Freestanding Emergency Rooms** - $500.00
- **Adult Day Care Centers** - $200.00
- **Birthing Centers** - $150.00
- **Case Management Agencies** - $150.00
- **Laboratories** - $150.00 per year for each category of testing licensed
- **Collecting Stations** - $250.00
- **Adult Family Care Homes** - $25.00 per licensed bed
- **Residential and Supported Residential Care Homes** - $15.00 per licensed bed
- **Substance Use Disorder Residential Treatment** - $25.00 per licensed bed
- **Freestanding Mega Voltage Therapy** - $500.00

Why do we need Home Health and Hospice Notes for visits?

What do I need to have available for Personnel Records?

What is a reportable incident?

Do I need a Communication System in my facility?

HEALTH FACILITIES ADMINISTRATION

Address:
Main Building, 129 Pleasant Street, Concord, NH, 03301

Email Address: hfa-licensing@dhhs.nh.gov

Phone: 603-271-9039

Fax: 603-271-4968

Vermont Public Health Laboratory - Clinical Fees

September 2023

Category of Service	Name	Current Fee
Immunology - Clinical	Hepatitis B Core Antibody	$19.00
Immunology - Clinical	Hepatitis B Surface Antibody	$17.00
Immunology - Clinical	Hepatitis B Surface Antigen	$16.00
Immunology - Clinical	Hepatitis B Surface Antigen Confirmatory Test	$3.00
Immunology - Clinical	Hepatitis C Antibody	$21.00
Immunology - Clinical	Hepatitis Panel	$52.00
Immunology - Clinical	HIV-1/HIV-2 Antibody Screen	$16.00
Immunology - Clinical	Measles (Rubeola) IgG Antibody	$29.94
Immunology - Clinical	Mumps IgG Antibody	$29.64
Immunology - Clinical	Mycobacterium tuberculosis infection by QFT Test	$75.00
Immunology - Clinical	Orasure (HIV-1 Antibody)	$14.00
Immunology - Clinical	Rubella IgG Antibody	$33.49
Immunology - Clinical	Syphilis Test (RPR)	$6.00
Immunology - Clinical	Varicella IgG Antibody	$20.00
Immunology - Clinical	Bordetella pertussis (PCR)	$36.00
Immunology - Clinical	Cryptosporidium EIA	$18.00
Immunology - Clinical	GC/Chlamydia Amplification Assay (single specimen)	$59.87
Immunology - Clinical	Giardia EIA	$18.00
Toxicology - Clinical	Blood/Urine Metals	$20.00
Toxicology - Clinical	Blood/Urine volatile organic compounds (GC)	$35.00
Toxicology - Clinical	Food/Beverages lead (Atomic Absorption)	$20.00
Toxicology - Clinical	Lead, Blood	$28.00
Toxicology - Clinical	Urine Adulterant	$5.00
Toxicology - Clinical	Urine Collection Kit	$2.00
Toxicology - Clinical	Urine Collection Kit with Test Strips	$8.00
Toxicology - Clinical	ELISA Screening - Cocaine Metabolite	$4.00
Toxicology - Clinical	ELISA Screening - Oxycondone	$4.00
Toxicology - Clinical	ELISA Screening - Methamphetaime (MDMA)	$4.00
Toxicology - Clinical	ELISA Screening - Amphetamines	$4.00
Toxicology - Clinical	ELISA Screening - Buprenorphine	$4.00
Toxicology - Clinical	ELISA Screening - Methadone	$4.00
Toxicology - Clinical	ELISA Screening - Opiates	$4.00
Toxicology - Clinical	ELISA Screening - Benzodiazepines	$4.00
Toxicology - Clinical	ELISA Screening - Cannabinoids	$4.00
Toxicology - Clinical	ELISA Screening - Methylphenidate (Ritalin)	$4.00
Toxicology - Clinical	ELISA Screening - Fentanyl	$4.00
Toxicology - Clinical	ELISA Screening - Barbiturates	$4.00
Toxicology - Clinical	ELISA Screening - Antidepressants (TCA)	$4.00
Toxicology - Clinical	ELISA Screening - PCP (Phencyclidine)	$4.00
Toxicology - Clinical	ELISA Screening - Tramadol	$4.00
Toxicology - Clinical	ELISA Screening - Zolpidem	$4.00
Toxicology - Clinical	ELISA Screening - Propoxyphene	$4.00
Toxicology - Clinical	LC/MS/MS Screen - Ethanol Biomarkers (EtG/EtS)	$10.00
Toxicology - Clinical	LC/MS/MS Screen - Pregablain and/or Gabapentin	$10.00
Toxicology - Clinical	LC/MS/MS Screen - Bupropion (Wellbutrin)	$10.00
Toxicology - Clinical	GC/MS Confirmation - Amphetamines	$45.00
Toxicology - Clinical	GC/MS Confirmation - Cannabinoids	$45.00
Toxicology - Clinical	GC/MS Confirmation - Cocaine Metabolite	$45.00
Toxicology - Clinical	GC/MS Confirmation - PCP (Phencyclidine)	$45.00
Toxicology - Clinical	LC/MS/MS Confirmation - Opiates and/or Buprenorphine and/or Methodone and/or Oxycodone	$60.00
Toxicology - Clinical	LC/MS/MS Confirmation - Benzodiazepines	$60.00
Toxicology - Clinical	LC/MS/MS Confirmation - Antidepressants (TCA)	$60.00
Toxicology - Clinical	LC/MS/MS Confirmation - Methylphenidate (Ritalin)	$60.00
Toxicology - Clinical	LC/MS/MS Confirmation - Fentanyl	$60.00

VERMONT
DEPARTMENT OF HEALTH

Water and Radon Test Kit Descriptions

September 2023

The Vermont Department of Health Laboratory (VDH lab) tests drinking and environmental water as well as radon in the air. Drinking water analyses are performed using EPA-approved methods in accordance with the lab's NELAP accreditation.

Sending in Your Samples

Water samples should be collected the same day that they will be returned to the laboratory. Water samples can be submitted to the laboratory in 3 ways:

1. **Bring the sample to the Laboratory** at 359 South Park Drive, Colchester, VT from 7:45 am – 4:00 pm, Monday – Thursday. On Friday, samples are accepted from 7:45 am – 3:30 pm, with some exceptions noted.
2. **Bring the sample to the nearest Office of Local Health** on Monday – Thursday before the pickup time, typically in the morning. Pickup times are different for each office, and can be found here: Drinking Water Drop-Off Program (healthvermont.gov). Samples are not accepted on Fridays, holidays, or the day before a holiday.
3. **Mail the sample** – with USPS to PO Box 1125, Burlington, VT 05402-1125, or with FedEx or UPS to 359 South Park Drive, Colchester, VT 05446. To ensure timely arrival, refer to sample collection instructions.

Water Testing Packages

The packages below should cover most testing needs.

Name	Description	Cost
New Well/Spring Owner Package	Meet the requirements of Tables A11-5 and A11-6 and satisfies most residential permit needs. Kit A, Kit RA, Kit ID, and Lead	$161
Vermont Homeowner Testing Package (Well/Spring)	Recommended for homeowners. Kit A (bacteria, annually) Kit RA (gross alpha, every 5 years) Kit C (inorganic chemicals, every 5 years)	$159
Public Water- Residential Testing Package (Kit IB)	Recommended for clients on municipal or town water. Lead Copper	$20

VERMONT
DEPARTMENT OF HEALTH

Water and Radon Test Kit Descriptions

September 2023

Child Care and School Water Testing

School lead kits must be ordered through the Vermont Tap Inventory Management System. Find more information here: Testing for Lead in Drinking Water at Schools | Vermont Department of Health (healthvermont.gov)

Kit	Description	Cost
SL	Lead first draw or lead flush for schools.	$12
DC-Lead	Lead first draw or lead flush. Public and Private Water Systems	$12
DC-Coliform	Total coliform bacteria and *E. Coli*, presence/absence. Private Water Systems	$14
DC - Inorganic	Tests for Arsenic, Uranium, Manganese, Nitrate, Nitrite and Fluoride. Private Water Systems	$74

Microbiological Testing

Samples must arrive at the laboratory within 30 hours of sample collection and should be kept cool. Test results are usually available 1 business day after the lab receives the sample. In cases of severe discoloration, Colisure testing may take 2 business days.

Kit	Description	Cost
A	Total coliform bacteria and *E. Coli*, presence/absence. Homeowner, Drinking Water	$14
AA	Total coliform bacteria and *E. Coli*, presence/absence. Regulated Water Systems	$14
NU	Enumeration of total coliform and *E. Coli* in drinking water	$15
AG	E. Coli in Irrigation Water, Enumeration	$15
SW	E. Coli in Recreational Water, Enumeration	$15

Drinking water microbiology testing is performed using Colilert (SM 9223 B), Colilert-18 (SM 9223 B), or Colisure.

VERMONT
DEPARTMENT OF HEALTH

Water and Radon Test Kit Descriptions

September 2023

Inorganic Chemical Testing

Most kits must be kept cold at no more than 42 °F (6 °C) and received within 45 hours of sample collection. Test results are usually available 18 calendar days after the lab receives the sample.

Kit IA	**Trace Metals and Fluoride**
Cost: $125	Regulated water systems and homeowners

Antimony	Chromium	Lead	Selenium
Arsenic	Cobalt	Manganese	Thallium
Barium	Copper	Mercury*	Uranium
Beryllium	Fluoride	Molybdenum	Vanadium
Cadmium	Iron	Nickel	Zinc

*Mercury cannot be tested if the water is cloudy.

Kit IB	**Lead and Copper**
Cost: $20	Regulated water systems and homeowners on municipal water systems

Kit C	**Inorganic Chemicals**
Cost: $100	Recommended for homeowners every 5 years. Keep cold and return within 45 hours of collection.

Arsenic	Fluoride	Lead (flush)	Lead (first draw)
Chloride	Hardness	Sodium	Nitrate + Nitrite
Copper	Iron	Manganese	Uranium

Kit ID	**Inorganic Chemicals**
Cost: $90	Required for new groundwater sources and some permits. Included in New Well/Spring Testing package. Keep cold and return within 22 hours of collection. **Not accepted after noon on Fridays.**

Arsenic	Fluoride	Odor	Uranium	Iron
Chloride	Hardness	Sodium	Nitrate	pH

Inorganic Chemical Testing (continued)

Most kits must be kept cold at no more than 42 °F (6 °C) and received within 45 hours of sample collection. Test results are usually available 18 calendar days after the lab receives the sample.

Kit N3N2	Nitrate and Nitrite
Cost: $24	Keep cold and return within 45 hours.

Kit AN	Anions
Cost: $50	Keep cold and return within 45 hours.

Chloride Fluoride Sulfate
Nitrate Nitrite

A la carte offerings:

Cost	Individual Inorganic Analyte	Method
$12	Alkalinity †	SM 2320 B
$12	Antimony	EPA 200.8
$12	Arsenic	EPA 200.8
$12	Barium	EPA 200.8
$12	Beryllium	EPA 200.8
$12	Cadmium	EPA 200.8
$12	Chloride	EPA 300.0
$12	Chlorine residual, free ‡	Hach 8021
$12	Chlorine residual, total ‡	Hach 8167
$12	Chromium	EPA 200.8
$12	Conductivity Δ	SM 2510 B
$12	Cobalt	EPA 200.8

VERMONT
DEPARTMENT OF HEALTH

Water and Radon Test Kit Descriptions

September 2023

Cost	Individual Inorganic Analyte	Method
$12	Copper	EPA 200.8
$12	Fluoride	EPA 300.0 or LACHAT 10-109-12-2-A
$12	Hardness, total	SM 2340 B
$12	Iron	EPA 200.7
$12	Lead (flush or first draw)	EPA 200.8
$12	Manganese	EPA 200.8
$25	Mercury *	EPA 200.8
$12	Molybdenum	EPA 200.8
$12	Nickel	EPA 200.8
$12	Nitrate †	EPA 300.0
$12	Nitrite †	EPA 300.0
$10	Odor ‡	SM 2150 B
$10	pH ‡	EPA 150.3
$12	Selenium	EPA 200.8
$12	Sodium	EPA 200.7
$15	Sulfate Δ	EPA 300.0
$12	Thallium	EPA 200.8
$12	Total dissolved solids Δ	SM 2540 C
$12	Turbidity †	EPA 180.1
$25	Uranium (Kit RU)	EPA 200.8
$12	Vanadium	EPA 200.8
$12	Zinc	EPA 200.8

* Mercury cannot be tested if the water is cloudy.

† Sample MUST be chilled and received at the laboratory within 45 hours.

‡ Sample MUST be received at the laboratory within 22 hours.

Δ Sample MUST be chilled.

Water and Radon Test Kit Descriptions

Radionuclide Testing

Samples are accepted Monday – Friday, 7:45 am – 3:30 pm.

Kit RC must be received within 48 hours of sample collection. Estimated turnaround times are listed below.

Water test kits:

Kit	Description	Cost	Method
RA	Gross Alpha 14 calendar day turnaround time	$45	EPA 00-02
RC	Radon-222 in Water 10 calendar day turnaround time	$25	SM 7500-Rn
RU	Uranium by mass 21 calendar day turnaround time	$25	EPA 200.8

Air test kits:

Turnaround time 7 calendar days. Method EPA 402-R-92-004.

Kit	Description	Exposure Time	Cost
RF	Radon in Air – Short Term	2 – 7 days	$50
RG	Radon in Air – Medium Term	1 – 3 months	$25
RH	Radon in Air – Long Term	3 – 12 months	$25

Organic Chemical Testing

Kits must be kept cold at no more than 42 °F (6 °C) and received within 48 hours of sample collection. Test results are usually available 21 calendar days after the lab receives the sample.

Kit OA	**Volatile Organic Compounds**	EPA 524.2
Cost: $120	Regulated and unregulated VOCs	

- Benzene
- Bromobenzene
- Bromochloromethane
- Bromodichloromethane
- Bromoform
- Bromomethane
- n-butylbenzene
- sec-butylbenzene
- tert-butylbenzene
- Carbon tetrachloride
- Chlorobenzene
- Chlorodibromomethane
- Chloroethane
- Chloroform
- Chloromethane
- 2-chlorotoluene
- 4-chlorotoluene
- Dibromomethane
- 1,3-dichlorobenzene
- 1,2-dichlorobenzene
- 1,4-dichlorobenzene
- Dichlorodifluoromethane
- 1,1-dichloroethane
- 1,2-dichloroethane
- 1,1-dichloroethene
- cis-1,2-dichloroethene
- trans-1,2-dichloroethene
- 1,2-dichloropropane
- 1,3-dichloropropane
- 2,2-dichloropropane
- 1,1-dichloropropene
- cis-1,3-dichloropropene
- trans-1,3-dichloropropene
- Ethylbenzene
- Fluorotrichloromethane
- Hexachlorobutadiene
- Isopropylbenzene
- P-isopropyltoluene
- Methylene chloride
- Methyl tert-butyl ether
- Naphthalene
- n-propylbenzene
- Styrene
- 1,1,1,2-tetrachloroethane
- 1,1,2,2-tetrachloroethane
- Tetrachloroethylene
- Toluene
- 1,2,3-trichlorobenzene
- 1,2,4-trichlorobenzene
- 1,1,1-trichloroethane
- 1,1,2-trichloroethane
- Trichloroethylene
- 1,2,3-trichloropropane
- 1,2,3-trimethylbenzene
- 1,2,4-trimethylbenzene
- 1,3,5-trimethylbenzene
- Vinyl chloride
- m+p-xylene
- o-xylene

Disinfection By-Products

Kits must be kept cold at no more than 42 °F (6 °C) and received within 48 hours of sample collection. Test results are usually available 21 calendar days after the lab receives the sample.

Regulatory haloacetic acids and trihalomethane samples may need to be sampled at the same time and at the same location.

Kit OB	**Trihalomethanes**	EPA 524.2
Cost: $120	Reported as total trihalomethanes	

Chloroform
Bromoform
Dibromochloromethane
Bromodichloromethane

Kit OK	**Haloacetic Acids**	EPA 552.2
Cost: $150		

Bromoacetic Acid
Bromochloroacetic Acid
Chloroacetic Acid
Dichloroacetic Acid
Dibromoacetic acid
Trichloroacetic Acid
Total Haloacetic Acids (HAA5)

Synthetic Organic Chemicals – SOCs

Kits must be kept cold at no more than 42 °F (6 °C) and received within 48 hours of sample collection. Test results are usually available 21 calendar days after the lab receives the sample.

Kit OE — Herbicides in Water — EPA 515.4

Cost: $200

Dalapon	Dicamba	Dinoseb
Picloram	Pentachlorophenol	2,4-D
2,4,5-TP (silvex)		

Kit OG — Carbamate Pesticides — EPA 531.2

Cost: $100

Aldicarb	Aldicarb sulfoxide	Carbaryl
Methiocarb	Oxamyl (Vydate)	Aldicarb sulfone
Baygon (Propoxur)	Carbofuran	Methomyl
3-Hydroxycarbofuran		

Kit OH — EDB/DBCP/123-TCP — EPA 504.1

Cost: $80

1,2-Dibromoethane (EDB)
1,2-Dibromo-3-chloropropane (DBCP)
1,2,3-Trichloropropane (123-TCP)

Synthetic Organic Chemicals (continued) – SOCs

Kits must be kept cold at no more than 42 °F (6 °C) and received within 48 hours of sample collection. Test results are usually available 21 calendar days after the lab receives the sample.

Kit OL	Semivolatile Organic Compounds	EPA 525.2
Cost: $250	Semivolatile chemicals and pesticides	

Acenaphthylene
Alachlor
Aldrin
alpha-Chlordane
Atrazine
Anthracene
Bis-(2-ethylhexyl) adipate
Bis(2-ethylhexyl) phthalate
Benz[a]anthracene
Benz[b]fluoranthene
Benz[k]fluoranthene
Benzo[a]pyrene
Benzo[ghi]perylene
Butyl benzyl phthalate
Dibenz[a,h]anthracene
Dieldrin
Diethyl phthalate
2,3-Dichlorobiphenyl
Dimethyl phthalate
di-n-Butyl phthalate
Endrin
Fluorene
gamma-BHC (lindane)
gamma-Chlordane
Heptachlor
Heptachlor epoxide
Hexachlorobenzene
2,2',4,4',5,6-Hexachlorobiphenyl
Hexachlorocyclopentadiene
Indeno[1,2,3-cd]pyrene
Methoxychlor
Metolachlor
2,2',3,3',4,5',6,6'-Octachlorobiphenyl
2,2',3',4,6-Pentachlorobiphenyl
Pentachlorophenol
Phenanthrene
Pyrene
Simazine
Total Chlordane
trans-Nonachlor
2,4,5-Trichlorobiphenyl
Toxaphene

Additional Information

Records relating to water testing and radon testing are public. Public records may be used for statistical purposes, and may be released upon request in writing, pursuant to Vermont access to public document law (1 VSA §315-320).

Instruction Sheets and Drinking Water Sample Acceptance Policy can be found on our website: healthvermont.gov/lab/forms#water.

Public water systems are regulated by the Vermont Department of Environmental Conservation. Learn more at dec.vermont.gov/water/drinking-water.

Private wells and springs should be tested regularly. Learn more at www.healthvermont.gov/water/testing.

For information on drinking water contaminants and treatment options, visit www.healthvermont.gov/water-a-z.

Find information on bacteria and radon in the environment at www.healthvermont.gov/lab/environmental.

STATE OF MAINE

SCHEDULE OF CHARGES FOR TESTING AND SERVICES PROVIDED BY THE MAINE HEALTH AND ENVIRONMENTAL TESTING LABORATORY

10-144 CODE OF MAINE RULES
CHAPTER 257

Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
Augusta, Maine 04333-0011

Last Amended: August 26, 2020

10-144: Department of Health and Human Services
Maine Center for Disease Control and Prevention

Chapter 257: Schedule of Charges for Testing and Services Provided by the Maine Health and Environmental Testing Laboratory

SUMMARY

This rule establishes a schedule of charges for services rendered by the Maine Health and Environmental Testing Laboratory.

TABLE OF CONTENTS

SECTION 1. PURPOSE

Pursuant to 22 MRS §565, the Department of Health and Human Services Maine Center for Disease Control and Prevention (Department) establishes this schedule of analytic testing fees and charges for services rendered by the Maine Health and Environmental Testing Laboratory (HETL), including, but not limited to, the chemical and microbiological testing and examination of water supplies, food products, drinking water, and environmental and forensic samples, and the testing and examination of cases and suspected cases of infectious and communicable diseases. The fees specified in this rule apply to all individuals, agencies and providers seeking services conducted by HETL. This rule includes services that the Department deems essential to public health and the criteria for waiving HETL fees. This rule establishes the combination of tests recommended by the Department for residential private drinking water wells and specifies the fees that may be collected for certain drinking water tests pursuant to 22 MRS §2660-U.

SECTION 2. ANALYTICAL TESTING FEES

A.

Table 1.

CLINICAL MICROBIOLOGY TEST	FEE
Molecular Biology	
Real-Time Polymerase Chain Reaction (PCR)	$110
Reverse Transcription Real-Time Polymerase Chain Reaction (PCR)	$110
Standard Electrophoretic Polymerase Chain Reaction (PCR)	$110
Sanger sequencing for bacterial identification	$163
Whole Genome Sequencing *(Fees will vary based on reagents)*	$0-$800
Nucleic Acid Amplification Test (NAAT)	$25
Bacterial Identification by Phenotypic Methodologies	$50
Mycobacteria	
Smear	$20
Primary Culture	$35
Interferon-Gamma Release Assays (IGRA)	$50
Blood Lead	$25
Enteric Pathogen Screen: Norovirus, *E. coli*, *Salmonella*, *Shigella*, *Campylobacter*, and *Listeria*	$160
Cerebrospinal Fluid (CSF) Panel: Enterovirus, Herpes Simplex Virus (HSV) 1/2, Varicella Zoster Virus (VZV), *Neisseria meningitidis*	$440
Respiratory Pathogen Screen: Influenza, Adenovirus, Rhinovirus, RSV, Respiratory Enterovirus, and Parainfluenza	$550
Rabies	$150
Serological Particle Agglutination Assay	
TP-PA Confirmation Test (particle agglutination)	$20
VDRL Test for *Syphilis* on Cerebrospinal Fluid (particle agglutination)	$15
Serological Enzyme Immunosorbent Assays (EIA)	

CLINICAL MICROBIOLOGY TEST	FEE
Vaccine Preventable Diseases (i.e. diseases as recommended by the U.S. CDC at (https://www.cdc.gov/vaccines/vpd/vaccines-diseases.html)	$40
Rapid Plasma Reagin (RPR) 18-mm Circle Card Test	$15
HIV 1/2 EIA fourth generation	$22
HIV 1/2 Geenius	$50
Qualitative serological immunoassays	$0
Quantitative serological immunoassays	$22
Serological immunofluorescent assays (IFA)	
Vaccine Preventable Diseases (i.e. diseases as recommended by the U.S. CDC at https://www.cdc.gov/vaccines/vpd/vaccines-diseases.html)	$40
Serological microsphere immunosorbent assays (MIA)	$50

B. Table 2.

UNIFORM RECOMMENDATIONS FOR RESIDENTIAL PRIVATE WELLS TESTING*	FEE
RES1 (uniform testing recommendation compliant post-1988): (coliform bacteria & *E. coli* (pos/neg), radon water, nitrate, nitrite, fluoride, chloride, sodium, hardness, copper, iron, pH, manganese, uranium, lead, arsenic, and magnesium)	$145
RES2 (uniform testing recommendation compliant pre-1988): (coliform bacteria & *E. coli* (pos/neg), radon water, nitrate, nitrite, fluoride, chloride, sodium, hardness, copper, iron, pH, manganese, uranium, lead, arsenic, and magnesium) and first draw lead	$145
* The recommended tests specified in this table must be included in written material related to private drinking water well tests, in accordance with 22 MRS §2660-T. Any entity that performs testing for residential private drinking water samples, provides related outreach or education, or advertises private well testing must update related written material to include these uniform testing recommendations. The advisory committee established by the Department may recommend additional tests for residential private drinking water wells. Testing recommended by the committee that is in addition to the tests listed under RES1 or RES2 above may result in additional charges, based on the cost of the test or service.	

C. Table 3.

RESIDENTIAL PRIVATE DRINKING WATER QUALITY TESTS	FEE
TSA – **Level 1** – basic safety (coliform bacteria & *E. coli* (pos/neg), nitrate and nitrite)	$40
TSFHA – Residential Sales (coliform bacteria & *E. coli* (pos/neg), nitrate, nitrite, fluoride, chloride, sodium, pH, color, turbidity, hardness, copper, iron, manganese, uranium, lead, arsenic, calcium and magnesium)	$125
New Well (coliform bacteria & *E. coli* (count), nitrate, nitrite, fluoride, chloride, pH, hardness, calcium, iron, manganese, magnesium, uranium and arsenic)	$125
Alkalinity (ALK)	$30
Ammonia	$25
Chloride	$25

RESIDENTIAL PRIVATE DRINKING WATER QUALITY TESTS	FEE
Coliform Bacteria & *E. coli* (count) (TGS)	$35
Coliform Bacteria & *E. coli* (pos/neg) – (Revised Total Coliform Rule/Routine Compliance) - (TG)	$25
Color	$20
Conductivity	$20
Fluoride	$25
Hardness	$30
Lead - First Draw (PB1)	$30
Metals Analysis *(See Table 5 below for list of metals)*	$30/metal
Nitrate	$25
Nitrite	$25
pH	$20
Sulfate	$25
Turbidity	$20
Radon in Water	$40

D. Table 4.

PUBLIC WATER QUALITY TEST	FEE
TSA – Level 1 – Basic Safety (coliform bacteria & *E. coli* (pos/neg), nitrate and nitrite)	$40
TSBA – Level 2 – Non-residential Basic Safety (coliform bacteria & *E. coli* (pos/neg), nitrate, nitrite, fluoride, chloride, pH, hardness, calcium, copper, iron, manganese, magnesium, uranium and arsenic)	$125
Health Inspection Program Safety (coliform bacteria & *E. coli* (pos/neg) and nitrate and nitrite, fluoride, chloride, hardness, copper, iron, pH, manganese, antimony, uranium and arsenic)	$125
TE3 (community supplies extended inorganics (phase V): sulfate, antimony, beryllium, nickel, and thallium)	$165
TE4 (lead and copper)	$45
TE5 (community supplies corrosion treatment parameters: alkalinity, calcium, conductivity and silica)	$75
TE6 (nitrate, nitrite, chloride, total hardness, calcium, magnesium, fluoride, sulfate, antimony, uranium, beryllium, nickel, copper, iron, manganese, zinc, arsenic, barium, cadmium, chromium, lead, mercury, silver, selenium, sodium, thallium, color, pH, and turbidity)	$295
TE6.1 (Same as TE6 without nitrate and nitrite)	$265
TSF (coliform bacteria & *E. coli* (count) alkalinity, color, conductivity, nitrate, nitrite, fluoride, chloride, sulfate, ammonia, pH, arsenic, barium, cadmium, calcium, chromium, copper, iron, lead, manganese, magnesium, uranium, potassium, sodium, TDS, hardness, and turbidity)	$365
NEW PUBLIC (coliform bacteria & *E. coli* (pos/neg), nitrate, nitrite, fluoride, chloride, pH, hardness, calcium, antimony, iron, manganese, magnesium, uranium and arsenic)	$125

E. Table 5.

ENVIRONMENTAL INORGANIC TEST	FEE
Alkalinity (ALK)	$30
Ammonia	$25
Bicarbonate (Titration + pH)	$35
Biochemical Oxygen Demand	$35
Chlorophyll (Filtering)	$25
Chlorophyll	$40
Chloride	$25
Coliform Bacteria & *E. coli* (count) (TGS)	$35
Coliform Bacteria & *E. coli* (pos/neg) – (Coliform rule/routine compliance) - (TG)	$25
Color	$20
Conductivity	$20
Corrected Chlorophyll	$10
Cyanide by GC/MS	$100
***E. coli* Swimming**	$35
Effluent Bacteria (*E. coli* count)	$35
Enterococci Swim	$35
Fluoride	$25
Fecal Coliform Co-Alert 18	$35
Hardness	$30
Iron Bacteria (TSI)	$30
Heterotrophic Plate Count (HPC)	$30
Lead - First Draw (PB1)	$30
Metals Analysis *(*see below for list of metals)*	$30/metal
Metals Analysis Prep	$30
Metals Dissolved *(*see below for list of metals)*	$35/metal
Nitrate	$25
Nitrate (low level)	$50
Nitrite	$25
Nitrite (low level)	$50
Nitrate and Nitrite (TNN)	$40
Nitrate/Nitrite Low Level (LNN)	$70
Ortho Phosphorus	$45
pH	$20
Pseudalert	$35
Silicon/ Silica	$25
Total Solids	$30
Total Suspended Solids	$30
Total Dissolved Solids	$30
Sulfate	$25
Total Kjeldahl Nitrogen (TKN)	$40
Total Phosphorus	$45
Turbidity	$20

***Metals testing include:**

Aluminum (Al)	Boron (B)	Copper (Cu)	Molybdenum (Mo)	Silver (Ag)
Antimony (Sb)	Cadmium (Cd)	Iron (Fe)	Nickel (Ni)	Sodium (Na)
Arsenic (As)	Calcium (Ca)	Lead (Pb)	Potassium (K)	Thallium (Tl)
Barium (Ba)	Chromium (Cr)	Magnesium (M)	Selenium (Se)	Vanadium (V)
Beryllium (Be)	Cobalt (Co)	Manganese (Mn)	Silicon (Si)	Zinc (Zn)

F. Table 6.

ENVIRONMENTAL ORGANIC TEST	FEE
Chlorinated Acids - Herbicide Screen	$250
PEST_CL_PCBS_508 - Chlorinated Hydrocarbon Pesticides and PCB's	$100
HAA_552 - Haloacetic Acids	$200
SVO-525 - Semi-volatile Organics Screen	$240
CARBAMATES 531 - Carbamate Pesticides	$160
VOC-524 - Volatile Organic Compounds	$160
TOC-D - Total Organic Compounds - Dissolved	$65
TOC-T - Total Organic Compounds – Total	$50
THM_524 - Tri Halomethanes	$100
Tetrahydrocannabinol (THC) in Hemp (< 0.3% THC)	$150

G. Table 7.

RADIATION TEST	FEE
Gross Alpha PPT	$120
Gross Beta	$90
Radon in Air	$40
Radon in Water	$40
Wipes	$40
Gamma Scan (non-potable water)	$125
Gamma Scan (soils)	$200
Gamma Scan (vegetation)	$125
Gamma Scan (air filter)	$45
Gross Alpha (air filter)	$45
Gross Alpha (non-potable water)	$125
Gross Beta (non-potable water)	$125
Gross Beta (air filter)	$45
Tritium (non-potable water)	$125

H. Table 8.

LEAD TEST	FEE
Environmental Lead Dust Wipes	$17
Lead in Paint	$17
Lead in Soil	$35

I. Table 9.

FORENSIC TEST	FEE
Controlled/Non-Controlled Substances Analysis	
Identification (powders, plants, tablets, residues)	$155/sample
Identification with quantification	$185/sample
Blood Alcohol Analysis	$70/sample

FORENSIC TEST	FEE
Toxicology (blood and urine analysis w/confirmation)	$225/sample
Weight Only	$60/hour
Outsourced samples*	Market rate
**When HETL cannot perform the requested test, HETL will submit the sample to an external accredited, licensed laboratory qualified to complete the analysis. HETL will inform the client of the anticipated charges and obtain the client's permission prior to outsourcing the requested test.*	

SECTION 3. ADMINISTRATIVE FEES AND SERVICE CHARGES

A. Adjudication services.

1. Expert witness testimony performed by HETL staff $100/hour

2. Discovery requests: When HETL receives a discovery request, HETL will assess an administrative fee of $50 for compiling the material and providing requested documents. Requests that require lengthy or complex responses may result in additional charges based upon the required expenditure of HETL resources, including staff time. If it is anticipated that the fee will exceed $50, HETL will inform the requester of the estimated additional charges and obtain the requester's permission before preparing the response to the request.

B. Administrative fees. HETL may impose charges for administrative services to license applicants and collect unpaid HETL services as set forth below.

1. Licensing. HETL assesses a fee for processing initial applications and license renewals to ensure laboratories conducting testing of employees and applicants for substances of use are compliant.

   a. Initial Application Fee $600

   b. Annual License Renewal Fee $400

2. Collection of overdue payment. Accounts with outstanding balances are subject to service charges. HETL assesses a payment collection service charge that is a percentage of the overdue balance. This charge reflects the expenditure of HETL resources, including staff time, required to collect the overdue payment(s).

   a. 30 days late 1%

   b. 60 days late 2%

   c. 90 days late 5%

C. Other service charges.

1. One-time project fee for environmental monitoring. HETL will assess a charge for providing assistance to those entities requesting an environmental monitoring project. Charges will be based on the hourly rate for HETL staff time and in accordance with the setting methodology specified in

Section 3(F) of this rule. HETL will inform the client of the projected cost and obtain the client's permission before performing these services.

2. Analytical data package/research. HETL will assess a fee for fulfilling requests for analytical data packages and related research $100/hour

D. **Fee for lab orders.** Any human clinical tests submitted by a licensed laboratory on or after January 1, 2022 must be sent electronically to HETL through HL7 messaging in accordance with the standards set forth in the current Public Health Information Network (PHIN) guide accessed at https://www.cdc.gov/phin/resources/standards/index.html. This submission must be completed using a bidirectional interface between the licensed laboratory and HETL.

1. Laboratories that submit a limited number of orders may submit a written request to waive this HL7 messaging requirement. HETL may review requests from laboratories with low volume of monthly samples and approve direct entry into STARLIMS through a provider portal.

2. HETL will assess an administrative fee for all clinical submissions requiring manual entry, unless the Department has granted the laboratory a waiver $25/submission

3. Bidirectional messaging failure. A fee will not be charged, if the failure to submit using bidirectional messaging is due to a HETL system malfunction.

E. **Private well water test fee collection.** Pursuant to 22 MRS §2660-U, HETL collects a separate fee for a water test ordered for residential private drinking water wells and deposits this amount into the Private Well Safe Drinking Water Fund. HETL will collect a fee equal to $2 for a water test ordered for a residential private drinking water well. This mandated fee is in addition to charges for the total cost of the test(s).

F. **Rate setting methodology.** For tests not listed in Section 2, or for services not listed in this section, HETL will charge at a rate consistent with the cost of the test or service. Charges are based on test methods, calibration, quality control, and proficiency testing materials, along with the level of scientific and technical knowledge, and reflective of one or more of the following factors:

1. Test complexity. Test systems are assigned a moderate or high complexity category based on the test categorization criteria set forth at 42 C.F.R. §493.17. The categorization contributes to the price, with higher complexity tests contributing to a higher price.

   a. Highly complex test requires multiple and/or significant steps in preparation, processing, and interpretation.

   b. Moderately complex test requires basic laboratory knowledge and training of personnel performing the tests. Moderately Complex Tests (MCT's) may require reagent preparation, limited pretreatment of specimens, quality control, calibration, proficiency testing, some skill in troubleshooting and maintaining equipment, and some skill or judgement in interpretation of results.

2. HETL's hourly rates are calculated based on the compensation of HETL staff appropriate to perform the test or service.

3. Instrumentation. Test method is manual or automatic, along with the level of required decision-making and direct intervention to interpret results.

4. Reagents. Stability, reliability, preparation, and whether there is a requirement for special handling, precautions or storage conditions.

5. Supplies. Whether the supplies are prepared in the lab or prepackaged, or premeasured, or there is a requirement for special handling, precautions or storage conditions.

6. Comparable test. The rate of a closely related existing test available through another laboratory.

When the cost of the test or service is not listed, HETL will inform the client of the total estimated cost based on the methodology described in this rule and obtain the client's permission prior to accepting the sample from the client or beginning the requested services. Prices for tests conducted by HETL and not listed in this rule will be subject to future rulemaking.

SECTION 4. FEE WAIVER AND REMITTANCE

A. **Service fee waiver.** The Department may waive charges for services conducted by HETL under certain circumstances. Examples of testing conducted by HETL for which the fee may be waived include, but are not limited to, the following services, which the Department deems essential to the public health:

1. Laboratory Response Network Bioterrorism and Select Agent testing per the HHS and USDA Select Agents and Toxins 7 CFR Part 331, 9 CFR Part 121, and 42 CFR Part 73.

2. All required samples submitted in accordance with 10-144 CMR, Chapter 258, Rules For the Control of Notifiable Diseases and Conditions.

3. Any samples assigned an outbreak number by the Department.

4. Rabies specimens for which a public health risk exists as determined by an epidemiologist or veterinarian.

5. Serotyping of *Neisseria meningitidis* and *Haemophilus influenzae* from sterile sites.

6. Confirmation and serotyping of *E. coli*, *Salmonella*, and *Shigella* bacterial isolates.

7. Whole genome sequencing of *E. coli*, *Salmonella*, *Shigella*, *Campylobacter*, and *Listeria* bacterial isolates.

8. Whole genome sequencing of bacterial isolates associated with hospital-acquired infections submitted with prior authorization from the Department.

9. Whole genome sequencing and subsequent metagenomic analysis to determine the potential causative infectious agent(s) of an environmental sample submitted with prior authorization from the Department.

10. Identification of vector borne diseases in mosquitoes and ticks with prior authorization from the Department or vector borne biologists.

11. Reverse transcription real-time polymerase chain reaction (PCR) for the detection and genotyping of Influenza virus.

12. Tuberculosis (TB).

a. All testing on patient samples that are submitted with prior authorization from the Department's TB Control Program.

b. All testing on patient samples identified as mycoplasma tuberculosis complex (MTBC) positive.

c. All MTBC rule-out testing on specimens submitted for tuberculosis suspects reported to the TB Control Program in advance of samples being submitted and who meet the Department's TB Control Program's definition for a MTBC suspect.

B. Residential water supply fee waiver for fees over $150. Any fees in excess of $150 for testing a private residential water supply will be waived when:

1. Initial testing or screening indicates the need for additional testing at a cost of more than $150 to determine whether the private residential water supply contains contaminants potentially hazardous to human health, and the Department's Maine CDC determines that the additional testing is essential to the maintenance of public health; or

2. The Department's Maine CDC Drinking Water Program or Epidemiology Program has reason to suspect that the private residential well may be contaminated and that additional testing is essential to the maintenance of public health. In making this determination, this Maine CDC staff will consider:

a. The proximity of the private residential water supply well to a known or suspected source of contamination;

b. The proximity of the private residential water supply well to another private well or water supply known to be contaminated;

c. Documentation from a physician who has seen or treated a person and has identified contaminated drinking water as a possible cause of the person's condition or symptoms; and/or

d. Information provided by the owner or user of the private residential water supply voluntarily or in response to the Department's request for information.

As authorized by 22 MRS §2609, the Department will seek to recover the costs of testing in excess of $150 from the person responsible for contaminating the residential water supply, or from the recipient of any compensation for contamination of the residential water supply.

C. Residential water supply fee waiver for all fees. In addition to the considerations in subsection B above, the Department may consider the following, as applicable, in determining whether to waive fees less than $150 for a private residential water supply testing:

1. A statement from a code enforcement officer documenting potential contamination of a private residential water supply.

2. A statement from a licensed healthcare provider who has seen or treated a person and has identified contaminated drinking water as a possible cause of the person's condition or symptoms.

3. Any information provided by any agency of the Department, or by the Department of Environmental Protection (DEP), that would support a finding of a need to test the private water supply in order to protect the public health.

4. Whether more than one test listed in Section 2 is conducted for a water sample from the same residential private drinking well. When test results for the private residential water supply warrant additional testing, the Department may waive payment of testing fees if the additional testing is conducted within one year subsequent to the initial testing**.**

5. Indigency of the owner of the private residential water supply. For the purpose of this rule, financial need, or indigency, is determined by HETL, based on gross household income and household size, consistent with federal poverty guidelines calculations. Minimally, the applicant must show evidence of gross household income that is under 130% of the federal poverty guidelines. Evidence of indigency may include demonstration of SNAP eligibility or qualification for fuel assistance, or other documentation requested by HETL to determine financial need.

D. **Fee reduction for public agencies.** Upon request, HETL may reduce or waive the fee for certain tests requested by or on behalf of a public agency. Public agencies are governmental units and non-profit health agencies receiving financial support from the Department for public health testing or services. In considering a request for the reduction or waiver of a fee, HETL may consider factors including, but not limited to, whether the testing is requested to meet a public health need, the volume of tests submitted by the public agency, and whether the test is available through another laboratory.

E. **Right to appeal.** The decision to deny an applicant's request to waive a fee for service or test performed by HETL is considered final agency action as defined in 5 MRS §8002, sub§-4. The decision to deny a request for a waiver will state the reason for the denial and the applicant's right of appeal. The applicant whose request is denied may appeal to a court of competent jurisdiction, in accordance with 5 MRS §11001.

F. **Payment submission.** Payment of HETL fees and service charges must be in the form of a check and remitted to:

Treasurer, State of Maine
Health and Environmental Testing Laboratory (HETL)
DHHS Maine CDC
12 State House Station
Augusta, Maine 04333-0012

STATUTORY AUTHORITY:

22 M.R.S. §§ 565(3), 2602, 2602-A, 2609, 2660-T, 2660-U, 2660-V and 2660-X

EFFECTIVE DATE (NEW):

August 26, 2020 - filing 2020-188 as *Schedule of Charges for Testing and Services Provided by the Maine CDC Health And Environmental Testing Laboratory* (repealing and replacing 10-144 C.M.R. ch. 257 – *Schedule of Charges of the Diagnostic Laboratory of the Department of Human Services* (last amended December 6, 2004), and repealing 10-144 C.M.R. ch. 233, *Rules Relating to Testing of Private Water Systems for Potentially Hazardous Contaminants*).

CHAPTER He-P 2200 PUBLIC HEALTH LABORATORIES

PART He-P 2201 - RESERVED

PART He-P 2202 ALCOHOL AND CONTROLLED DRUGS - (MOVED TO Saf-C 6400)

Source. #1104, eff 2-16-78; ss by #1930, eff 1-26-82; ss by #2764, eff 6-19-84; ss by #2764, eff 6-19-84; ss by #3068, eff 7-23-85; ss by #4044, eff 4-25-86; ss by #5174, eff 7-8-91; amd by #5396, eff 5-19-92; ss by #6612, eff 11-1-97, EXPIRED: 11-1-05

PART He-P 2203 - RESERVED

PART He-P 2204 LABORATORY SPECIMENS TO BE SUBMITTED IN CERTAIN REPORTABLE DISEASES - EXPIRED AND RESERVED

Source. #1930, eff 1-26-82, EXPIRED: 1-26-88

PART He-P 2205 LABORATORY FEE SCHEDULE

He-P 2205.01 Clinical Specimens, Chemistry. The following fees shall be charged for those clinical specimens set forth in Table He-P 2205.01 Chemistry below:

Table He-P 2205.01 Chemistry

TEST	FEE
Arsenic (total), urine	50.00
Barium	25.00
Beryllium	25.00
Cadmium	25.00
Cadmium, blood	25.00
Creatinine, (spot), urine	15.00
Cyanide, blood	80.00
Lead, blood	25.00
Mercury, blood	25.00
Mercury urine	50.00
Metals panel, blood	75.00
Metals panel, urine	100.00
Miscellaneous analysis	50.00/hr
Speciated arsenic, urine	125.00
Thallium	25.00
Volatile Organic Compounds, serum	80.00

Source. #2461, eff 9-5-83; ss by #4000, eff 2-26-86; ss by #4233, eff 2-23-87; ss by #4480, eff 8-31-88; ss by #5029, eff 12-20-90; ss by #5761; eff 1-3-94; ss by #7171, INTERIM, eff 1-4-00, EXPIRED: 5-4-00; ss by #7256, eff 5-3-00; ss by #8529, eff 12-23-05; ss by #8891, eff 5-25-07; ss by #10935, INTERIM, eff 9-22-15, EXPIRED: 3-20-16

New. #11064, eff 4-1-16

He-P 2205.02 Clinical Specimens, Microbiology. The following fees shall be charged for those clinical specimens set forth in Table He-P 2205.02 Microbiology below:

Table He-P 2205.02 Microbiology/Virology

TEST	FEE
Adenovirus – culture	50.00
Adenovirus – immunofluorescent, each antisera	20.00

Bacterial culture, blood, aerobic	28.00
Bacterial culture, urine	28.00
Bacterial culture, other, aerobic	28.00
Bacterial culture, other, anaerobic	28.00
Bacteria, identification, per isolate, aerobic	21.00
Bacteria, identification, per isolate, anaerobic	21.00
Bacterial identification – 16S rRNA Sequencing	159.00
Bordetella pertussis, PCR	150.00
Bordetella pertussis positive confirmation, PCR	84.00
Bordetella pertussis diluted repeats, PCR	64.00
Chikungunya virus RT-PCR	50.00
Chlamydia culture	50.00
Chlamydia immunofluorescent, each antisera	20.00
Chlamydia trachomatis, amplified method	25.00
Cryptosporidium/Giardia , DFA	35.00
Cryptococcus latex agglutination	25.00
Diphtheria culture	35.00
Direct smear, simple stain	21.00
Eastern Equine Encephalitis (EEE) Virus Antibodies, IgM	35.00
Enteric pathogen culture, stool (single organism)	21.00
Enteric pathogen culture, stool (Salmonella and Shigella)	21.00
Enteric pathogen culture (comprehensive – includes SLT test)	50.00
Enteric isolate for identification, per aerobic isolate	21.00
Enteric isolate for identification, per anaerobic isolate	21.00
Enterovirus culture	50.00
Enterovirus immunofluorescent, each antisera	20.00
Enterovirus RT-PCR	50.00
Enzyme immunoassay, per specimen	18.00
Fluorescent Antibody Tests, Direct	15.00
Gonorrhea culture	21.00
Hepatitis A antibody – total	30.00
Hepatitis A IgM antibody	30.00
Hepatitis B surface antigen	30.00
Hepatitis B surface antibody	30.00
Hepatitis B core antibody – total	30.00
Hepatitis B core antibody IgM	30.00
Hepatitis B - other marker	50.00
Hepatitis C antibody	30.00
Hepatitis C RNA Quantitative	125.00
Hepatitis C Virus Genotyping, Sequencing Method	159.00
Herpes simplex culture	50.00
Herpes simplex immunofluorescent, each antisera	20.00
Herpes simplex DFA, type 1	20.00
Herpes simplex DFA, type 2	20.00
Herpes simplex, type 1 antibody	30.00
Herpes simplex, type 2 antibody	30.00
Human Immunodeficiency Virus –1 and 2 antibody, single assay	40.00
Human Immunodeficiency Virus – 1 and 2 antibody, P24 antigen	40.00
Human Immunodeficiency Virus – 1 and 2 antibody differentiation	50.00
Infectious agent screen – other	35.00
Influenza culture	75.00
Influenza immunofluorescent, each antisera	20.00
Influenza A/B, PCR	100.00
Influenza Subtyping, PCR	200.00
Legionella culture	40.00

Legionella DFA	10.00
Legionella referred isolate	40.00
Measles (Rubeola) IgG antibody (Immune Status)	25.00
Measles (Rubeola) IgM antibody	30.00
Measles virus RNA	50.00
MERS CoV RT-PCR	50.00
Mumps culture	50.00
Mumps immunofluorescent, each antisera	20.00
Mumps IgG antibody	25.00
Mumps IgM antibody	25.00
Mumps virus RNA	50.00
Mycobacteria isolate identification	85.00
Mycobacteria (AFB) smear	10.00
Mycobacteria (AFB) culture	35.00
Mycobacterium tuberculosis direct probe	150.00
Mycobacterium tuberculosis susceptibility – first line drugs, each drug	25.00
Mycology culture, blood	35.00
Mycology culture, skin, hair or nails	35.00
Mycology culture, other	35.00
Mycology yeast identification, per isolate	50.00
Mycology non-yeast identification, per isolate	50.00
Mycology contaminated isolates (charged in addition to identification fee)	20.00
Neisseria gonorrhea, amplified method	25.00
Norovirus, PCR	100.00
Parainfluenza culture	50.00
Parainfluenza virus immunofluorescent, each antisera	20.00
Parasitology, blood/tissue parasites	43.00
Parasitology, stool for ova & parasite	89.00
Parasitology, worm identification	13.00
Parasitology, modified acid fast stain for Cyclospora, Isospora and Sarcocystis	43.00
Parasitology, Microsporidium, modified trichrome blue stain	70.00
Pertussis culture	40.00
Phlebotomy-Capillary	10.00
Phlebotomy-Venipuncture	10.00
Pneumocystis jiroveci (carinii) DFA	35.00
Pulsed field gel electrophoresis (PFGE), per isolate	125.00
Rabies (no public health risk)	175.00
Respiratory virus panel, amplified method	300.00
Respiratory synctial virus (RSV) culture	50.00
Respiratory synctial virus (RSV) immunofluorescent, each antisera	20.00
Respiratory synctial virus (RSV) DFA	20.00
Rubella antibody, IgG	25.00
Rubella antibody, IgM	30.00
Serogrouping, Shigella species	45.00
Serotyping, Salmonella species	50.00
Serotyping, *Neisseria meningitidis*	66.00
Serotyping, *Haemophilus influenzae*	66.00

Serotyping, Vibrio cholera serotyping	45.00
Serotyping, Enterohemorrhagic *Escherichia coli*	66.00
Shiga-like Toxin screen	40.00
Shiga Toxin (STEC), PCR	91.00
Specimen to Reference Lab/CDC	Cost of test shipping.
St. Louis Encephalitis virus antibodies, IgM	35.00
Susceptibility testing - Kirby Bauer (up to 12 disks)	25.00
Susceptibility testing – E-test, per drug	10.00
Susceptibility testing, fungal, per drug	59.00
Syphilis, qualitative	15.00
Syphilis, quantitative	25.00
Syphilis, confirmatory	30.00
Toxin assay	40.00
Varicella zoster virus culture	50.00
Varicella zoster virus immunofluorescent, each antisera	20.00
Varicella zoster virus DFA	20.00
Varicella zoster antibody	35.00
Virus culture - other	50.00
Virus culture immunofluorescent	20.00
Western Blot, other than HIV	60.00
West Nile Virus (WNV), IgM	35.00
MDX - DNA or RNA isolation	6.00
MDX - DNA or RNA purification	15.00
MDX – restriction enzyme digestion, per reaction	6.00
MDX – gel electrophoresis, per lane (reaction)	6.00
MDX – nucleic acid probe, each	6.00
MDX – single PCR amplification	16.00
MDX – duplex PCR amplification	32.00
MDX – multiplex PCR amplification, each additional after duplex	16.00
MDX – reverse transcription	14.00
MDX – cell lysis prior to isolation or purification	12.00
MDX – interpretation and reporting	20.00
MDX - miscellaneous	75.00/hr

Source. #2461, eff 9-5-83; ss by #4000, eff 2-26-86; ss by #4233, eff 2-23-87; ss by #4480, eff 8-31-88; ss by #5029, eff 12-20-90; ss by #5761, eff 1-3-94; eff 1-3-94; ss by #7171, INTERIM, eff 1-4-00, EXPIRED: 5-4-00; ss by #7256, eff 5-3-00; ss by #8891, eff 5-25-07; ss by #10935, INTERIM, eff 9-22-15, EXPIRED: 3-20-16

New. #11064, eff 4-1-16

He-P 2205.03 Occupational and Environmental Health Samples. The following fees shall be charged for those occupational and environmental health samples set forth in Table He-P 2205.03 Occupational and Environmental below:

Table He-P 2205.03 Occupational and Environmental

TEST	FEE

Lead, maple syrup	40.00

Source. #2641, eff 9-5-83; ss by #4000, eff 2-26-86; ss by #4201, eff 1-8-87; ss by #4480, eff 8-31-88; ss by #5029, eff 12-20-90; ss by #5761, eff 1-3-94; eff 1-3-94; ss by #7171, INTERIM, eff 1-4-00, EXPIRED: 5-4-00; ss by #7256, eff 5-3-00; ss by #8891, eff 5-25-07; ss by #10935, INTERIM, eff 9-22-15, EXPIRED: 3-20-16

New. #11064, eff 4-1-16

He-P 2205.04 Consumer Protection Samples. The following fees shall be charged for those consumer protection samples set forth in Table He-P 2205.04 Consumer Protection below:

Table He-P 2205.04 Consumer Protection

TEST	FEE
Food - Complete bacterial analysis	100.00
Food - Coliform count, total and fecal, Most Probable Number (MPN)	60.00
Food - Pathogen screen, per organism	40.00
Food - Foreign object	25.00
Food - pH	7.50
Food - Standard plate count	35.00
Food - Complete bacterial analysis, quality only	50.00
Food – Staphylococcus Culture	35.00
Food - Water activity	7.50
Milk or Cream - Complete analysis	25.00
Milk or Cream - Antibiotics, per group	10.00
Milk or Cream - Butterfat content	11.00
Milk or Cream - Coliform count	10.00
Milk or Cream - Direct Microscopic Somatic Cell Count (DMSCC)	18.00
Milk or Cream - Pathogen screen, per organism	40.00
Milk or Cream - Standard plate count	10.00
Milk or Cream - Total solids	8.00
Milk or Cream - Dairy waters	21.00
Milk or Cream - Phosphatase	8.00
Milk or Cream - Vitamin A or D	50.00
Milk or Cream - Added water	10.00
Milk or cream – Container analysis	15.00
Miscellaneous analysis	50.00/hr
Shellfish - Complete bacterial analysis	70.00
Shellfish - Fecal coliform count, (MPN)	60.00
Shellfish - Standard plate count	50.00
Shellfish - Microorganism identification	40.00
Shellfish Toxin Assay (e.g. PSP)	200.00
Shellfish – Vibrio Analysis (PCR-MPN)	150.00
Toxin assay, misc.	75.00

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Source. #2461, eff 9-5-83; ss by #4000, eff 2-26-86; ss by 4201, eff 1-8-87; ss by #4233, eff 2-23-87; ss by #4480, eff 8-31-88; ss by #5029, eff 12-20-90; ss by #5761, eff 1-3-94; eff 1-3-94; ss by #7171, INTERIM, eff 1-4-00, EXPIRED: 5-4-00; ss by #7256, eff 5-3-00; ss by #8891, eff 5-25-07; ss by #10935, INTERIM, eff 9-22-15, EXPIRED: 3-20-16

New. #11064, eff 4-1-16

He-P 2205.05 Addition of Tests to Fee Schedule. Pursuant to RSA 141-C:19 laboratory tests shall be added to the fee schedule if any one or more of the following occurs:

(a) The test is required by law;

(b) The test is required to support the work of the division and other state agencies; and

(c) The test is required to protect the public health of New Hampshire, and is not readily available to other locations within the state.

Source. #2461, eff 9-5-83; ss by #4000, eff 2-26-86; ss by 4201, eff 1-8-87; ss by #4233, eff 2-23-87; ss by #4480; eff 8-31-88; ss by #5029, eff 12-20-90; ss by #5761, eff 1-3-94; eff 1-3-94; ss by #7171, INTERIM, eff 1-4-00, EXPIRED: 5-4-00; ss by #7256, eff 5-3-00; ss by #8891, eff 5-25-07; ss by #10935, INTERIM, eff 9-22-15, EXPIRED: 3-20-16

New. #11064, eff 4-1-16

PART He-P 2206 PRELIMINARY BREATH TEST DEVICES

Statutory Authority: RSA 265:92-a, III

REVISION NOTE:

Pursuant to 2003, 319:80, II, effective 1-1-04, rules He-P 2206 entitled “Preliminary Breath Test Devices”, last filed by the Department of Health and Human Services under Document #7781, effective 10-23-02, were transferred to the Department of Safety. See rules Saf-C 6800 of the Department of Safety.

He-P 2206.01 – He-P 2206.06

Source. #2476, eff 9-14-83; ss by #3068, eff 7-23-85; ss by #4044, eff 4-25-86, EXPIRED: 4-25-92

New. #7781, eff 10-23-02 (See Revision Note at part heading for He-P 2206)

He-P 2206.07 – He-P 2206.08

Source. #2309, eff 1-1-83; rpld by #2340, eff 4-1-83; original rpld by #2476, eff 9-14-83; ss by #4044, eff 4-25-86, EXPIRED: 4-25-92

New. #7781, eff 10-23-02 (See Revision Note at part heading for He-P 2206)

PART He-P 2207 BREATH ALCOHOL PROCEDURE USING THE INTOXILYZER 5000 INSTRUMENT

REVISION NOTE:

Pursuant to 2003, 319:80, II, effective 1-1-04, rules He-P 2207 were transferred from the Department of Health and Human Services to the Department of Safety. See rules Saf-C 6300 of the Department of Safety.

Source. #4744-a, eff 1-24-90; ss by #6145, INTERIM, eff 12-21-95, EXPIRES: 4-19-96; ss by #6208, eff 4-1-96 (See Revision Note at part heading for He-P 2207)

APPENDIX

RULE	STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS
He-P 2205	RSA 131:4
He-P 2206.06	RSA 265:92-a, II & III
He-P 2206.07	RSA 265:92-a, II & III
He-P 2206.08	RSA 265:92-a, II & III

VERMONT
DEPARTMENT OF HEALTH

Impaired Driver Rehabilitation Program
Frequently Asked Questions

May 2023

This manual reviews information about Vermont's Impaired Driver Rehabilitation Program (IDRP) including frequently asked questions, the IDRP process, and program requirements. If you are convicted of driving under the influence of alcohol or drugs in Vermont, you must complete IDRP to reinstate your unrestricted driver's license.

Contents

Frequently Asked Questions

How do I schedule my exit interview?

- Contact your IDRP Clinical Evaluator to schedule an exit interview after you have completed all education and treatment requirements.

Can I start treatment before I complete IDRP education?

- Yes! You can start treatment at any time after the offense has occurred.

Can I start IDRP before I go to court?

- Yes! You can start the program at any time after the offense has occurred.

Do I need to complete IDRP if my charges are dropped?

- You may still need to complete IDRP if your charges have been reduced or dropped. Contact the Vermont Department of Motor Vehicles at 802-828-2000 or your legal representation if you have questions about your charges.

Can my alcohol or other drug counseling replace IDRP education?

- No. You may be required to complete counseling *in addition to* IDRP education, but it cannot replace it.

Can my victim's impact panel replace IDRP?

- No. The court may require you to attend a victim's impact panel, but it is not part of IDRP.

Can my Safe Driving Program replace IDRP?

- No. The court may require you to take a Safe Driving Program but is it not part of IDRP.

Is IDRP required before I can get an ignition interlock device?

- No, but IDRP completion is required to remove the ignition interlock device to avoid suspension.

Are urine drug screenings and abstinence required for IDRP?

- You may be asked to submit urine drug screens or engage in a period of abstinence by the IDRP Clinical Evaluator or the treatment clinician.

I have been able to get my license before, why do I have to do IDRP now?

- The federal government requires that all states participate in the National Driver Register to prevent people who have a suspended license in one state from getting license in another state. Some states only recently began checking the register.

The IDRP process

1. **Registration** – Choose any approved Vermont IDRP provider and contact them to register.
2. **Evaluation** – An IDRP Clinical Evaluator will evaluate your program requirements, and help you understand what your treatment requirements are.
3. **Education** – You will participate in 10 hours of education (lectures, reading, videos and small group discussions). This education is the same across all Vermont providers and can be completed in 2 sessions ("intensive") or over 4 sessions ("non-intensive").
4. **Treatment** – The IDRP Clinical Evaluator will give you information on your individual treatment requirements. All treatment hours need to be completed before your IDRP completion is processed, and must be completed with a licensed clinician.
5. **Exit Interview** - The IDRP Clinical Evaluator may require an exit interview after you complete your education and treatment requirements.

	IDRP Education	Treatment
1st Offense	You may take either the intensive (10 hours in 2 sessions) or non-intensive (10 hours over 4 sessions) program	*May* be required by the IDRP Clinical Evaluator. Minimum of 4 treatment hours over a minimum of 4 weeks, if required.
2nd Offense		Minimum of 20 treatment hours over a minimum of 24 weeks.
3rd Offense or more (Lifetime Suspension)	IDRP education not required	Minimum of 20 treatment hours over a minimum of 24 weeks, plus DMV Total Abstinence Program.

Questions? Contact the IDRP Central Office!

Contact the Vermont Department of Motor Vehicles (DMV) at 802-828-2000 for information about license suspensions or offense information.

IDRP Cost

- The mandatory evaluation is $180.
- The mandatory education program is $220. The intensive programs (who offer IDRP education over two days) may have slightly higher fees if they offer meals.

Registering for IDRP

- Choose any approved Vermont IDRP provider and contact them to register.

Lifetime suspensions

- If you live in Vermont and have a lifetime suspension, you will need to complete treatment (a minimum of 20 treatment hours over a minimum of 24 weeks) **and** apply for reinstatement of your license through the DMV Total Abstinence Application process.
- DMV Total Abstinence is not the same as IDRP. For more information about DMV Total Abstinence, please visit their website or them at (802) 828-2067.

Virtual programming

- Vermont's approved IDRP education is offered virtually! It is a live class with scheduled start and end times. You will need access to an internet connected device with a webcam to participate in the education programming.
- Contact any approved Vermont IDRP provider to register.

Important forms

For you to complete

- Please complete the Release of Confidential Information Form – this form allows IDRP Central Office to communicate your IDRP completion with the DMV and is an important step towards license reinstatement.
    - If you need your IDRP completion sent to a Department of Motor Vehicles outside of Vermont, you must include the name and complete mailing address or fax number.

For your treatment clinician to complete

- Your treatment clinician must complete and send the Treatment Information Form to the IDRP Central Office (Fax #: 1-866-272-7989)
- Treatment Information Forms submitted by clients cannot be accepted.

Out of State (Non-Vermont) Residents

- If you live out-of-state and receive an impaired driving offense in Vermont, you should complete your state's approved program and provide proof of completion to IDRP. Vermont is a member of the 47 State Driver License Interstate Compact, which allows the exchange of information concerning license suspensions and traffic violations of non-residents. This process can be complicated—feel free to call the IDRP Central Office for information about approved out of state programs.
- If you live out-of-state and receive an impaired driving offense in Vermont, you may choose to take Vermont's IDRP. Before registering for IDRP in Vermont, it is important to **verify that your state will accept Vermont's program**. Your state may have additional requirements for license reinstatement.

Contact Us

Impaired Driver Rehabilitation Program (IDRP) Central Office
Department of Health, Division of Substance Use Programs
108 Cherry Street
Burlington, VT 05401

Phone: 802-651-1574
We may be on the phone assisting other clients when you call. Please leave your name, your phone number, and a good time to reach you. Messages will be returned as soon as possible – usually within two business days.

Email: AHS.VDHIDRP@vermont.gov
You can also reach us by email – please be aware that IDRP Central Office cannot guarantee the security of information sent by email.

Fax: 1-866-272-7989

Maine Department of Health and Human Services
Office of Behavioral Health
DEEP (Driver Education and Evaluation Program)

DEEP Education Programs

The Risk Reduction Program (20-hour) is for Adults, 21 years or older. The 16-hour Program is for individuals who are under 21 when they register for a program.

The Under-21 Program (16-hour) is for individuals who are under 21 when they register for a program.

Our education programs are offered in-person or virtually using the ZOOM platform. Requirements for attending a virtual program include but are not limited to:

- An active email address that the participant has access to. This information is required at time of registration.
- A computer, tablet or smart phone with video and audio capability. All participants are required to remain on camera and engaged for the duration of the program.
- To follow requirements and expectations of our virtual programs. Providing virtual programs includes increased additional questions to ensure we have the correct physical location for all participants engaging in the program. If this information is not provided, participants will be required to attend in-person.
- A private, confidential, and appropriate location to complete the program. Virtual programs allow participants to complete their requirements without attending an in-person meeting. **ALL REQUIREMENTS AND EXPECTATIONS** of in-person programs still apply.

DEEP phone representatives are available from 9am to 4pm, Mon,Tue, Thur, Fri; Wed 1-4. Our office is closed daily from 12-1 for lunch.

www.maine.gov/dhhs/samhs/osa/deep

Mailing address

DEEP
11 State House Station
41 Anthony Avenue
Augusta, ME 04333-0011

Phone: 207-626-8600
TTY Users: Dial 711 (Maine Relay)
Fax: 207-287-3903

E-mail address:
deep.osa@maine.gov

In accordance with federal and state laws, the Maine Office of Behavioral Health does not discriminate on the basis of sex, race, religion, color, national origin, creed, disability, or age in admission or access to treatment services or employment in its programs and activities. If you require special accommodations at a DEEP education program due to a disability, please notify us 15 working days prior to the class so that we may make arrangements for your needs. This publication may be made available in an alternate format upon request.

Revised November 2021

WHAT YOU NEED TO KNOW ABOUT

DEEP

MAINE'S DRIVER EDUCATION AND EVALUATION PROGRAMS FOR OUI OFFENDERS

www.maine.gov/dhhs/samhs/osa/deep

(207)-626-8600

The Risk Reduction Program

Participants in the Risk Reduction Program will receive in-depth education regarding high-risk alcohol and drug choices to assist them in identifying and changing high-risk behaviors. Participants will complete a preliminary self-assessment instrument designed to screen for risk factors for substance use problems. Individuals found to be at higher risk will be referred to a DEEP certified provider for a clinical substance use evaluation to determine if there is evidence of a problem that needs treatment services.

Twenty Hour Risk Reduction Program

- **$300.00** Payment by Money Order $10.00 processing fee for credit or debit card payment

Under 21 Risk Reduction Program

- **$225.00** Payment by Money Order $10.00 processing fee for credit or debit card payment.

Counselors and agencies certified to provide services are private businesses, and individuals receiving those services must pay for them.

Contact the DEEP office at 207-626-8600 to register for a program, or if you have any questions about DEEP services.

THE COMPLETION OF TREATMENT PROGRAM

Any individual, either adult or under the age of 21, who feels that he or she has a serious alcohol or substance use problem that needs treatment and is willing to seek voluntary counseling, may opt to enter directly into treatment rather than take the Risk Reduction Program.

- services must be provided by a DEEP-certified counselor or agency.
- A statewide listing of approved providers is available by calling DEEP at 207-626-8600.
- The number of sessions will depend on the extent of your problem and your progress in treatment.

Processing of forms through the DEEP office is required prior to your first appointment with a DEEP Provider.

Program fee of $300.00 payment by Money Order. A $10.00 processing fee for credit or debit card payment by phone.

Final approval of your completion will be based on the report sent to DEEP by your counselor.

To participate in the Completion of Treatment Program **you must call DEEP at 207-626-8600** for further information and to request application materials.

Counselors and agencies certified to provide services are private businesses, and individuals receiving those services must pay for them. Several providers have a sliding fee scale, and many will accept insurance or MaineCare.

OUT OF STATE PROGRAMS

Individuals who reside in another state may complete the program available in their state for the equivalent number of offenses. The program must include an education component as well as a preliminary assessment and/or a substance use evaluation. If treatment is recommended or required, documentation of completion must be provided.

Program fee of $300.00 payment by Money Order. A $10.00 processing fee for credit or debit card payment by phone.

MILITARY PROGRAMS

Members of the military who have an Operating Under the Influence (OUI) offense in Maine may satisfy the requirements of DEEP by completing the program required by their branch of the service, for the total number of OUI offenses they have had, no matter where or when they occurred. The program must include an education component, as well as, a preliminary assessment and/or a substance use evaluation. If treatment is recommended or required documentation of satisfactory completion must be provided.

Program fee of $150.00 payment by Money Order. A $10.00 processing fee for credit or debit card payment by phone.

If you would like information regarding your driver's license, please contact:

Driver Licensing Division
Maine Bureau of Motor Vehicles
29 State House Station
Augusta Maine 04333

Or call 207-624-9000 ext. 52104

NH Impaired Driver Care Management Programs (IDCMP)

Amethyst
Phone: 603-679-2100
Email: amethystfoundation@myfairpoint.net

- **Epping** (Main Office): 120 Hedding Rd.
- **Salem**: 35 Geremonty Dr.
- **Portsmouth**: 1039 Unit D, Islington St.
- **Claremont**: 24 Opera House Square, The Moody Building, Unit 301E
- **Manchester**: 814 Elm St.

Beyond the Meadows PLLC
Phone: 603-717-6488
Email: contactus@beyondthemeadows.com

- **Epsom** 4 Brimstone Hill Road,

Blue Heron Neurofeedback and Counseling
Phone: 603-356-6400 ext. 1
Email: Sleclerc@blueheroncounseling.org

- **Gorham:** 515 Main St
- **Littleton:** (Main Office) 111 Saranac St
- **North Conway:** 3277 White Mountain Hwy

CAIP at Headrest
Phone: 603-753-8181
Email: sarah.haxhija@headrest.org

- **Boscawen** (Main Office): 119 N Main St.
- **Laconia**: 390 Union Ave.
- **Lebanon**: 141 Mascoma St
- **Nashua**: 3A Taggart Dr.

Chrysalis Recovery Center (CRC)
Phone: 603-998-4210
Email: intake@crc-idcmp.com

- **Concord** (Main Office): 112 South State St.
- **Franklin:** 20 Canal St.
- **Northwood:** 1130 1st NH Turnpike, Rte. 4
- **Manchester:** 15 High St

Community Improvements Assoc. (CIA)
Keene Phone: 603-352-1016
Manchester Phone: 603-623-5052
Email: Admin@cianh.com

- **Keene** (Main Office)**:** 160 Emerald St.
- **Manchester:** 25 Bay St.

Homebase Collaborative Family Counseling
Main Phone: 603-600-4008
Alt Phone 603-892-8084
Email: idcmp@homebasenh.org

- **Manchester** (Main Office):1850 Elm St. ste 2
- **Nashua**: 2 Pine Street Ext., Suite #S-2
- **Concord**: 22 Bridge St, Suite #3
- **Rochester**: 73 Pickering Rd, Suite M304
- **Keene**: 151 West Street

Southeastern NH Services (SENHS)
Phone: 603-516-8160
Email: senhs@co.strafford.nh.us

- **Dover**: 272 County Farm Rd.

IMPORTANT: You are advised to **contact the IDCMP within three (3) days** to schedule your intake appointment. Failure to do so may result in you not meeting your required timeframes and incurring additional penalties.

Revised 1/23

Required Documentation:

In order for your intake to be conducted and screening/evaluation instruments to be administered, you must provide the IDCMP with your sentencing order.

Prior to a finding being made as a result of your screening or evaluation, you must provide the IDCMP with all of the following:

- A current original certified copy of your driver's license record from all of the following, as applicable:
  - The State of NH Department of Safety, Division of Motor Vehicles;
  - The state in which you hold a driver's license, if a non-resident; and
  - Any state in which you have been arrested or convicted for an offense involving driving a motor vehicle under the influence of alcohol or drugs.
- Chemical test results, if any, or documentation of your refusal to submit to chemical tests.
- A copy of your arrest report and arrest narrative relating to your conviction from the police department where the arrest occurred.
- Documentation of proof of completion of a department-approved impaired driver education program, if such a program has been completed within the past 5 years.

Service Fees:

SERVICE	COST	PAYMENT INSTRUCTIONS
Intake Fee *Inclusive of any screening conducted*	**$75.00**	To be paid on the date of service delivery, unless a payment plan has been agreed upon between you and the IDCMP.
Substance Use Disorder (SUD) Evaluation Fee	**$200.00**	To be paid on the date of service delivery, unless a payment plan has been agreed upon between you and the IDCMP.
Client Fee	**$70.00**	To be paid at the time of intake. Certified check or money order only. Payable to "Treasurer, State of NH"
Impaired Driver Education Program * (IDEP) Fee *Includes all course materials*	**$300.00**	To be paid on or before the date of the first session, unless a payment plan has been agreed upon between you and the IDCMP.
Weekend Driver Education Program * (WIDEP) Fee *Includes all course materials, room and board*	**$485.00**	To be paid on or before the date of the first session, unless a payment plan has been agreed upon between you and the IDCMP.
Care Management Fee	**$30.00** per contact	Payment is to be made in a manner as determined by the IDCMP. The IDCMP may charge individually for each contact or on a monthly basis for two (2) contacts. **Maximum $60.00 per month.**
Court Proceedings Fee: *For each day that an IDCMP staff is required to attend a sentencing court proceeding as a result of a notice of non-compliance being sent in accordance with He-A 507.06(k)*	**$100.00** per day	Payment is to be made in a manner as determined by the IDCMP.
Out of State Administrative Fee: *For clients that live out of state who want to complete the program in the state that they are currently residing.*	**$350.00**	To be paid at time of intake, unless a payment plan has been agreed upon between you and the IDCMP.
Drug or Alcohol Testing Fees: *As required by the service plan.*	**varies**	To be paid directly to the testing site.
** If you have not completed an approved educational program within the past five years, you have the choice of attending either an IDEP or a WIDEP.*		

Radioactive Materials Specific License and Inspection Fee Schedule from Rules Part C - Appndx A Table 1			
LICENSE CATEGORY	**APPLICATION**	**ANNUAL**	**NON-ROUTINE INSPECTION**
1. SPECIAL NUCLEAR MATERIAL			
A. Sealed sources in devices	$500.00	$1,200.00	$1,300.00
~~B. Pacemakers~~	~~$500.00~~	~~$350.00~~	~~$800.00~~
C. Other except critical	$690.00	$3,800.00	$800.00
D. Termination	$500.00		
2. SOURCE MATERIAL			
A. Shielding	$110.00	$450.00	$350.00
B. Water treatment wastes	$800.00	$1,100.00	$1,300.00
C. Other	$790.00	$8,100.00	$1,500.00
D. Termination	$500.00	Full Cost	
3. RADIOACTIVE MATERIAL, NATURALLY OCCURRING RADIOACTIVE			
A. Processing or manufacturing for commercial distribution			
1. Broad Scope A	$8,000.00	$20,000.00	$2,100.00
2. Broad Scope B	$7,000.00	$15,000.00	$2,100.00
3. Broad Scope C	$6,000.00	$12,000.00	$2,100.00
4. Other	$1,300.00	$4,875.00	$2,000.00
B. Radiopharmaceuticals, reagent kits, sources and devices			
1. Processing, manufacturing and distribution. This category includes nuclear pharmacies.	$6,000.00	$6,750.00	$1,900.00
2. Cyclotron for processing, manufacturing and distribution.	$6,500.00	$6,100.00	$1,900.00
3. Distribution only	$2,000.00	$4,350.00	$1,200.00
C. Sealed sources for irradiation			
1. Fixed, self shielded	$1,500.00	$2,325.00	$690.00
2. Exposed source < 10,000 Ci.	$3,000.00	$6,350.00	$1,300.00
3. Exposed source > 10,000 Ci.	$8,000.00	$31,400.00	$1,400.00
D. Distribution to persons exempt (NARM)			
1. Device review required	$2,500.00	$6,600.00	$690.00
2. No device review required	$3,000.00	$7,450.00	$690.00
E. Distribution to persons generally licensed			
1. SSD review required	$2,500.00	$3,300.00	$690.00
2. No SSD review required	$1,900.00	$1,250.00	$690.00
F. Research and development, no commercial distribution			
1. Broad Scope A	$3,300.00	$8,500.00	$1,200.00
2. Broad Scope B	$2,500.00	$7,000.00	$1,200.00
3. Broad Scope C	$2,300.00	$5,500.00	$1,200.00
4. Other	$1,500.00	$3,250.00	$930.00
G. Services for other licensees	$2,000.00	$3,400.00	$690.00
H. Industrial radiography	$4,000.00	$8,400.00	$2,500.00
I. All other radioactive and NARM, except 4A through 8D			
1. Portable gauges	$700.00	$1,000.00	$1,200.00
2. Fixed gauges	$700.00	$1,000.00	$1,200.00
3. X-ray fluorescence	$700.00	$1,000.00	$1,200.00
4. Laboratory services	$700.00	$1,000.00	$1,200.00
5. Storage only	$500.00	$800.00	$1,200.00
6. In-vitro laboratories	$500.00	$1,000.00	$1,200.00
7. Gas chromatographs	$500.00	$800.00	$1,200.00
8. Other	$500.00	$1,100.00	$1,200.00
4. WASTE DISPOSAL SERVICES			
A. Packaging or repackaging	$2,800.00	$7,000.00	$1,600.00
B. Transfer to another person	$2,500.00	$5,000.00	$2,100.00
C. Incineration or other treatment	$500 + full cost	$14,100.00	
5. WELL LOGGING			
A. Well logging and tracer studies	$3,400.00	$4,850.00	$800.00
B. Field flooding tracer studies	$500.00 + full cost	$5,000.00	$1,200.00
6. NUCLEAR LAUNDRIES	$8,000.00	$17,700.00	$1,900.00
7. MEDICAL (HUMAN) USE			
A. Broad scope	$5,000.00	$17,250.00	$1,800.00
B. Other Medical Use			
1. G.100 - Use of unsealed radioactive material for uptake, dilution, and excretion studies-written directive not required	$1,000.00	$2,500.00	$1,500.00

LICENSE CATEGORY	APPLICATION	ANNUAL	NON-ROUTINE INSPECTION
2. G.200 - Use of unsealed radioactive material for imaging and localization studies-written directive not required	$1,000.00	$2,500.00	$1,500.00
3. G.300 - Use of unsealed radioactive material - written directive required	$1,000.00	$2,500.00	$1,500.00
4. G.400 - Manual brachytherapy	$1,000.00	$2,500.00	$1,500.00
5. G.500 - Sealed sources for diagnosis	$1,000.00	$2,500.00	$1,500.00
6. G.600 - Sealed source(s) in a device for therapy-teletherapy, remote afterloader, or gamma stereotactic radiosurgery unit	$3,400.00	$8,500.01	$1,900.00
7. G.1000 - Other medical uses of RAM or radiation from RAM	$2,000.00	$4,500.01	$1,900.00
8. CIVIL DEFENSE ACTIVITIES	$580.00	$1,275.00	$690.00
9. DEVICE, PRODUCT OR SEALED SOURCE SAFETY EVALUATION			
A. Devices, for commercial dist.	$4,000.00	$10,400.00	
B. Devices, single applicant	$4,000.00	$10,400.00	
C. Sources, for commercial dist.	$2,500.00	$7,300.00	
D. Sources, single applicant	$750.00	$1,200.00	
10. GENERAL LICENSE REGISTRATION			
A. Submission of form HHE-860		$200.00	$1,200.00
B. Submission of form HHE-861 (facility)		$200.00	$1,200.00
C. Submission of form HHE-862 (device)		$200.00	$1,200.00
D. Submission of form HHE-863 (facility)		$200.00	$1,200.00
E. Submission of form HHE-867		$200.00	$1,200.00
11. RECIPROCITY		$1,800.00	

PART He-P 4070 FEES FOR CERTIFICATES OF REGISTRATION, RADIOACTIVE MATERIAL LICENSES, AND OTHER REGULATORY SERVICES

He-P 4070.01 Purpose. The rules in this part establish fees for radioactive material licensing, general licensed device registration, radiation or MRI machine registration, and provide for their payment.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.02 Scope. Except as otherwise specifically provided, the rules in this part shall apply to any person who is an applicant for, or a holder of:

(a) A radioactive material license or a general licensed device registration issued pursuant to He-P 4030, He-P 4031, He-P 4032, He-P 4033, He-P 4034, He-P 4035, He-P 4036, He-P 4037, or He-P 4039; or

(b) A certificate of registration for radiation or MRI machines issued pursuant to He-P 4040.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.03 Payment of Fees.

(a) Each application for a radioactive material license or a general licensed device registration shall be accompanied by a fee equal to the annual fee described in He-P 4070.05.

(b) An application for a license covering more than one fee category shall be accompanied by the prescribed fee for the highest fee category.

(c) An application for a certificate of registration shall be accompanied by the annual fee described in He-P 4070.06.

(d) The total annual fee paid for a certificate of registration for radiation and MRI machines located at any one physical address shall not exceed $25,000.

(e) No application for a certificate of registration shall be accepted for filing or processed prior to payment of the full amount required.

(f) An application for an amendment to a license that results in a change to a category with a higher fee shall result in a fee being charged equal to the prorated difference between the fee for the current category and the one to which the amended license will escalate.

(g) The prorated costs in (f) above shall be based on monthly intervals and shall be charged from the first day of the month the amendment is effective until the expiration date of the license.

(h) The department of health and human services (DHHS) shall bill the licensee for the prorated amounts required by (f) and (g) above accordingly.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.04 Method of Payment.

(a) Fee payment shall be:

(1) In cash; or

(2) By check or money order made payable to "Treasurer - State of New Hampshire".

(b) The payments may be made by personal delivery or by mail.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.05 Schedule of Annual Fees for Radioactive Material Licenses and General Licensed Device Registrations.

(a) The rules in this section establish annual fees that shall apply in accordance with He-P 4070.02(a).

(b) The categories of licensure and the annual fee by category shall be set out in Table 4070.1, "Annual Fees for Radioactive Material Licenses and Services."

(c) The category of general licensed devices and the annual fee per location of use of all devices possessed and registered, shall be set out in Table 4070.1-B, "Annual Fees for Registered General Licensed Devices."

(d) The criteria for registration of general licensed devices shall be set out in Table 4070.1-C, "Criteria for Registration of General Licensed Devices," and in He-P 4031.04(e).

(e) The annual fee for general licensed devices shall not be per device, but shall be assessed per location of use regardless of the number of devices possessed and registered by the registrant. A location of use may consist of different buildings in the same general location which may have different street addresses.

Table 4070.1-A Annual Fees for Radioactive Material Licenses and Services

License or Service Category	Annual Fee
Accelerator (Licenses authorizing production and possession of radioactive material produced by an accelerator)	$6500
Agency-Accepted Training Course (Licenses authorizing possession and use of radioactive material for the purposes of providing training in the use of radioactive material or devices containing radioactive material)	$1500
Bone Mineral Analyzer (Licenses authorizing possession and use of radioactive material in bone mineral analyzers for human or veterinary diagnostic purposes)	$850

License or Service Category	Annual Fee
Broad Scope License (Licenses of broad scope authorizing possession and use of radioactive material issued under parts He-P 4030 and 4033 of this chapter for research and development purposes, and/or for processing or manufacturing of items containing radioactive material for commercial distribution, and/or for diagnostic and/or therapeutic veterinary or human use of radioactive material)	$5500
Calibration Service (survey instruments) (Licenses authorizing possession and use of radioactive material in survey instrument calibration services)	$850
Calibration Service (using reference sources) (Licenses authorizing possession and use of radioactive material as reference sources for calibration services)	$750
Civil Defense (Licenses authorizing possession and use of radioactive material for civil defense activities)	$850
Decontamination/Decommissioning Services (Licenses authorizing possession and receipt of radioactive materials or items contaminated with radioactive material for the purposes of decontaminating such items)	$6500
Demonstration/Sales (Licenses authorizing possession and use of devices containing radioactive material for demonstration, exhibition or sales purposes)	$1300
Distribution Only (Licenses authorizing receipt, storage and distribution of radioactive material or items containing radioactive material, not involving processing or manufacturing of radioactive material or items containing radioactive material)	$4300
Environmental Laboratory (Licenses authorizing possession and use of radioactive material for environmental laboratory use purposes)	$650
Eye Applicator (Licenses authorizing possession and use of eye applicator devices containing radioactive material for therapeutic human or veterinary purposes)	$850
Fixed Multi-Beam Teletherapy (Licenses authorizing possession and use of fixed multi-beam teletherapy devices containing radioactive material for therapeutic human purposes)	$3800

License or Service Category	Annual Fee
Fluorescence X-Ray Analyzer (in-plant use only) (Licenses authorizing possession and use of radioactive material as sealed sources for use in portable x-ray fluorescence analyzers)	$650
Fluorescence X-Ray Analyzer (temporary job sites) (Licenses authorizing possession, use and transport of radioactive material as sealed sources for use in portable x-ray fluorescence analyzers)	$850
Hand-held Light Intensifying Imaging Device (Licenses authorizing possession and use of radioactive material as sealed sources for use in hand-held light intensifying imaging devices)	$750
Gas Chromatograph (Licenses authorizing possession and use of radioactive material in sealed sources for use in gas chromatography devices)	$550
Gauges (fixed) (Licenses authorizing possession and use of radioactive material as sealed sources for use in fixed gauging devices)	$700
Gauges (portable or mobile) (Licenses authorizing possession, use and transport of radioactive material in sealed sources in portable or mobile gauging devices)	$950
Industrial Radiography (fixed facility) (Licenses authorizing possession and use of radioactive material issued under Parts He-P 4030 and He-P 4034 of this chapter for industrial radiography at fixed facility/permanent sites)	$4000
Industrial Radiography (temporary field site) (Licenses authorizing possession, use and transport of radioactive material issued under Parts He-P 4030 and He-P 4034 for industrial radiography at temporary jobsites)	$4500
Installation, Repair, or Maintenance (Licenses authorizing possession of radioactive material incident to installation, repair, or maintenance of devices containing radioactive sources, or for possession only of naturally occurring radioactive material incident to technological enhancement)	$1100
In-vitro Use of Radioactive Materials (Licenses authorizing possession and use of radioactive material for in-vitro testing and use purposes)	$650
In-vitro Test Kit Manufacturer (Licenses authorizing manufacturer of in-vitro test kits)	$3250

License or Service Category	Annual Fee
Irradiator (self-shielded) (Licenses authorizing possession and use of radioactive material in sealed sources for irradiation of materials in which the source is not removed from its shield)	$1350
Irradiator (containing less than 10,000 curies) (Licenses authorizing possession and use of less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes)	$2750
Irradiator (containing 10,000 curies or more) (Licenses authorizing possession and use of 10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes)	$5500
Leak Test Service (Licenses authorizing possession and use of radioactive material for testing of sealed sources for leakage or contamination)	$650
Manufacturing and Commercial Distribution (Licenses authorizing possession and use of radioactive material for processing or manufacturing radioactive material or items containing radioactive material for commercial distribution, and/or for distribution of radioactive material or items containing radioactive material)	$4500
Medical Therapy (unsealed) (Licenses authorizing possession and human use of radioactive material in the form of unsealed radioactive material, issued under Parts He-P 4030 and 4035 of this chapter for therapeutic purposes)	$2200
Medical Therapy (sealed) (Licenses authorizing possession and human use of radioactive material in the form of sealed radioactive material, issued under Parts He-P 4030 and 4035 of this chapter for therapeutic purposes, except licenses for radioactive material in sealed sources contained in teletherapy or remote controlled brachytherapy devices)	$2750
Mobile Nuclear Medicine Services (Licenses authorizing receipt, possession, transport, and use of radioactive material for diagnostic human or veterinary use at client sites)	$2750

License or Service Category	Annual Fee
Mobile Scanning Service (sealed sources only) (Licenses authorizing possession of radioactive material and transport of radioactive material and/or devices containing radioactive material to a medical client's facility)	$1750
Nuclear Medicine (diagnostic only) (Licenses restricted to only the diagnostic human use of radioactive material for uptake, dilution, excretion, imaging or localization studies, sealed sources for diagnosis; and in-vitro studies)	$1650
Nuclear Laundry (Licenses authorizing the commercial collection and laundering of items contaminated with radioactive material)	$4500
Nuclear Pharmacy (Licenses authorizing possession, use, distribution and redistribution of radioactive material in the form radiopharmaceuticals, generators, reagent kits, and/or other sources or devices, issued under Parts He-P 4030, 4032 and 4035 of this chapter, and not involving processing of radioactive material)	$4000
Possession Incident to Exempt Distribution (Licenses authorizing possession, receipt, storage and repackaging of radioactive material or items containing radioactive material for eventual distribution to persons exempt under a specific license issued by the United States Nuclear Regulatory Commission)	$800
Radiopharmaceutical Manufacturing (Licenses authorizing possession, use, processing and manufacturing radioactive material in the form radiopharmaceuticals, generators, and/or reagent kits, issued under Parts He-P 4030 and 4032 of this chapter)	$5500
Remote Controlled Brachytherapy Device (including low dose-rate and high dose-rate remote afterloaders and intravenous brachytherapy) (Licenses authorizing possession and use of radioactive material in Remote Controlled Brachytherapy Devices for therapeutic human or veterinary uses)	$2750
Research and/or Development (Licenses authorizing possession and use of radioactive material for research and development that does not authorize commercial distribution of radioactive material or devices containing radioactive material)	$3800
Sealed Source or Device Safety Evaluation (commercial distribution) (Departmental safety evaluation of sealed sources containing radioactive material, or devices or products containing radioactive material for commercial distribution)	$2750

License or Service Category	Annual Fee
Sealed Source or Device Safety Evaluation (unique specification) (Departmental safety evaluation of sealed sources containing radioactive material, or devices or products containing radioactive material, manufactured in accordance with the unique specifications of, and for use by, a single applicant)	$2750
Sealed Source or Device Safety Annual Maintenance Fee (A fee per active evaluation sheet maintained by DHHS, except unique specification sealed source and device evaluation sheets)	$700
Source Material (shielding) (Licenses authorizing possession, use, and/or installation of source material for shielding)	$375
Source Material (other) (Licenses which authorize the possession and use of source material for commercial, educational, and/or research purposes, excluding manufacturing and distribution purposes)	$2200
Special Nuclear Material (other) (Licenses authorizing possession and use of special nuclear material in quantities not sufficient to form a critical mass, as defined in He-P 4003 of this chapter, in unsealed form for other authorized purposes)	$2200
Special Nuclear Material (sealed sources) (Licenses authorizing possession and use of special nuclear material in quantities not sufficient to form a critical mass, as defined in He-P 4003, in the form of sealed sources for calibration and other authorized purposes)	$550
Storage Only (Licenses authorizing storage only of radioactive material, but does not include facilities described as centralized low-level radioactive waste storage facilities)	$5500
Teletherapy (Licenses issued under Parts He-P 4030 and 4035 of this chapter authorizing human and non-human use of radioactive material in sealed sources contained in teletherapy devices)	$3800
Tracer Studies (non-oil well) (Licenses for possession and use of radioactive material for field flooding tracer studies)	$3250
Veterinary (diagnostic) (Licenses authorizing possession and use of radioactive material for diagnostic purposes in veterinary medicine)	$1600

License or Service Category	Annual Fee
Veterinary (therapy) (Licenses authorizing possession and use of radioactive material for therapeutic purposes in veterinary medicine)	$1800
Waste Processing (packaging or repackaging for transfer) (Licenses authorizing the possession and receipt of low-level radioactive waste material for preparation for shipment, packaging, or repackaging for transfer to a person authorized to receive or dispose of the radioactive waste material)	$4500
Waste Processing (prepackaged transfer only) (Licenses authorizing the possession and receipt of low-level radioactive waste material from other persons, incident to transfer to a person authorized to receive or dispose of the material)	$2750
Well Logging Other Than Field Flooding Tracer Studies (Licenses authorizing possession and use of radioactive material for wireline services and well surveys)	$3250
Additional Authorized Use Sites Where Radioactive Material Is Used or Stored under the Same License (Licenses authorizing possession and use of radioactive material at additional authorized use sites where radioactive material is used or stored under the same license)	20% of applicable fee
Reciprocity (Licenses authorizing possession and use of radioactive material in the state of New Hampshire by certain U.S. Nuclear Regulatory Commission, Agreement State and Licensing State radioactive material licenses who conduct such activities under reciprocity provisions specified in He-P 4030.18 of this chapter.)	Annual fee for applicable category
Radiological Incident Response and Radiation Safety Assessments (Departmental response or reaction to an radiological incident or event in order to protect the public health and safety and protection of property and the environment)	Full cost recovery
Non-Routine and/or Reactive Inspections (Inspection conducted in response or reaction to a complaint, allegation, follow-up to inspection deficiencies or inspections to determine implementation of safety issues)	$1000

Table 4070.1-B Annual Fee for Registration of General Licensed Devices

Registration Category	Annual Fee per Location of Use of Device(s)
Registration of general licensed devices as specified in He-P 4031.04(e) and Table 4070.1-C below.	$150.00

Table 4070.1-C Criteria for Registration of General Licensed Devices

Radionuclide	Activity Greater Than or Equal to:
Strontium-90, Radium-226	3.7 megabecquerel (0.1 millicurie)
Cobalt-60, Curium-244, Americium-241, Californium-252	37 megabecquerel (1 millicurie)
Cesium-137	370 megabecquerel (10 millicurie)

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15; amd by #10910, eff 8-21-15

He-P 4070.06 Schedule of Annual Fees for Certificates of Registration for Radiation or MRI Machines.

(a) Annual fees for certificates of registration for radiation or MRI machines shall be those set out in Table 4070.2, "Annual Fees for Radiation or MRI Machine Registration."

(b) Annual fee for each machine shall be based on the number of machine-made sources of ionizing radiation the machine controls.

Table 4070.2 Annual Fees for Radiation or MRI Machine Registration

Type of Radiation or MRI Machine	Annual fee Number of Sources Controlled by Machine 1	2	3 or more
A. X-ray machines for diagnostic or visualization purposes in the healing arts or veterinary medicine			
1. Radiographic x-ray machines for dental purposes, including, but not limited to, dental intraoral, dental cephalometric, and dental panoramic x-ray machines, and machines combining those functions	$145	$254	$362
2. Radiographic x-ray machines for podiatric purposes	$145		
3. Radiographic x-ray machines for healing arts or veterinary medicine purposes designed to be portable as defined in He-P 4041.02(dj)	$145		
4. Radiation machines for the generation of information in the healing arts or veterinary medicine, including bone mineral densitometers and medical x-ray cabinets	$145		
5. Non-portable diagnostic x-ray machines for healing arts or veterinary medicine purposes, including general purpose radiographic machines, mobile x-ray machines, mini c-arm units, micro-computed tomography units, dedicated chest units, conventional tomography machines, cone-beam computed tomography machines, veterinary, chiropractic, and standard mammography machines	$275	$482	
6. X-ray machines with fluoroscopic capability without regard to whether they also have radiographic capabilities, including radiographic-fluoroscopic combination machines, C-arm units, angiographic machines, and therapy simulators	$400	$600	$800
7. Computed tomography (CT), stereotactic mammography machines and 3D mammographic machines	$400	$600	$800
B. Machines for therapeutic use in the healing arts or veterinary medicine			

Type of Radiation or MRI Machine	Annual fee Number of Sources Controlled by Machine 1	2	3 or more
1. X-ray machines capable of being used at potentials of 500,000 volts or less	$500		
2. X-ray machines capable of being used at potentials greater than 500,000 volts	$2000		
3. Particle accelerators capable of being used at energies of 500,000 electron volts or less	$1000		
4. Particle accelerators capable of being used at energies greater than 500,000 electron volts	$2000		
5. Electronic Brachytherapy	$1000		
C. Machines not used for diagnostic or therapeutic purposes on humans or animals			
1. Particle accelerators			
a. Ion implanters	$850		
b. Irradiators	$850		
c. For the production of radioactive material	$2500		
d. Other accelerators, including research accelerators	$2000		
2. Industrial Machines			
a. Cabinet x-ray system as defined in He-P 4034.03	$320	$560	
b. Industrial radiographic units	$800		
3. Analytical x-ray machines as defined in He-P 4043.03			
a. X-ray fluorescence machines	$350		
b. X-ray diffraction machines	$350		
4. X-ray gauges (thickness/level)	$400		
5. Items of electronic equipment that produce radiation incidental to their operation for other purposes (SEM or TEM) and which are not exempt from registration under the provisions of He-P 4040.06(a)	$125		
D. Non-ionizing radiation equipment			
Magnetic resonance imaging machines	$500		
E. Other circumstances			
1. Radiation or MRI machines not otherwise specified above used for the following purpose:			
a. Diagnostic	$400		
b. Therapeutic	$600		
c. Industrial	$400		
F. Exempt from Fee Proration			
1. Radiation or MRI machines registered as in storage under the provisions of He-P 4040.12	$100		
2. Radiation or MRI machines used solely for educational demonstration (non-human use) purposes	$100		
3. Service Provider Registration	$125		
4. Reciprocal recognition of out-of-state radiation or MRI machine registration	Half annual fee of applicable machine type		

Source. #6827, eff 8-6-98; ss by #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.07 Proration of Annual Fees for Registration of Radiation or MRI Machines. For each machine a registrant acquires after July 31 of a year, the fee due shall be calculated by multiplying the annual fee for the machine set out in Table 4070.2 A-E by the proration factor in Table 4070.3, "Proration Factors Applicable to Fees for Certificates of Registration for Radiation or MRI Machines".

Table 4070.3 Proration Factors Applicable to Fees for Certificates of Registration for Radiation or MRI Machines

Month of acquisition of the radiation machine	Proration factor
August	1.00
September	0.92
October	0.83
November	0.75
December	0.67
January	0.58
February	0.50
March	0.42
April	0.33
May	0.25
June	0.17
July	0.00

Source. #6827, eff 8-6-98; ss by #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.08 Administrative Fines.

(a) The DHHS shall impose an administrative fine against any person who is required under these rules to submit an application for certificate of radiation for a radiation or MRI machine and the applicable fee, or for an annual fee for a radioactive material license or general licensed device registration, and who fails to do so in a timely manner.

(b) Such administrative fines shall be imposed as follows:

(1) If a person responsible for submitting to the DHHS an application for a certificate of registration for a radiation or MRI machine and the applicable fee, or for an annual fee for a radioactive material license or general licensed device registration, fails to do so within 30 days of the date that the application and fee are due, the person shall be assessed a fine of $100.00;

(2) At the time that the fine is imposed DHHS shall provide the individual written notice that states:

a. The reason(s) for the imposition of the fine; and

b. The right of the person to an adjudicative proceeding allowed in He-C 200;

(3) Failure of the person to request a hearing within 30 days of the receipt of the notice shall result in the imposition of the fine becoming final;

(4) If the person fails to pay the fee due and the imposed fine within 30 days of the date that the fine was imposed or, in the case where an adjudicative hearing is requested, within 30 days of the date that the fine is upheld following the hearing, the amount of the fine shall be doubled; and

(5) If the person fails to pay the fee due and the imposed fine within 30 days of the date that the fine is doubled in accordance with (4) above, the matter shall be referred to the department of justice in order that it may institute civil action to collect the fine in accordance with RSA 125-F:22, IV.

Source. #6827, eff 8-6-98; ss by #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

He-P 4070.09 Insufficient Funds. Should a check or other instrument from an applicant, licensee, or registrant be uncollectible from the paying institution, the DHHS shall:

(a) Add any bank, state treasurer, or other charges resulting to the amount owed;

(b) Notify the applicant, licensee, or registrant in writing to the last address known to the DHHS; and

(c) Allow the person 15 days to correct the matter without penalty per He-P 4070.08(b)(1).

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #7919, eff 7-18-03; ss by #9947, eff 6-22-11; ss by #10865, eff 6-25-15

PART He-P 4071 LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT FUND

He-P 4071.01 Purpose. These rules provide the amount of generator fee(s), and the mechanism for fee payment.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #10141, eff 5-26-12

He-P 4071.02 Scope. The rules of this part shall apply to generators of low-level radioactive waste in the state of New Hampshire who export the waste by transfer to an authorized recipient as provided in He-P 4030.16.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #10141, eff 5-26-12

He-P 4071.03 Quarterly Reports and Fees.

(a) Any person who generates low-level radioactive waste requiring transfer to an authorized low-level radioactive waste disposal site as provided in He-P 4030.16 in a 3-month period shall file certified quarterly activity reports on Form BRH-20 (5/2012) with the DHHS/BRH.

(b) The following shall be submitted with each quarterly report in (a) above:

(1) A copy of the waste shipment manifest containing information as required in He-P 4023.06; and

(2) The fee payment due the state.

(c) Form BRH-20 shall be obtained from the DHHS/BRH.

(d) The quarterly reports shall be filed with the DHHS/BRH in accordance with the time schedule set forth in He-P 4071.03(g).

(e) Fees to be paid by the generators of low-level radioactive waste shall be computed as follows:

(1) A fee of $15.00 shall be paid by a waste generator for each cubic foot of radioactive waste exported from the state during the reporting quarter in accordance with the provisions of RSA 125-F:8-a, III; and

(2) Cubic feet of radioactive waste shall be calculated from the information written on the generator's manifests. If a generator records the quantities of wastes in other than units of cubic feet, the record shall also reflect the mechanism for conversion to units of cubic feet for the quarterly report.

(f) Payment of fees shall be:

(1) By check made out to the Treasurer, State of New Hampshire;

(2) Accompanied by the quarterly report as set forth in He-P 4071.03(a); and

(3) Filed with the DHHS/BRH within 60 days following the close of the quarterly reporting period as set forth in He-P 4071.03(g) to the following address:

Division of Public Health Services
Radiological Health Section
29 Hazen Drive
Concord, NH 03301-6504

(g) Quarterly reporting and fee payment periods shall be as set forth in Table 4071.1 below:

Table 4071.1 Quarterly Reporting and Fee Payment Periods

Quarter	Period Covered	Report Due On or Before
1st	January 1 to March 31	May 30
2nd	April 1 to June 30	August 29
3rd	July 1 to September 30	December 30
4th	October 1 to December 31	March 1

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #10141, eff 5-26-12

He-P 4071.04 Record-Keeping. A generator shall keep a copy of each quarterly report for a period of 7 years from the due date of the report.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #10141, eff 5-26-12

He-P 4071.05 Exemptions. The following wastes shall not be subject to the generator fees collected under He-P 4071.03(a):

(a) Radioactive material transferred to an authorized recipient as provided in He-P 4030.16, other than a licensed low-level radioactive waste disposal site; and

(b) Radioactive waste disposed of in accordance with He-P 4023.

Source. #5903, eff 2-1-95, EXPIRED: 2-1-01

New. #10141, eff 5-26-12