NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Division

Recreational Water Quality Criteria for Louisiana Coastal Beach Recreation Waters

(LAC 33:IX.107, 1105, 1113, 1117 and 1123.C.2.a and b, and E. Table 3 and ENDNOTE 25) (WQ092)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.107, 1105, 1113, 1117 and 1123.C.2.a and b, and E. Table 3 and ENDNOTE 25 (WQ092).

This update to the Louisiana Surface Water Quality Standards in LAC 33:IX.Chapter 11 will add definitions to Section 1105 to define enterococci and Beaches Environmental Assessment and Coastal Health (BEACH) Act waters. These definitions will also be added to LAC 33:IX.107. Additional revisions will be made to Chapter 11, Sections 1113, 1117, and 1123 to adopt enterococci criteria for Louisiana coastal beach recreation waters and to identify those subsegments containing coastal beach recreation waters (BEACH Act primary contact recreation waters).

Under federal regulations at 40 CFR 131.11(a)(1) a state is required to adopt water quality criteria protective of uses and based on sound scientific rationale. Louisiana, as a Beaches Environmental Assessment and Coastal Health (BEACH) Act state, has specific requirements with regard to recreational water quality criteria. Section 303(i)(1)(B) of the Clean Water Act (CWA), as amended by the BEACH Act, directs each state with coastal recreational waters to adopt and submit to the U. S. Environmental Protection Agency (USEPA) new or revised water quality standards for those waters for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable. Louisiana must adopt the new recreational water quality criteria by December 2015 or risk having the USEPA promulgate recreational water quality criteria for the state. The basis and rationale for this proposed rule are to comply with the Clean Water Act, as amended by the Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

This Rule has no known impact on poverty as described in R.S. 49:973.

This Rule has no known impact on providers as described in HCR 170 of 2014.

A public hearing will be held on March 30, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ092. Such comments must be received no later than April 6, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ092. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson

General Counsel

**Title** **33**

**ENVIRONMENTAL QUALITY**

**Part IX. Water Quality**

**Subpart 1. Water Pollution Control**

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

**§107. Definitions**

**\* \* \***

*Enterococci*—a group of fecal bacteria used as an indicator of fecal contamination and predictor of human illness.

**\* \* \***

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2538 (November 2000), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1857 (October 2006), LR 33:2365 (November 2007), amended by the Office of the Secretary, Legal Division, LR 42:\*\*.

Chapter 11. Surface Water Quality Standards

**§1105. Definitions**

**\* \* \***

*Enterococci*—a group of fecal bacteria used as an indicator of fecal contamination and predictor of human illness.

**\* \* \***

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2401 (December 1999), LR 26:2545 (November 2000), LR 29:557 (April 2003), LR 30:1473 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:456 (March 2007), LR 33:827 (May 2007), LR 35:445 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:\*\*.

**§1113. Criteria**

A. – C.4.c. …

5. Bacteria. The applicability of bacterial criteria to a particular ~~stream~~ subsegment depends upon the use designation and geographic location of ~~that individual stream~~ the subsegment. Criteria are established to protect water quality ~~commensurate with the most stringent~~ to support the designated uses assigned to the subsegment. The most stringent a~~A~~pplicable fecal coliform bacterial criteria for ~~the most stringent designated use of~~ each individual Louisiana ~~stream~~ subsegment and the applicability of enterococci bacterial criteria for coastal primary contact recreation waters are outlined~~listed~~ in the "BAC" column of Table 3, LAC 33:IX.1123. ~~For water quality monitoring and assessment purposes the following criteria shall be used to determine support for the designated uses.~~

a. Primary Contact Recreation. ~~No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 400/100 mL.~~ The~~is~~ primary contact recreation criteria~~on~~ shall apply only during the defined recreational period of May 1 through October 31. During the nonrecreational period of November 1 through April 30, the criteria for secondary contact recreation shall apply.

i. Enterococci. The indicator, enterococci, will be used for coastal marine waters, gulf waters to the state three-mile limit, coastal bays, estuarine waters, and adjacent subsegments with recreational beach waters. The enterococci geometric mean density shall not exceed 35 colonies/100 mL and no more than 10% of the individual samples in the data set shall exceed 130 enterococci colonies/100 mL. The interval of time for calculating the geometric mean and the 10% exceedance rate may be one month or greater, but shall not exceed 3 months.

ii. Fecal Coliform. The indicator, fecal coliform, will be used for subsegments without applicable enterococci criteria. No more than 25 percent of the total samples collected on a monthly or near-monthly basis shall exceed a fecal coliform density of 400 colonies/100 mL.

C.5.b. – Table 1A, Footnote f. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:829 (May 2007), LR 35:446 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:\*\*.

**§1117. References**

A. – A.12. …

13. U.S. Environmental Protection Agency. October 10, 2000. Beaches Environmental Assessment and Coastal Health Act of 2000 (BEACH Act). Public Law 106-284.

14. U.S. Environmental Protection Agency. November 26, 2012. Recreational Water Quality Criteria. Office of Water. 820-F-12-058.

15. U.S. Environmental Protection Agency. July 31, 2014. National Beach Guidance and Performance Criteria for Grants, 2014 Edition. Office of Water. EPA-823-B-14-001.

16~~3~~. Webster's II New Riverside University Dictionary, Anne H. Soukhanov, editor. 1988. Houghton Mifflin Company, Boston, MA.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745(October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 20:883 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2403 (December 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:\*\*.

**§1123. Numerical Criteria and Designated Uses**

A. – C.2.a. …

\* \* \*

b. The code number identified under the Numerical Criteria subheading "BAC" in Table 3 represents the most stringent bacterial criteria that apply to each individual subsegment. Where applicable, additional ~~less stringent~~ bacterial criteria also apply, depending on the designated uses of the subsegment and the geographic location of the subsegment. The specified numeric bacterial criteria for each designated use listed in this Paragraph can be found in LAC 33:IX.1113.C.

D. – E. …

| **Table 3. Numerical Criteria and Designated Uses** | | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use;  D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters | | | | | | | | | |
| **Code** | **Stream Description** | **Designated Uses** | **Numerical Criteria** | | | | | | |
| **CL** | **SO4** | **DO** | **pH** | **BAC** | °**C** | **TDS** |
| **Atchafalaya River Basin (01)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 010901 | Atchafalaya Bay and Delta and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Barataria Basin (02)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 020402 | Bayou Lafourche–From ICWW at Larose to Yankee Canal (Estuarine) | A B C | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 1  [25] | 32 | N/A |
| 020403 | Bayou Lafourche–From Yankee Canal and saltwater barrier to Gulf of Mexico (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 020601 | Intracoastal Waterway–From Bayou Villars to Mississippi River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 020801 | Intracoastal Waterway–From Larose to Bayou Villars and Bayou Barataria (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 1  [25] | 35 | N/A |
| 020802 | Bayou Barataria and Barataria Waterway–From ICWW to Bayou Rigolettes (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 1  [25] | 35 | N/A |
| 020901 | Bayou Rigolettes and Bayou Perot to Little Lake (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 35 | N/A |
| 020902 | Little Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 020903 | Barataria Waterway (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 1  [25] | 35 | N/A |
| 020904 | Wilkinson Canal and Wilkinson Bayou (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 35 | N/A |
| 020905 | Bayou Moreau (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 4  [25] | 35 | N/A |
| 020906 | Bay Rambo (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 020907 | Bay Sansbois, Lake Judge Perez, and Bay De La Cheniere (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 021001 | Lake Washington, Bastian Bay, Adams Bay, Scofield Bay, Coquette Bay, Tambour Bay, Spanish Pass, and Bay Jacques (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-8.5 | 4  [25] | 35 | N/A |
| 021101 | Barataria Bay; includes Caminada Bay, Hackberry Bay, Bay Batiste, and Bay Long (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 021102 | Barataria Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Calcasieu River Basin (03**) | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 030301 | Calcasieu River and Ship Channel–From saltwater barrier to Moss Lake; includes Ship Channel, Coon Island Loop, and Clooney Island Loop (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030302 | Lake Charles | A B C | N/A | N/A | 5.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030303 | Prien Lake | A B C | N/A | N/A | 5.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030304 | Moss Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030305 | Contraband Bayou (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030306 | Bayou Verdine–south of the Houston River Canal to the Calcasieu River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 030401 | Calcasieu River–From below Moss Lake to the Gulf of Mexico; includes Ship Channel and Monkey Island Loop (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.0-8.5 | 4  [25] | 35 | N/A |
| 030402 | Calcasieu Lake | A B C E | N/A | N/A | 5.0 | 6.0-8.5 | 4  [25] | 32 | N/A |
| 030403 | Black Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 030901 | Bayou D'Inde–From headwaters to Calcasieu River (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-8.5 | 1  [25] | 35 | N/A |
| 031001 | Bayou Choupique–From headwaters to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 031002 | Intracoastal Waterway–From West Calcasieu River Basin boundary to Calcasieu Lock (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 031201 | Calcasieu River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4  [25] | 32 | N/A |
| **Lake Pontchartrain Basin (04)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 040803 | Tchefuncte River–From La. Highway-22 to Lake Pontchartrain (Estuarine) | A B C | 850 | 135 | 4.0 | 6.0-8.5 | 1  [25] | 30 | 1,850 |
| \* \* \* | | | | | | | | | |
| 040902 | Bayou LaCombe–From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | 835 | 135 | 4.0 | 6.0-8.5 | 1  [25] | 32 | 1,850 |
| \* \* \* | | | | | | | | | |
| 040904 | Bayou Cane–From CDM Ecoregion boundary to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 040906 | Bayou Liberty–From La. Highway 433 to Bayou Bonfouca; includes Bayou de Chien (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 040908 | Bayou Bonfouca–From CDM Ecoregion boundary to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 040910 | Salt Bayou–From headwaters to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 040911 | Grand Lagoon; includes associated canals (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 040913 | Bayou LaCombe–From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | 835 | 135 | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | 1850 |
| 040914 | Bayou Cane–From US Highway 190 to CDM Ecoregion boundary (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 040916 | Bayou Paquet–From headwaters to Bayou Liberty (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | N/A |
| 040917 | Bayou Bonfouca–From La. Highway 433 to CDM Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041001 | Lake Pontchartrain–West of US-11 bridge (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 32 | N/A |
| 041002 | Lake Pontchartrain–East of US Highway 11 bridge (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 041201 | Bayou Labranche–From headwaters to Lake Pontchartrain (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041202 | Bayou Trepagnier–From Norco to Bayou Labranche (Scenic) (Estuarine) | A B C G | N/A | N/A | 2.3 Mar.-Nov.; 4.0 Dec.-Feb. | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041203 | Duncan Canal–From headwaters to Lake Pontchartrain; also called Parish Line Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-8.5 | 1  [25] | 32 | N/A |
| 041204 | Bayou Traverse-From headwaters to LMRAP Ecoregion boundary (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041301 | Bayou St. John (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041302 | Lake Pontchartrain Drainage Canals in Jefferson and Orleans Parishes (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041401 | New Orleans East Leveed Water Bodies (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 041501 | Inner Harbor Navigation Canal–From Mississippi River Lock to Lake Pontchartrain (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041601 | Intracoastal Waterway–From Inner Harbor Navigation Canal to Chef Menteur Pass (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 041701 | The Rigolets (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 32 | N/A |
| 041702 | Bayou Sauvage–From New Orleans hurricane protection levee to Chef Menteur Pass; includes Chef Menteur Pass (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 32 | N/A |
| 041703 | Intracoastal Waterway–From Chef Menteur Pass to Lake Borgne (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 041801 | Bayou Bienvenue–From headwaters to hurricane gate at MRGO (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041802 | Bayou Chaperon (Scenic)(Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041803 | Bashman Bayou–From headwaters to Bayou Dupre (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041804 | Bayou Dupre–From Lake Borgne Canal to Terre Beau Bayou (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041805 | Lake Borgne Canal–From Mississippi River siphon at Violet to Bayou Dupre; also called Violet Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041806 | Pirogue Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041807 | Terre Beau Bayou–From Bayou Dupre to New Canal (Scenic) (Estuarine) | A B C G | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 041808 | New Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 041901 | Mississippi River Gulf Outlet (MRGO)–From ICWW to Breton Sound at MRGO mile 30 | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042001 | Lake Borgne | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042002 | Bayou Bienvenue–From Bayou Villere to Lake Borgne (Scenic) (Estuarine) | A B C E G | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042003 | Bayou La Loutre–From MRGO to Eloi Bay (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042004 | Bayou Bienvenue–From MRGO to Bayou Villere (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042101 | Bayou Terre Aux Boeufs (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042102 | River Aux Chenes; also called Oak River (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042103 | Bayou Gentilly–From Bayou Terre Aux Boeufs to Petit Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 042201 | Chandeleur Sound | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042202 | California Bay and Breton Sound | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042203 | Bay Boudreau | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042204 | Drum Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042205 | Morgan Harbor | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042206 | Eloi Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042207 | Lake Fortuna | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042208 | Bay Gardene, Black Bay, Lost Bayou, American Bay, and Bay Crabe | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 042209 | Lake Pontchartrain Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Mermentau River Basin (05)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 050801 | Mermentau River–From Catfish Point Control Structure to Gulf of Mexico (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 050802 | Big Constance Lake; includes associated water bodies (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 050901 | Mermentau River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Vermilion-Teche River Basin (06)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 060803 | Vermilion River Cutoff–From ICWW to Vermilion Bay (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 060804 | Intracoastal Waterway–From Vermilion Lock to 1/2 mile west of Gum Island Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 060901 | Bayou Petite Anse–From headwaters to Bayou Carlin (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 060902 | Bayou Carlin–From Lake Peigneur to Bayou Petite Anse; also called Delcambre Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 060903 | Bayou Tigre–From headwaters to Bayou Petite Anse (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 060904 | New Iberia Southern Drainage Canal–From headwaters to ICWW (Estuarine) | A B L-[24] | N/A | N/A | [24] | 6.5-9.0 | [24]  [25] | 35 | N/A |
| 060906 | Intracoastal Waterway–From New Iberia Southern Drainage Canal to Bayou Sale (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 060910 | Boston Canal; includes associated canals (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 060911 | Dugas Canal–By Tiger Lagoon Oil and Gas Field (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 061001 | West Cote Blanche Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 061002 | East Cote Blanche Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 061101 | Bayou Petite Anse–From Bayou Carlin at its confluence with Bayou Tigre to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 061102 | Intracoastal Waterway–From 1/2 mile west of Gum Island Canal to New Iberia Southern Drainage Canal (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 061103 | Freshwater Bayou Canal–From 1/2 mile below ICWW to control structure (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 1  [25] | 35 | N/A |
| 061104 | Vermilion Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 061105 | Marsh Island (Estuarine) | A B C | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 061201 | Vermilion‑Teche River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4  [25] | 32 | N/A |
| **Mississippi River Basin (07)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 070401 | Mississippi River Passes–Head of Passes to Mouth of Passes; includes all passes in the birdfoot delta (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 070601 | Mississippi River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Ouachita River Basin (08**) | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| **Pearl River Basin (09)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 090103 | East Pearl River–From I-10 to Lake Borgne (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 090208 | Little Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| **Red River Basin (10)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| **Sabine River Basin (11)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 110301 | Sabine River–From Old River below Sabine Island WMA to Sabine Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A  *Section 1123* |
| 110302 | Black Bayou–From Pirogue Ditch to Sabine Lake (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 32 | N/A |
| 110303 | Sabine Lake (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.0-8.5 | 4  [25] | 35 | N/A |
| 110304 | Sabine Pass (Estuarine) | A B C E | N/A | N/A | 4.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 110601 | Vinton Waterway–From Vinton to ICWW (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 110602 | Black Bayou–From ICWW to Pirogue Ditch (Estuarine) | A B C | N/A | N/A | 4.0 | 6.0-8.5 | 1  [25] | 35 | N/A |
| 110701 | Sabine River Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |
| **Terrebonne Basin (12)** | | | | | | | | | |
| \* \* \* | | | | | | | | | |
| 120502 | Bayou Grand Caillou–From Bayou Pelton to Houma Navigation Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 120504 | Bayou Petit Caillou–From LA-24 bridge to Boudreaux Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.0-9.0 | 4  [25] | 32 | N/A |
| \* \* \* | | | | | | | | | |
| 120506 | Bayou Du Large–From Marmande Canal to 1/2 mile north of St. Andrews Mission (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.0-9.0 | 4  [25] | 35 | N/A |
| 120507 | Bayou Chauvin–From Ashland Canal to Lake Boudreaux (Estuarine) | A B C | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 1  [25] | 32 | N/A |
| 120508 | Houma Navigation Canal–From Bayou Pelton to 1 mile south of Bayou Grand Caillou (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 120601 | Bayou Terrebonne–From Houma to Company Canal (Estuarine) | A B C | 445 | 105 | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.0-9.0 | 1  [25] | 32 | 1,230 |
| 120602 | Bayou Terrebonne–From Company Canal to Humble Canal (Estuarine) | A B C E | 5,055 | 775 | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 32 | 10,000 |
| \* \* \* | | | | | | | | | |
| 120605 | Bayou Pointe Au Chien–From headwaters to St. Louis Canal | A B C | 445 | 105 | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 1  [25] | 32 | 1,000 |
| 120606 | Bayou Blue–From Grand Bayou Canal to Bully Camp Canal (Estuarine) | A B C | 5,055 | 775 | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 1  [25] | 32 | 10,000 |
| 120701 | Bayou Grand Caillou–From Houma Navigation Canal to Caillou Bay (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120702 | Bayou Petit Caillou–From Boudreaux Canal to Houma Navigation Canal (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.0-9.0 | 4  [25] | 32 | N/A |
| 120703 | Bayou Du Large–From 1/2 mile north of St. Andrews Mission to Caillou Bay (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.0-9.0 | 4  [25] | 35 | N/A |
| 120704 | Bayou Terrebonne–From Humble Canal to Lake Barre (Estuarine) | A B C E | N/A | N/A | 3.8 April-Aug.;  5.0 Sept.-Mar. | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120705 | Houma Navigation Canal–From 1/2 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120706 | Bayou Blue–From Bully Camp Canal to Lake Raccourci (Estuarine) | A B C E | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.5-9.0 | 4  [25] | 35 | N/A |
| \* \* \* | | | | | | | | | |
| 120708 | Lost Lake and Four League Bay | A B C E | N/A | N/A | 5.0 | 6.0-9.0 | 4  [25] | 35 | N/A |
| 120709 | Bayou Petite Caillou–From Houma Navigation Canal to Terrebonne Bay | A B C E | N/A | N/A | 3.8 June-Aug.;  4.0 Sept.-May | 6.0-9.0 | 4  [25] | 32 | N/A |
| 120801 | Caillou Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120802 | Terrebonne Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120803 | Timbalier Bay | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120804 | Lake Barre | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120805 | Lake Pelto | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 35 | N/A |
| 120806 | Terrebonne Basin Coastal Bays and Gulf Waters to the State 3 mile limit | A B C E | N/A | N/A | 5.0 | 6.5-9.0 | 4  [25] | 32 | N/A |

ENDNOTES:

[1] – [24] …

[25] Enterococci criteria apply to subsegment from May through October to protect primary contact recreation (see LAC 33:IX.1113.C.5.a).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010), amended by the Office of the Secretary, Legal Division, LR 41:0000 (December 2015), LR 42:\*\*.

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES LOG #: WQ092

Person

Preparing Stephanie Braden\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Statement: steph.braden@la.gov Dept.: LDEQ

(email address)

Phone: (225) 219-3207 Office: Office of Environmental Services

Return Rule

Address: 602 North Fifth Street Title: Recreational Water Quality Criteria for Baton Rouge, LA 70802 Louisiana Coastal Recreation Waters

(LAC 33:IX.107, 1105, 1113, 1117, 1123)

Date Rule

Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an estimated increase in expenditures of $42,840 for the Louisiana Department of Environmental Quality (LDEQ) on an annual basis. The department will plan to utilize existing resources within a federal grant to pay for the monitoring costs. These grant funds are expected to be redirected from other monitoring activities for this purpose. In addition, the proposed rule change may result in an increase in expenditures of $71,640 for certain state and local governmental units. The proposed rule change adds enterococci criteria to the water quality criteria requirements. The rule change applies to in-stream surface waters to protect public health. LDEQ will need to collect additional in-stream data to determine attainment of the new enterococci pathogen criteria. The estimated annual LDEQ assessment monitoring cost includes analytical, supplies, shipping, handling, record keeping, and other administrative costs.

The rule does not directly require additional monitoring by permitted state or local governmental units. However, should the department determine that permitted facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the projected total cost for affected local and state governmental units is $71,640. The potential cost is based on the wastewater permit for each entity. The type of permit determines the frequency of monitoring for each entity. To the extent additional monitoring is needed for a certain entity, the cost will be $60 per sample.

At the time estimates were prepared, the potential increase would affect 65 local governmental units at an estimated cost of $69,600. The potential increase in expenditures would affect 6 state departments and agencies at an estimated cost of $2,040. The expenditure increase would affect the following: Department of Transportation and Development, Department of Wildlife and Fisheries, Department of Culture, Recreation and Tourism, Louisiana Universities Marine Consortium, McNeese State University and Louisiana Technical College.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change does not affect local governmental units. However, the proposed rule change does affect the Department of Health and Hospitals’ (DHH) ability to receive federal funds for the department’s Beach Monitoring Program. To the extent LDEQ does not adopt water quality criteria for coastal recreation waters, EPA indicated that DHH would no longer receive the federal funding for beach monitoring. The federal grant awarded to DHH for the Beach Monitoring Program is estimated to be $306,000 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in costs and benefits to directly affected persons or non-governmental groups.The rule does not directly require additional monitoring by permitted non-governmental entities. However, should the department determine that permitted facilities must monitor for the enterococcipathogen indicator in their effluent to ensure protection of public health, the projected total cost for affected non-governmental entities is $153,120 for an estimated 1,101 non-governmental entities. The potential cost is based on the wastewater permit for each entity. The type of permit determines the frequency of monitoring for each entity.

Currently there is only one lab accredited to conduct enterococci pathogen analysis for LDEQ required monitoring. This rule does not directly require an additional lab to become accredited; however, additional accredited labs would improve monitoring data quality by reducing sample hold time exceedances. The cost estimates for an in-state laboratory to become accredited are $1,190 for initial costs and $580 annually thereafter. The cost estimates for an out-of-state laboratory to become accredited for Louisiana are $5,990 for initial costs and $580 annually thereafter.

The annual economic benefit of the rule to private laboratories equals the estimated cost of annual assessment monitoring which is $42,840. Additionally, if LDEQ determines permit effluent monitoring is needed to monitor protection of public health and if permitted facilities used the services of private laboratories that benefit would be more than $200,000 annually for all permitted facilities.

There is a non-quantifiable economic benefit of having an additional pathogen indicator which will provide increased public health protection.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule revisions.

\_\_\_\_\_\_\_\_\_ \_ \_ Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Herman Robinson, General Counsel

Typed Name and Title of Agency Head or Designee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_

Date of Signature Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule revisions will update the Louisiana Surface Water Quality Standards in the Louisiana Administrative Code, Title 33, Part IX (LAC 33:IX). Definitions are being added to LAC 33:IX.107 and 1105 to define enterococci pathogen indicator. Revisions are being made to LAC 33:IX.1113, 1117, and 1123 in order to adopt enterococci criteria for Louisiana coastal recreation waters and to identify specific subsegments where enterococci criteria apply.

B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Federal regulations, 40 CFR 131.11(a)(1), require a state to adopt water quality criteria protective of the designated uses and based on sound scientific rationale. Additionally, section 303(i)(1)(B) of the Clean Water Act (CWA), as amended by the Beaches Environmental Assessment and Coastal Health (BEACH) Act, directs each state with coastal recreation waters to adopt and submit to the U.S. Environmental Protection Agency (USEPA) new or revised water quality standards for those waters for all pathogens and pathogen indicators for which the new or revised water quality criteria are applicable.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will result in an increase in expenditures. However, the increase will be absorbed within the existing operating budget and the plan is to fund the expenditures through an existing federal grant.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) Yes. If yes, attach documentation.

(b) No. If no, provide justification as to why this rule change should be published at this time.

The FY 16 general appropriations bill (Act 16 of 2014) includes expenditure authorizing for the federal grant and is expected to carry forward into FY 17 and FY 18.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

The water quality criteria requirements of the rule apply to in-stream surface waters to protect public health. The Louisiana Department of Environmental Quality (LDEQ) will need to collect additional in-stream data to determine attainment of the new enterococci pathogen criteria. The estimated annual LDEQ assessment monitoring cost is $42,840 which includes analytical, supplies, shipping, handling, record keeping, and other administrative costs.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COSTS FY15-16 FY16-17 FY17-18

PERSONAL SERVICES -0- -0- -0-

OPERATING EXPENSES -0- $7,140.00 $7,140.00

PROFESSIONAL SERVICES -0- $35,700.00 $35,700.00

OTHER CHARGES -0- -0- -0-

EQUIPMENT -0- -0- -0-

TOTAL -0- $42,840.00 $42,840.00

MAJOR REPAIR & CONSTR -0- -0- -0-

POSITIONS (#) -0- -0- -0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The costs outlined in A.1 are for LDEQ collection and analysis of samples to determine whether coastal waters are attaining the new enterococci pathogen criteria. LDEQ will be required to assess 119 water subsegments over the six-month swimming season. The estimated cost of sample analysis is $50/sample and an additional $10/sample for supplies, shipping, record keeping, and reporting (119 x 6 x $10 = $7,140; 119 x 6 x $50 = $35,700).

The rule does not directly require additional monitoring by permitted state governmental units. However, should the department determine that permitted facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the projected total cost for affected state governmental units is $2,040 for six state agencies. There are 27 permitted outfalls with monitoring frequencies ranging from once to six times in the six-month swimming season. Those monitoring frequencies were multiplied by the same costs as assessments above ($50 for analytical; $10 for supplies, shipping, record-keeping and reporting).

3. Sources of funding for implementing the proposed rule or rule change.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SOURCE FY15-16 FY16-17 Y17-18

STATE GENERAL FUND -0- -0- -0-

AGENCY SELF-GENERATED -0- -0- -0-

DEDICATED -0- -0- -0-

FEDERAL FUNDS -0- $42,840.00 $42,840.00

OTHER (Specify) -0- -0- -0-

TOTAL -0- $42,840.00 $42,840.00

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

LDEQ has sufficient funds to implement assessment monitoring for the proposed action of adopting enterococci criteria for coastal waters.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The rule does not directly require additional monitoring by permitted local governmental units. However, should the department determine that permitted facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the estimated projected total cost for affected local governmental units is $69,600 for an estimated 65 local governmental agencies. There are an estimated 146 permitted outfalls with monitoring frequencies ranging from once/discharge to once/day in the six-month swimming season. Those monitoring frequencies were multiplied by the same costs as assessments above ($50 for analytical; $10 for supplies, shipping, record-keeping, and reporting). Existing monitoring report forms would be used and therefore no new forms would be required.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

If additional monitoring is required, the costs of the additional monitoring could be absorbed by the fees generated by the local governmental units.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase or decrease in revenues is anticipated from the proposed revisions.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REVENUE INCREASE/DECREASE FY15-16 FY16-17 FY17-18

STATE GENERAL FUND -0- -0- -0-

AGENCY SELF-GENERATED -0- -0- -0-

RESTRICTED FUNDS\* -0- -0- -0-

FEDERAL FUNDS $306,000.00\*\* $306,000.00 $306,000.00

LOCAL FUNDS -0- -0- -0-

TOTAL $306,000.00\*\* $306,000.00 $306,000.00

\*Specify the particular fund being impacted.

*\*\*Existing funding for LDHH’s Beach Monitoring Program*

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The federal grant awarded to LDHH for the Beach Monitoring Program is estimated to be $306,000 annually. If LDEQ does not adopt the federally-required criteria, a fiscal hardship would result for LDHH from the loss of federal funding for the Beach Monitoring Program.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The rule does not directly require additional monitoring by permitted facilities with sanitary outfalls. However, should the department determine that these facilities must monitor for the enterococci pathogen indicator in their effluent to ensure protection of public health, the estimated projected total cost for affected non-governmental units is $153,120 for an estimated 1,101 non-governmental entities. There are an estimated 1,915 permitted outfalls with monitoring frequencies ranging from once/year to twice/week in the six-month swimming season. Those monitoring frequencies were multiplied by the same costs as assessments above ($50 for analytical; $10 for supplies, shipping, record-keeping, and reporting). Existing monitoring report forms would be used and therefore no new forms would be required.

Currently there is only one lab accredited to conduct enterococci pathogen analysis for LDEQ required monitoring. This rule does not directly require any additional labs to become accredited. However, the minimum cost estimates for an in-state laboratory to become accredited are $1,520 and $5,320 for an out-of-state laboratory ($660 application fee, $330 annual fee, minimum $330 test fee, and $200 assessment fee for in-state or $4,000 assessment fee for out-of-state); recurring fees apply thereafter (see table below; LAC 33:I.4707). Existing application and report forms would be used and therefore no new forms would be required.

|  |  |
| --- | --- |
| Accreditation application fee payable every three years | $660 |
| Per major test category payable every year | $330 |
| Minor conventional category payable every year | $264 |
| Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation | $330 |
| Proficiency samples biannually | to be purchased by the laboratory |
| Bioassay/biomonitoring annually | to be purchased by the laboratory |
| Third-party audit | to be billed directly to the laboratory |

The annual economic benefit of the rule to private laboratories equals the estimated cost of annual assessment monitoring which is $42,840. Additionally, if LDEQ determines permit effluent monitoring is needed to monitor protection of public health and if permitted facilities used the services of private laboratories that benefit would be more than $200,000.

There is a non-quantifiable economic benefit of having an additional pathogen indicator which will provide increased public health protection.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

If the rule is not adopted, LDHH is at risk for losing federal funding in the amount of $306,000 annually for the Beach Monitoring Program.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed action will not have any impact on competition and employment in the public and private sectors.