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This public document is published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is September 20, 2024. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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Executive Orders

EXECUTIVE ORDER JML 24-131

Renewal of State of Emergency Cybersecurity Incidents

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies, including those caused by breach of cybersecurity, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to R.S. 29:724(B)(1), Governor John Bel Edwards declared a state of emergency on December 28, 2023, in Proclamation Number 236 JBE 2023 in response to the threat of intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, Proclamation Number 263 JBE 2023 has been renewed and extended every thirty (30) days through JML 24-106, which is in effect through Sunday, August 11, 2024;

WHEREAS, there have been severe, intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the State anticipates various state agencies and political subdivisions will need to continue to work cooperatively to mitigate any damage, current or future, as a result of these cybersecurity breaches.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency is hereby declared to continue to exist statewide in the State of Louisiana as a result of the imminent threat to the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in

applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in actions the state may take in response to the effects of this cybersecurity event.

Section 5: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are further authorized and directed to take all actions necessary to preserve the security and confidentiality of any data related to this emergency, including the execution of Memoranda of Understanding (MOUs), Non-Disclosure Agreements (NDAs), and/or any other related documents.

Section 6: Any departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, that may be affected by this cybersecurity emergency are directed to work with state officials to ensure there is a coordinated response to this event and are further directed to comply with the requirements of the Database Security Breach Notification Law, R.S. 51:3071 *et seq.*

Section 7: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551 *et seq.*), Louisiana Public Bid Law (R.S. 38:2211, *et seq.*), and the Louisiana Information Technology Procurement Code (R.S. 39:196-200), and their corresponding rules and regulations are hereby suspended if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with this emergency.

Section 8: This Order is effective upon signature and shall continue in effect from Friday, August 9, 2024 to Sunday, September 8, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#018

EXECUTIVE ORDER JML 24-132

Preventing the Use of Critical Race Theory in Louisiana's K-12 Public Education System

WHEREAS, pursuant to La. Const. art. VIII, § 1, the goal of the public educational system is to provide learning environments and experiences that are humane, just, and

designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his or her full potential;

WHEREAS, the Constitution of the State of Louisiana and the Constitution of the United States of America recognize the equal value of every individual and provide equal protection under the law;

WHEREAS, inherently divisive concepts, like Critical Race Theory (“CRT”) and its progeny instruct students to view the world through the lens of race and presume some students are consciously or unconsciously racist, sexist, or oppressive and that some students are victims;

WHEREAS, these inherently divisive concepts are antithetical to America’s founding ideals of liberty, justice, equality, opportunity, and unity among its people;

WHEREAS, it is the policy of this administration that such inherently divisive concepts are destructive and have no place in the public educational system of the State of Louisiana;

WHEREAS, the State Superintendent of Education for public elementary and secondary education is the administrative head of the Department of Education and is responsible for executing and implementing educational policies and programs of the State Board of Elementary and Secondary Education and the laws affecting schools under its jurisdiction;

WHEREAS, pursuant to R.S. 17:22 the State Superintendent of Education makes an annual report to the Board of Elementary and Secondary Education, the Governor, and the Legislature;

WHEREAS, Act 326 of the 2024 Legislative Session codified that parents of public school children have the right that a school shall not discriminate against a child by teaching the child that he or she is currently or destined to be oppressed or to be an oppressor based on the child’s race or national origin;

WHEREAS, during his tenure, the State Superintendent of Education has worked relentlessly to prevent inherently divisive concepts, like CRT, from infiltrating Louisiana’s K-12 public education system.

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

Section 1: The State Superintendent of Education will continue to review rules, bulletins, regulations, contracts, and policies within the Department of Education and take action to eliminate or, if necessary, report to the Board of Elementary and Secondary Education any rules, bulletins, regulations, contracts, or policies that endorse theories that:

An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

An individual’s moral character is necessarily determined by his or her race or sex;

An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

Meritocracy or traits such as a strong work ethic are racist or sexist, or were created by a particular race or sex to oppress another race or sex;

Encourage students to discriminate against someone based on the individual’s color, creed, race, ethnicity, sex, age, marital status, familial status, disability, religion, national origin, or any other characteristic protected by federal or state law.

Section 2: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the State Superintendent of Education in implementing the provisions of this Order.

Section 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 12th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#019

EXECUTIVE ORDER JML 24-133

Renewal of State of Emergency
Department of Transportation and Development

WHEREAS, pursuant to R.S.48:757, Governor John Bel Edwards declared a state of emergency on October 5, 2017, in Proclamation Number 109 JBE 2017 for repairs to certain roadways on the campus of Southern University and Agricultural and Mechanical College including F Street and H Street (also known as Farm Road);

WHEREAS, in Baton Rouge, Louisiana on the campus of Southern University and Agricultural and Mechanical College, certain roadways, including F Street and H Street (also known as Farm Road), are in need of immediate repairs due to the partial collapse of H Street and its slope destabilization;

WHEREAS, the damage has created significant drainage problems, which have been exacerbated by flooding that continues to be experienced in the area, which could result in loss of life and property;

WHEREAS, Southern University has requested that the Department of Transportation and Development assist in providing matching funds and manpower to assist in making the necessary repairs to the campus roadways and enhancements;

WHEREAS, the Department of Transportation and Development has funds available for use as a match and manpower to help repair the compromised roadways and enhancements on Southern University’s campus;

WHEREAS, R.S. 29:724 confers upon the Governor the power to suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business if strict compliance with the provisions of any statute would

in any way prevent, hinder, or delay necessary action in coping with an emergency;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation Number 109 JBE 2017.

WHEREAS, R.S. 48:757 permits the use of state funds on roads outside of the state and federal highway system upon a finding and declaration of an emergency by the Governor.

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

Section 1: Pursuant to R.S. 48:757, a state of emergency is hereby declared on the campus of Southern University in the City of Baton Rouge for the areas surrounding F and H Streets, for the limited purpose of authorizing the expenditure of state funds to make the necessary repairs to the campus roadways and enhancements.

Section 2: Pursuant to R.S. 29:724, the prohibitions in R.S. 48:757, proscribing the performance of work on a non-state highway system road or street, are hereby suspended to allow for the Department of Transportation and Development to perform the necessary actions to cope with the emergency on Southern University's campus.

Section 3: The Secretary of the Department of Transportation and Development is hereby authorized to provide funds for the express purpose of meeting the total match that is required to perform the necessary repairs and to provide the manpower necessary to make the repairs to the non-state highway system campus roadways, including F Street and H Street and its enhancements, slope, and drainage.

Section 4: This Order is effective upon signature and shall continue in effect from Friday, August 16, 2024 to Sunday, September 15, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 16th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#020

EXECUTIVE ORDER JML 24-134

Renewal of State of Emergency
Heat-Related Emergencies

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation Number 141 JBE 2023 and has been renewed and extended every thirty (30) days through Executive Order Number JML 24-112, which in in effect through August 25, 2024;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(l) empowers him to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, the National Weather Service has issued a record number of excessive heat warnings, with heat indices in the 100s, through the summer and into the fall of 2023;

WHEREAS, in addition to the extreme heat, minimal rainfall during these months led to drought conditions throughout most of the state, stressing the abilities of water districts to produce drinking water to its residents and businesses and increasing the threat of wildfires;

WHEREAS, the Office of Public Health advised that several water systems have experienced water outages, equipment breakdown, and boil advisories due to the drought conditions, saltwater intrusion, and increased water demand;

WHEREAS, the Louisiana State Fire Marshal and the Commissioner of the Department of Agriculture and Forestry issued a statewide burn ban on August 7, 2023 that was extended through November 21, 2023 due to the extremely dry conditions;

WHEREAS, although the drought has lessened, heat-related emergencies continue throughout Louisiana;

WHEREAS, the parishes affected by these heat-related emergencies continue to require assistance from the State of Louisiana to provide resources to combat the threats in order to protect the life, safety, and welfare of the citizens of Louisiana;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, and;

WHEREAS, it is necessary to continue the measures provided in Proclamation Number 141 JBE 2023 to further protect the health and safety of the citizens of Louisiana.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency is hereby declared to exist in the State of Louisiana as a result of the imminent threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to undertake any activity authorized by law which he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in

applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, *et seq.*) and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any good or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to this event.

Section 6: This order is effective upon signature and shall remain in effect from Friday, August 23, 2024, until Sunday, September 22, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 23rd day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#021

EXECUTIVE ORDER JML 24-135

Renewal of State of Emergency—Severe Storms and Tornadoes—December 13, 2022

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of the state will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers him to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, the National Weather Service indicated a high risk of numerous severe thunderstorms beginning on the late evening of Tuesday, December 13, 2022 throughout the night into most of the day on Wednesday, December 14, 2022, with the possibility of tornadoes, damaging winds gust, excessive rain, and moderate to large hail;

WHEREAS, by Tuesday night, it was reported that one or more tornadoes had touched down in Caddo, near Four Forks, Louisiana, with several more tornadoes having been reported in Union, Rapides, Madison, East Carroll, and Franklin parishes;

WHEREAS, the tornadoes caused significant damage and power outages throughout northwest and northcentral Louisiana, with a report of two known deaths related to these tornadoes;

WHEREAS, severe damage was caused by the tornados to the safety, health, and security of the citizens of the state, along with damage to private property and public facilities;

WHEREAS, Proclamation Number 183 JBE 2022 has been renewed and extended every thirty (30) days through Executive Order Number JML 24-111, which is in effect through August 25, 2024, and;

WHEREAS, there is a need to continue Executive Order Number JML 24-111 because several parishes are still working to recover from the damage caused by these storms.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to exist in the State of Louisiana as a result of the imminent threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, *et seq.*) and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any good or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this severe weather event.

Section 6: This order is effective upon signature and shall remain in effect from Friday, August 23, 2024 to Sunday, September 22, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 23rd day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#022

EXECUTIVE ORDER JML 24-136

Citizenship Disclaimer for Voter Registration Agencies to Protect Election Integrity

WHEREAS, the Fourteenth Amendment of the United States Constitution grants citizenship to all natural born or naturalized citizens of the United States, and further states that the government cannot deny any such person of life, liberty, or property, without due process;

WHEREAS, the privilege to vote is the foundation of a democratic society and was secured and protected by those who have fought and served this country since its inception;

WHEREAS, the federal government has recognized the importance of voting and limited this privilege to only U.S. citizens by enacting the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 which prohibits all non-U.S. citizens, including unauthorized immigrants, from voting in federal elections;

WHEREAS, Article I, Section 4 of the U.S. Constitution gives states the ability to determine eligibility of individual's right to vote in state elections;

WHEREAS, the State of Louisiana has also recognized the importance of voting and limited this privilege to only U.S. citizens and Louisiana citizens by enacting Louisiana's Constitution, Article I, Section 10, which prohibits non-citizens from registering to vote or voting in any election;

WHEREAS, Since the Biden-Harris administration took office, U.S. Customs and Border Protection (CBP) has logged more than 7.8 million illegal border crossings, plus at least 1.5 million "gotaways" – that is, border crossers who were detected by CBP technology, but who were never apprehended;

WHEREAS, those persons who have failed to lawfully become United States citizens do not have a right to vote in Louisiana's elections;

WHEREAS, the State of Louisiana is steadfast in protecting the integrity of our elections and will take every lawful action to protect our election integrity;

WHEREAS, any vote cast unlawfully is a dilution of the votes cast by individuals lawfully registered to vote in the United States, a privilege that is guaranteed by the U.S. Constitution and secured by our nation's veterans;

WHEREAS, Courts have held that, "It is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of democratic self-government;"

WHEREAS, in order to maintain integrity in the electoral process and protect the accuracy of our voter rolls, we must ensure that non-citizens who are ineligible to vote will not be placed on voter rolls and potentially participate in the electoral process;

WHEREAS, the National Voter Registration Act of 1993 designates all offices in the state that provide public assistance or state-funded programs primarily engaged in providing services to persons with disabilities as voter registration agencies;

WHEREAS, these mandatory voter registration agencies must offer voter registration with every application for service or assistance and with each recertification, renewal, or change of address form relating to such service or assistance by distributing a voter registration application form and declaration form as required by federal and state law, providing assistance to applicants unless they refuse such assistance, accepting completed voter registration applications, and transmitting them to the appropriate parish registrar of voters;

WHEREAS, state agencies play a critical role in registering individuals to vote and will continue to serve a vital role in this process in full compliance with the law.

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

Section 1: The head of every executive branch agency, department, office, commission, board, or entity of the State of Louisiana that is designated by the National Voter Registration Act as a mandatory voter registration agency shall, to the greatest extent authorized by law, continue to serve as a mandatory voter registration agency and conduct voter registration in accordance with the law.

Section 2: The head of every executive branch agency that serves as a mandatory voter registration agency shall provide notice to every individual applying for public assistance or disability services, and with each recertification, renewal, or change of address form relating to such service or assistance through that agency, that only a U.S. citizen may register and vote in Louisiana. This notice will be a disclaimer on the declaration form developed by the Secretary of State's office, and used by the respective agencies that states, "The Louisiana Constitution prohibits non-citizens from registering and voting. Therefore, it is illegal for non-citizens to register and vote in Louisiana." However, no one will be prohibited from completing a voter registration application form, as it must then be processed and verified by the registrar of voters of the parish in which the individual resides.

Section 3: The head of every executive branch agency that also serves as a mandatory voter registration agency shall work in coordination with the Secretary of State and the Attorney General in compliance with this executive order.

Section 4: All executive branch agencies, departments, offices, commissions, boards, entities, officers, and employees of the State of Louisiana, or any political subdivision thereof are authorized and directed to cooperate with the implementation of the provisions of this Order.

Section 5: For purposes of voter canvass conducted by the Secretary of State in the time frame allowed under federal law, the Commissioner of the Office of Motor Vehicles is ordered to provide the Secretary of State with a list of names of non-permanent residents or noncitizens who hold a Louisiana license or identification card. The Secretary

of State is directed to maintain the confidentiality of this information as required under the law.

Section 6: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 26th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#023

EXECUTIVE ORDER JML 24-137

Renewal Of State Of Emergency—Hurricane Ida

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or manmade causes, in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., Governor John Bel Edwards declared a state of emergency in response to the imminent threat posed by Hurricane Ida on August 26, 2021, in Proclamation Number 165 JBE 2021;

WHEREAS, Proclamation Number 165 JBE 2021 has been renewed and extended every thirty (30) days through JML 24-127, which is in effect through Sunday, September 1, 2024;

WHEREAS, Hurricane Ida made landfall on the Louisiana coast as a major hurricane on Sunday, August 29, 2021, bringing devastating winds, widespread power-outages, and severe damage to Louisiana and its citizens.

WHEREAS, on August 27, 2021, President Joseph R. Biden approved an Emergency Declaration for the State of Louisiana, authorizing appropriate assistance under Title V of the Stafford Act, to be coordinated by the United States Department of Homeland Security and the Federal Emergency Management Agency;

WHEREAS, on August 29, 2021, President Biden approved a Major Disaster Declaration for the State of Louisiana, authorizing individual and public assistance for all impacted parishes;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules

or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, damage from this storm continues to pose a threat to citizens and communities across the Gulf Coast and create conditions that place lives and property in the state in jeopardy;

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency is hereby declared to continue to exist statewide in the State of Louisiana as a result of the threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, et seq.) and Louisiana Public Bid Law (R.S. 38:2211, et seq.) and their corresponding rules and regulations continue to be suspended for the purpose of the procurement of any goods or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: Pursuant to R.S. 29:724(D)(1), the provisions of R.S. 39:126 regarding prior approval of change orders continue to be suspended.

Section 6: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this severe weather event.

Section 7: This Order is effective upon signature and shall continue in effect from Friday, August 30, 2024 to Sunday, September 29, 2024, unless amended, modified, or terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 30th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#070

EXECUTIVE ORDER JML 24-138

Renewal of State Of Emergency—Threat Of Subsidence,
Subsurface Instability, And Presence Of Hydrocarbons In
Sulphur Mines Salt Dome Area

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation Number 160 JBE 2023;

WHEREAS, Proclamation Number 160 JBE 2023 has been renewed and extended every thirty (30) days through JML 24-128 which is in effect through Sunday, September 1, 2024;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers the Governor to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, local, state, and federal agencies began monitoring subsurface seismic activity occurring in the vicinity of the Sulphur Mines salt dome in Calcasieu Parish in December of 2021, with a true seismic monitoring array being ordered by the Office of Conservation, which came online in January of 2023;

WHEREAS, the Office of Conservation began investigating unexplained hydrocarbon bubbling within the area of concern in January of 2023, as well as monitoring seismicity, and the rate of subsidence in the area of concern;

WHEREAS, on Wednesday September 20, 2023, in response to this subsidence and seepage, Commissioner of Conservation, Monique M. Edwards made a declaration of emergency under the authority of Louisiana Revised Statutes 30:1 *et seq.*, ordering the operator of the salt cavern underneath the area of subsidence to undertake all necessary activities to evaluate and abate any deterioration of the cavern's integrity;

WHEREAS, the State anticipates that further assistance may be needed to assist Calcasieu Parish in their response to this continuing threat; and

WHEREAS, it is necessary to continue the measures provided in Proclamation Number 160 JBE 2023 to further protect the health and safety of the citizens of Louisiana;

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., a state of emergency is hereby declared to exist in the Parish of Calcasieu, as a result of seismic activity, lost cavern integrity, increased hydrocarbon bubbling, and accelerated subsidence, that collectively indicate a potential for structural failure that could

potentially threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness is hereby authorized to undertake any activity authorized by law which he deems appropriate in response to this declaration.

Section 3: All departments, commissions, boards, agencies, and officers of the State or any political subdivision thereof, are authorized and directed to cooperate in actions, the State may take in response to this incident.

Section 4: This Order is effective upon signature and shall continue in effect from Friday, August 30, 2024 to Sunday, September 29, 2024, unless amended, modified, or terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 30th day of August 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#071

EXECUTIVE ORDER JML 24-139

Flags at Half-Staff—Judge Oswald A. Decuir

WHEREAS, the Honorable Oswald A. Decuir, a highly respected jurist, legislator, and trusted advisor to the Executive branch, died on September 3, 2024. He was 84 years old;

WHEREAS, he was born on August 23, 1940, in New Iberia, Louisiana, and was the eldest son of Oswald Sr. and Beverly Landry Decuir;

WHEREAS, he was a graduate of New Iberia Senior High (1958), Louisiana State University (1962), and Tulane University Law School (1966);

WHEREAS, he was admitted to the Louisiana State Bar Association in 1966, and was an attorney for 58 years;

WHEREAS, he served Louisiana for 17 years as a State Senator;

WHEREAS, he served for 20 years as an appellate judge on the Louisiana Court of Appeal, Third Circuit;

WHEREAS, he continued to serve the public after leaving the bench, working as an employee of the Louisiana Department of Justice and trusted advisor to Attorney General Jeff Landry;

WHEREAS, he served the State of Louisiana in all three branches of government, which demonstrates a profound commitment to public service and a deep understanding of the American system of government;

WHEREAS, he demonstrated remarkable versatility, dedication, and a comprehensive grasp of how laws are made, interpreted, and enforced;

WHEREAS, his career reflected a rare blend of legislative insight, judicial acumen, and executive experience, highlighting a commitment to upholding the principles of democracy;

WHEREAS, his dedication served as a powerful example of how diverse experiences can enhance one's ability to contribute meaningfully to the state of Louisiana;

WHEREAS, he was married to his college sweetheart and wife of 64 years, Loretta Young Decuir;

WHEREAS, he is survived by his loving wife, Loretta Young Decuir, his sister, Myra Decuir Gosnell, his son, Jon Scott Decuir (Loren Mancuso Decuir), his grandchildren, Dr. Jon Scott Decuir, Jr. (Aimee Andrepont Decuir) and Laura Decuir Robbins (Jonathon Robbins), and his great-granddaughters, Marie Louise "Marilou" and Amelie Anne Decuir;

WHEREAS, he will be remembered for his legacy of service and dedication to his community, his friends, and his family; and

WHEREAS, Louisiana owes a debt of gratitude to his many contributions to our state.

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

Section 1: As an expression of respect and to honor Judge Oswald A. Decuir, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on September 6, 2024.

Section 2: This Order is effective upon signature and shall remain in effect until sunset, September 6, 2024.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 6th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#072

EXECUTIVE ORDER JML 24-140

Renewal of State Of Emergency Tropical Storm Beryl

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Executive Order No. JML 24-130, which expires on September 6, 2024;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or manmade causes, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, Tropical Storm Beryl advanced steadily north from Texas into Western Louisiana throughout the day on Monday, July 8, 2024. The organized outer convective

bands from the tropical storm spread throughout Louisiana, developing multiple supercells;

WHEREAS, NWS Shreveport issued over 65 tornado warnings throughout the afternoon into the evening. Data indicates a minimum of eighteen tornadoes touched down in the State;

WHEREAS, damage assessments show one fatality, at least two severe injuries, massive power outages, and major damages to multiple homes and businesses in parishes on the western side of the State; and

WHEREAS, several parishes have issued emergency declarations, executed their emergency response plans, and require assistance from the State of Louisiana to provide resources to protect the life, safety, and welfare of the citizens of Louisiana.

WHEREAS, numerous tornadoes caused by Tropical Storm Beryl struck multiple parishes in northwest Louisiana, causing one fatality, multiple injuries to survivors, and widespread debris; and

WHEREAS, certain parishes continue to require state assistance to recover from this event and to protect public health and safety.

NOW THEREFORE, I, JEFF LANDRY, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, order and direct as follows:

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, the state of emergency declared in JML 24-105 continues to exist as a result of the emergency conditions that occurred on July 8, 2024, and that continue to threaten the lives, safety, and property of the citizens in Louisiana.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration including, providing the following assistance:

Debris Removal Assistance: The State will provide assistance in the form of 75% of costs related to debris removal that are incurred within the first ten (10) days of debris operations or a validly issued Notice to Proceed to a debris contractor for the following parishes: *Bossier, DeSoto, and Webster.*

Shelter Assistance: The State will provide assistance in the form of 75% of costs related to sheltering that are incurred within seven (7) days of July 8, 2024 for the following parishes: *Bossier, DeSoto, and Webster.*

Emergency Protective Measures: The State will provide assistance in the form of 75% of costs attributable to emergency protective measures (limited to overtime pay) related to this event for the following parishes: *Bossier, DeSoto, and Webster.*

Section 3: The State will review resource requests submitted through WebEOC from all parishes, and may allocate additional resources as necessary to assist parishes in their recovery efforts.

Section 4: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for

comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 5: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551. *et seq.*) and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any goods or services necessary to respond to this emergency by the following parishes: Bossier, DeSoto, and Webster, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 6: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to this event.

Section 7: This Order is effective upon signature and shall continue in effect from Friday, September 6, 2024, until Sunday, October 6, 2024, unless amended, modified, terminated, or rescinded earlier by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 6th day of September, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#073

EXECUTIVE ORDER JML 24-141

Renewal of State of Emergency—Cybersecurity Incidents

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies, including those caused by breach of cybersecurity, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to R.S. 29:724(B)(1), Governor John Bel Edwards declared a state of emergency on December 28, 2023, in Proclamation Number 236 JBE 2023 in response to the threat of intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, Proclamation Number 263 JBE 2023 has been renewed and extended every thirty (30) days through JML 24-131, which is in effect through Sunday, September 8, 2024;

WHEREAS, there have been severe, intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the State anticipates various state agencies and political subdivisions will need to continue to work cooperatively to mitigate any damage, current or future, as a result of these cybersecurity breaches.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to continue to exist statewide in the State of Louisiana as a result of the imminent threat to the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in actions the state may take in response to the effects of this cybersecurity event.

Section 5: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are further authorized and directed to take all actions necessary to preserve the security and confidentiality of any data related to this emergency, including the execution of Memoranda of Understanding (MOUs), Non-Disclosure Agreements (NDAs), and/or any other related documents.

Section 6: Any departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, that may be affected by this cybersecurity emergency are directed to work with state officials to ensure there is a coordinated response to this event and are further directed to comply with the

requirements of the Database Security Breach Notification Law, R.S. 51:3071 *et seq.*

Section 7: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551 *et seq.*), Louisiana Public Bid Law (R.S. 38:2211, *et seq.*), and the Louisiana Information Technology Procurement Code (R.S. 39:196-200), and their corresponding rules and regulations are hereby suspended if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with this emergency.

Section 8: This Order is effective upon signature and shall continue in effect from Friday, September 6, 2024 to Sunday, October 6, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 6th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#074

EXECUTIVE ORDER JML 24-142

State of Emergency
Tropical Storm Francine—September 9, 2024

WHEREAS, the Governor is responsible for meeting the dangers to the state and its citizens presented by emergencies and disasters;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to address disasters resulting from natural or man-made events that cause or threaten loss of life, injury, or property damage, as well as emergencies, which include actual or potential conditions created by such disasters, in order to ensure that preparations by the State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, La. R.S. 29:724(B)(1) empowers him to declare a state of emergency or disaster by executive order which has the force and effect of law;

WHEREAS, a declaration of emergency or disaster activates the state's emergency response and recovery program under the command of the director of the Governor's Office of Homeland Security and Emergency Preparedness ("GOHSEP");

WHEREAS, GOHSEP is responsible for determining the requirements of the state and its political subdivisions for food, clothing, and other necessities and supplies in a designated emergency area;

WHEREAS, Tropical Storm Francine is developing over the western Gulf of Mexico and is forecast to become a hurricane as it tracks toward the Gulf Coast;

WHEREAS, the storm is expected to bring four to eight inches of heavy rainfall across the southern part of the state, minor to moderate coastal flooding, gusty to damaging winds, and potential tornadoes, primarily on Wednesday and Thursday;

WHEREAS, the National Weather Service has issued a warning that this storm has the potential to become a Category two (2) hurricane before making landfall somewhere along the coast of Louisiana, just west of the Atchafalaya River;

WHEREAS, the storm could result in flash flooding, ponding in low-lying areas, rises on area rivers, and tropical force winds; there is a possibility of life-threatening inundation over the next 72 hours;

WHEREAS, seven (7) parishes have issued emergency declarations and five (5) parishes are in the process of issuing emergency declarations; and

WHEREAS, parishes statewide may require assistance from the State of Louisiana to provide resources to protect the life, safety, and welfare of the citizens of Louisiana.

NOW THEREFORE, I, JEFF LANDRY, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, order and direct as follows:

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to exist as a result of the emergency conditions that currently threaten the lives, safety, and property of the citizens of Louisiana.

Section 2: Pursuant to R.S. 29:724 (A)(3), the designated emergency area which is or may be affected shall include the entire State of Louisiana.

Section 3: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 4: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 5: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code, (R.S. 39:1551, *et seq.*), and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*), and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any goods or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 6: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate

in actions the State may take in response to this event.

Section 7: This Order is effective Monday, September 9, 2024 and shall continue in effect until Wednesday, September 18, 2024, unless amended, modified, terminated, or rescinded earlier by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of September, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#075

EXECUTIVE ORDER JML 24-143

State of Emergency Licensed Bed Capacity for Nursing Homes

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Executive Order No. JML 24-142.

WHEREAS, the National Weather Service has issued a warning that this storm has the potential to become a Category 2 hurricane before making landfall somewhere along the coast of Louisiana, just west of the Atchafalaya River;

WHEREAS, the storm could result in flash flooding, ponding in low-lying areas, rises on area rivers, and tropical force winds; there is a possibility of life-threatening inundation over the next 72 hours;

WHEREAS, the National Weather Service has issued a Hurricane Warning for Assumption, Coastal Jefferson Parish, Iberville, Lower Lafourche, Lower Terrebonne; Upper Lafourche, and Upper Terrebonne;

WHEREAS, the National Weather Service has issued a Tropical Storm Warning for Amite, Central Plaquemines, Central Tangipahoa, East Baton Rouge, East Feliciana, Eastern Ascension, Eastern Orleans, Lower Jefferson, Lower Plaquemines, Lower St. Bernard, Lower Tangipahoa, Northern Livingston, Northern St. Tammany, Northern Tangipahoa, Pointe Coupee, Southeast St. Tammany, Southern Livingston, Southwestern St. Tammany, St. Charles, St. Helena, St. James, St. John The Baptist, Upper Jefferson, Upper Plaquemines, Upper St. Bernard, West Baton Rouge, West Feliciana, Western Ascension, and Western Orleans;

WHEREAS, multiple parishes have called for evacuations, including Jefferson, Terrebonne, Cameron, Plaquemine, and Iberia;

WHEREAS, the State of Louisiana desires to promote and protect the health, safety, and well-being of evacuees

from Tropical Storm Francine and specifically those evacuees needing nursing facility services;

WHEREAS, the State of Louisiana desires to ensure the protection of such residents and evacuees in nursing facilities in times of declared emergencies;

WHEREAS, R.S. 40:2116.1(B)(1) prohibits the Department of Health from approving additional beds in nursing facilities;

WHEREAS, the State of Louisiana desires that residents and evacuees in nursing facilities be able to temporarily evacuate to safe sheltering locations during an emergency; and

WHEREAS, the State of Louisiana desires to minimize the impact of the tropical storm/hurricane on the residents of nursing facilities;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency or disaster to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

NOW THEREFORE, I, JEFF LANDRY, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, order and direct as follows:

Section 1: The provisions of La. R.S. 40:2116.1(B)(1) are hereby suspended for the purpose of allowing the Secretary of the Department of Health and the Louisiana Surgeon General, at their discretion, to establish such protocols, policies, and procedures as to allow a licensed nursing facility which accepts or receives evacuated residents to temporarily exceed its licensed bed capacity in the event of a declared emergency.

Section 2: The Secretary of the Department of Health and/or the Louisiana Surgeon General may establish such protocols, policies, and procedures without strict compliance with the requirements and provisions of the Administrative Procedure Act.

Section 3: This Order is effective upon signature and shall continue in effect from Tuesday, September 10, 2024, until Thursday, October 10, 2024, unless amended, modified, terminated, or rescinded earlier by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 10th day of September, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2409#076

Emergency Rules

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 49—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Francine (LAC 37 XI.4901-4949)

Governor Jeff Landry declared a State of Emergency in Louisiana on September 9, 2024, determining that a disaster or emergency has occurred, or is imminent. Pursuant to R.S. 29:724(B)(1), the governor declared a state of emergency or disaster by issuing Executive Order Number JML 24-142 which has the force and effect of law.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:962, as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts Emergency Rule 49 effective September 9, 2024. Emergency Rule 49 will remain in effect until November 11, 2024, unless terminated earlier by the commissioner of Insurance. Emergency Rule 49 is issued to address the statewide public health emergency declared in the state of Louisiana. Additionally, Emergency Rule 49 is issued pursuant to Executive Order Number JML 24-142, declared on September 9, 2024, by Governor Jeff Landry.

Emergency Rule 49 is issued to address the significant rainfall and devastation caused by Hurricane Francine and its aftermath which has created emergency conditions threatening the health, safety, and welfare of Louisiana citizens. Emergency Rule 49 applies to insureds who reside in or have insured property located in one of the following twenty-five (25) parishes: Ascension, Assumption, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, and West Baton Rouge. Emergency Rule 49 is issued under the authority of the commissioner of insurance for the state of Louisiana, pursuant to R.S. 22:11 and Executive Order Number JML 24-142 issued on September 9, 2024.

Emergency Rule 49 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO. It also applies to any other insurance related entities licensed by the commissioner of Insurance or conducting business in (collectively known as

“health insurance issuers”) as well as their insureds, policyholders, members, subscribers, enrollees, and certificate holders.

The aftermath of Hurricane Francine has caused widespread disruptions to daily life and created a significant threat to the public health, safety, and welfare of Louisiana citizens. This event has also impacted the state’s economy and may result in financial hardship for Louisiana citizens regarding all matters related to all types of insurers and all kinds of insurance and threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. To respond to this emergency and to protect and safeguard the public health, safety, and welfare of Louisiana citizens, the issuance of Emergency Rule 49 is necessary.

Title 37

INSURANCE

Part XI. Rules

Chapter 49. Emergency Rule 49—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor Jeff Landry on September 9, 2024, Due to Hurricane Francine

§4901. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of Emergency Rule 49 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on September 9, 2024, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4903, as delineated below, and who meet one of the following criteria.

1. Any person who, as of September 9, 2024, resided in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, and West Baton Rouge. Said person is entitled to the protections of Emergency Rule 49 for the kinds of insurance set forth in §4903.A and B.

2. For the kinds of insurance enumerated in §4903.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the twenty-five (25) parishes identified in §4901.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 49 if said person verifies such employment status by written documentation to his health insurance issuer. No health

insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §4903.A, any insured who does not reside in one of the twenty-five (25) parishes enumerated in §4901.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by Hurricane Francine and its aftermath to property located in one of the twenty-five (25) parishes enumerated in §4901.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 49. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Francine and its aftermath and provide accommodation as applicable, relevant, and appropriate.

B. Emergency Rule 49 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(27) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

C. Emergency Rule 49 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers").

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4903. Applicability and Scope

A. Emergency Rule 49 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers' compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 49 to health and accident insurance is specified in §4903.B.

B. Emergency Rule 49 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.

C. Section §4915 and Section §4927.B of Emergency Rule 49 shall apply to only those kinds of insurance provided for in §4903.A and those types of insurers specified in §4901.B.

D. Sections §4913, §4919, §4921, §4925, §4927.A, §4931, §4933, and §4935 of Emergency Rule 49 shall apply only to those kinds of insurance provided for in §4903.B and those health insurance issuers specified in §4901.C.

E. All provisions of Emergency Rule 49 not expressly limited in §4903.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4901 and §4903.

F. Nothing in §4903 shall be interpreted to apply the provisions of Emergency Rule 49 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4901.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4905. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 49 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4903 that was in force and effect at 12:01 a.m. on September 9, 2024, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 49 as provided for in §4949.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 49. When any such notice is issued during the pendency of Emergency Rule 49, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 49.

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

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §4903 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 49 as provided for in §4949.

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

F. As set forth in §4937, Emergency Rule 49 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4907. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4903 that are subject to renewal after the effective date of Emergency Rule 49 are suspended and shall be deferred until the expiration of Emergency Rule 49 as provided for in §4949. All policies subject to renewal after the effective date of Emergency Rule 49 shall continue in full force and effect at the previously established premium

until the expiration of Emergency Rule 49 as provided for in §4949. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the commissioner of Insurance, regardless of whether their effective date was before or during Emergency Rule 49. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the commissioner of Insurance before or during Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4909. Written Request for Cancellation by Insured

A. Except as provided for in §4937 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 49 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4911. New Policies

A. Emergency Rule 49 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4903 if said insurance policy is issued on or after November 11, 2024.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4913. Claims Notification

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

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4915. Premium Offset

A. All insurers subject to Emergency Rule 49 receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. Section §4915 shall not apply to health insurance issuers as defined in §4901.C.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4917. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4909 herein, nothing in Emergency Rule 49 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

B. Those insureds entitled to the benefits, entitlements and protections of Emergency Rule 49 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your payment of the premium.

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

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4919. Timely Payment of Health Claims

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

B. For any policy of insurance described in §4903.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4905, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when and insured is in the grace period.

D. Once a health insurance issuer receives the delinquent premium payment during the grace period, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4919.A shall be automatically lifted, and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4921. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to Emergency Rule 49, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under Emergency Rule 49. After the first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4923. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 49 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 49 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4925. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §4901.A or §4901.B between 12:01 a.m. on September 9, 2024, and the expiration of Emergency Rule 49 as provided for in §4949.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4927. New Rate or Premium

A. For all health insurance issuers specified in §4901.C, any rate increases that were filed prior to the effective date of Emergency Rule 49, or any rate increase that did not require a filing with the commissioner regarding which notice had already been sent to the group policyholder prior to the effective date of Emergency Rule 49, may be implemented as scheduled. No other rate increase may be implemented unless approved by the commissioner.

B. For all other insurers, as specified in §4901.B, Emergency Rule 49 shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §4903.A if the new rate or premium has been approved by the commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4929. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4931. Continuation of Health Coverage

A. The commissioner of Insurance hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of

Emergency Rule 49 as provided for in §4949. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4933. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

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

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

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4935. Telemedicine Access

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

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

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

D. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4937. Fraud or Material Misrepresentation

A. Emergency Rule 49 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4939. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 49 upon the written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with Emergency Rule 49 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4941. Sanctions for Violations

A. The commissioner of insurance retains the authority to enforce violations of Emergency Rule 49. Accordingly, any insurer enumerated in Emergency Rule 49, or any other entity doing business in Louisiana and/or regulated by the commissioner of Insurance who violates any provision of Emergency Rule 49 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4943. Sixty Day Period to Initiate Adjustment of Property Claims

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4945. Authority

A. The commissioner of Insurance reserves the right to amend, modify, alter, extend, or terminate all or any portion of Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4947. Severability Clause

A. If any section or provision of Emergency Rule 49 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 49 to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 49 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§4949. Effective Date

A. Emergency Rule 49 became effective at 12:01 a.m. on September 9, 2024, and shall continue in full force and effect until either 11:59 p.m. on November 11, 2024, or 11:59 p.m. unless terminated earlier by the commissioner of Insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

Timothy J. Temple
Commissioner

2409#078

DECLARATION OF EMERGENCY

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

2024 Recreational Red Snapper Season Modification

Louisiana’s recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular March 2024 meeting to be open daily until further notice and subsequently modified on July 7 to a weekends (Friday, Saturday, and Sunday) only season including the Monday of Labor Day. Under the provisions of state management, NOAA Fisheries has delegated season and bag limit authority as well as allocated a quota to Louisiana. Landings estimates generated from the LA Creel program indicate that red snapper harvest rates are such that a season structure modification is necessary in order to maximize opportunities for Louisiana anglers. In order to fish to the established allocation, the season must be adjusted to a daily season.

In accordance with the emergency provisions of R.S. 49:962, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission at its regular March 2024 meeting and in LAC 76:VII.335.G.5 to modify the recreational red snapper season, size, and bag limits under the provisions of NOAA delegated state management, the secretary hereby declares:

The season for the private recreational and state charter harvest of red snapper in Louisiana state waters and federal waters off Louisiana shall be a daily season beginning at 12:01 a.m. on August 19, 2024 until further notice. The bag and possession limit (4 fish per person) and the size limit (16 inches minimum total length) shall remain as previously established.

This modification does not apply to federally permitted charter boats operating under federal law during federally established seasons and under federally established rules for those vessels.

Madison D. Sheahan
Secretary

2408#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2024-2025 Oyster Season on Public Areas of Louisiana

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962, which allows the Wildlife and Fisheries Commission (commission) to use emergency procedures to set oyster seasons and under the authority of R.S. 56:433 and R.S. 56:435.1.1, which mandates that the commission shall set oyster seasons each year on the natural reefs, the commission does hereby set and declare the 2024-2025 oyster season in Louisiana state waters as follows:

The Hackberry Bay and Bay Junop Oyster Seed Reservations, as described in R.S. 56:434, the Little Lake, and Lake Mechant Public Oysters Seed Grounds as described in Louisiana Administrative Code (LAC) 76:VII.517 and LAC 76:VII.521, and that portion of the Public Oyster Seed Grounds east of the Mississippi River, as described in LAC 76:VII.513, but including only the Department of Health Shellfish Harvest Areas 1 and 2, shall open for the harvest of seed oysters only for bedding purposes at one-half hour before sunrise on Monday, September 23, 2024 and shall close at one-half hour after sunset on Wednesday, September 25, 2024.

The Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII.507 and LAC 76:VII.509, shall open at one-half hour before sunrise on Monday, September 23, 2024 and shall close at one-half hour after sunset on Friday, May 30, 2025, however the harvest of market oysters for direct sale shall not commence, as per R.S. 56:433.B(1), prior to Monday, October 14, 2024.

The Bay Junop Oyster Seed Reservation, as described in R.S. 56:434, and the Lake Mechant Public Oyster Seed Ground, as described in LAC 76:VII.517, shall open at one-half hour before sunrise on Monday, October 21, 2024 for the harvest of market oysters only and shall close at one-half hour after sunset on Friday, October 25, 2024.

The Public Oyster Seed Grounds east of the Mississippi River, as described in LAC 76:VII.513, and north of the Mississippi River Gulf Outlet, which includes Department of Health Shellfish Harvest Areas 1, 2, 3, and 4, and the

Hackberry Bay Oyster Seed Reservation, as described in R.S. 56:434, shall open to the harvest of market oysters for direct sale at one-half hour before sunrise on Friday, November 1, 2024, and shall close to the harvest of market oysters at one-half hour after sunset on Wednesday, April 30, 2025.

The west cove portion of the Calcasieu Lake Public Oyster Area, as described in R.S. 56:435.1.1, shall open at one-half hour before sunrise on Tuesday, October 15, 2024, and the east side of the Calcasieu Lake Public Oyster Area shall open at one-half hour before sunrise on Wednesday, January 1, 2025. These areas shall close on April 30, 2025.

These actions shall not supersede public health closures as ordered by the Louisiana Department of Health.

During the 2024/2025 open oyster season, the following provisions shall be in effect:

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above, except for those harvesting from the Vermilion/East and West Cote Blanche/Atchafalaya Bay Public Oyster Seed Grounds, shall be restricted to a daily limit of sacks of oysters per vessel. The daily limit shall not exceed 30 sacks of oysters per vessel and the possession limit shall be twice the daily limit for the Public Oyster Seed Grounds and Reservations east of the Mississippi River, and the Hackberry Bay Public Oyster Seed Reservation. The daily and possession limits for the Bay Junop Public Oyster Seed Reservation and the Lake Mechant Public Oyster Seed Grounds shall not exceed 30 sacks of oysters per vessel per day. The daily and possession limits for Calcasieu Lake shall not exceed 15 sacks of oysters per vessel per day in aggregate between West Cove and the east side of the lake, with no more than 10 sacks per day allowed from the east side of the lake. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limits shall be based on the number of sacks used, not the size of the sack or other measures. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes, at such times and in such public oyster areas where the harvest of seed oysters is allowed. The possession limit shall not apply to vessels operating under a valid Oyster Cargo Vessel Permit, and these properly-permitted vessels shall not harvest oysters while operating under the cargo permit.

2. All vessels harvesting on the open public oyster areas during such times when harvest is restricted to the taking of seed oysters for bedding purposes only shall not have sacks or other containers typically used to hold oysters on board the harvest vessel.

3. A vessel is limited to either harvesting market oysters for direct sale (sacking) or harvesting seed oysters for bedding purposes on any one day and is specifically prohibited from doing both on the same day.

4. If any person on a vessel takes or attempts to take oysters from the public oyster areas, seed grounds or reservations described above, all oysters contained on that vessel shall be deemed to have been taken from said seed ground or reservation from the time harvest begins until all oysters are off-loaded dockside.

5. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of moving the live oyster resource. The removal of more than 15 percent of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by Department of Wildlife and Fisheries (LDWF) personnel.

6. All oysters harvested from public areas, seed grounds or reservations for the purpose of market sale shall be uncontaminated, sealed and not gaping as described in R.S. 56:433.

7. All oysters harvested from public areas, seed grounds or reservations for the purpose of direct sale shall measure a minimum of 3 inches from hinge to bill as described in R.S. 56:433.

8. Prior to leaving public oyster areas, seed grounds or reservations with oysters harvested from said areas, all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged, with the exception of bedding vessels harvesting seed oysters.

9. All vessels located in public oyster areas, seed grounds or reservations during those times between one-half hour after sunset and one-half hour before sunrise, shall have all oyster scrapers unshackled.

10. In Calcasieu Lake, oyster scrapers are prohibited. Oyster harvesting shall be limited to oyster tongs or by hand. Oyster tongs shall be made as a grasping device consisting of two pieces joined by a pivot or hinged like scissors used for picking up objects.

11. Every vessel harvesting oysters from the public oyster seed grounds shall report harvest information to the department no later than 9 p.m. each day fished. Vessels shall provide the following information: Captain's name, date of harvest, oyster harvester number, vessel number, the total number of sacks harvested that day, the total number of barrels of seed removed, and the oyster harvest area fished. Electronic Reporting shall be required and shall be performed in a manner prescribed by the Department.

The following areas shall remain closed for the entire 2024/2025 oyster season:

1. The Sister Lake and Bay Gardene Public Oyster Seed Reservations, as described in R.S. 56:434.

2. That portion of the Public Oyster Seed Grounds east of the Mississippi River, as described in LAC 76:VII.511, within the Department of Health Shellfish Harvest Areas 5, 6, 7.

3. The 2023 Drum Bay spat-on-shell broodstock reef with the following coordinates:

29 degrees 52 minutes 50.471 seconds, -89 degrees 16 minutes 38.502 seconds

29 degrees 52 minutes 54.871 seconds, -89 degrees 16 minutes 25.121 seconds

29 degrees 52 minutes 49.018 seconds, -89 degrees 16 minutes 21.173 seconds

29 degrees 52 minutes 44.382 seconds, -89 degrees 16 minutes 34.559 seconds

4. The Lake Tambour, Lake Chien, Lake Felicity, and Deep Lake Public Oyster Seed Grounds as described in LAC 76:VII.517.

5. The 2023 Calcasieu Lake Cultch Plant with the following coordinates:

29 degrees 50 minutes 31.761 seconds, -93 degrees 18 minutes 42.243 seconds

29 degrees 50 minutes 20.951 seconds, -93 degrees 18 minutes 44.229 seconds

29 degrees 50 minutes 29.153 seconds, -93 degrees 18 minutes 21.044 seconds

29 degrees 50 minutes 18.585 seconds, -93 degrees 18 minutes 21.352 seconds

6. The 2024 Morgan Harbor Cultch Plant with the following coordinates:

29 degrees 49 minutes 00.15 seconds, -89 degrees 18 minutes 30.37 seconds

29 degrees 48 minutes 42.57 seconds, -89 degrees 18 minutes 13.44 seconds

29 degrees 49 minutes 34.91 seconds, -89 degrees 17 minutes 44.92 seconds

29 degrees 49 minutes 21.64 seconds, -89 degrees 17 minutes 25.17 seconds

7. Oyster harvest on the Sabine Lake Public Oyster Area is prohibited as described in R.S. 56:435.1.

8. Oyster harvest is prohibited on artificial reef sites, as described in LAC 76:VII.537.

9. The Barataria Bay Public Oyster Seed Grounds, as described in LAC 76:VII.517.

The secretary of LDWF is authorized to take emergency action as necessary to:

1. Close areas if oyster mortalities are occurring, to delay the season or close areas where significant spat catch has occurred with good probability of survival, where it is found that there are excessive amounts of non-living reef material in seed oyster loads, if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

2. Adjust daily take and/or possession limits as biological or enforcement data indicate a need.

3. Adjust sacking-only areas and/or restrict the taking of seed oysters as biological or enforcement data indicate a need.

4. Reopen an area previously closed if the threat to the resource has ended, or open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chair of the commission of the intention to make any or all of the changes indicated above.

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

Brandon J. DeCuir
Chairman

2409#032

Rules

RULE

Board of Regents

Meeting Accessibility and Accommodations (LAC 28:IX.Chapter 7)

The Board of Regents hereby adopts LAC 28:IX.701 through 709 as authorized by Act 393 of the 2023 Regular Session of the Louisiana Legislature. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The Board of Regents adopts Chapter 7 of Part IX of Title 28 of the Louisiana Administrative Code, to implement the provisions of Act 393 of the 2023 Regular Session of the Louisiana Legislature, which amended the Open Meetings Laws to require accommodation to individuals with a disability recognized by the Americans with Disabilities Act and to allow certain advisory bodies to meet electronically. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION IX. Regents

Chapter 7. Meeting Accessibility and Accommodations

§701. Public Meeting Accommodations

A. Despite the ineligibility to conduct open meetings via electronic means, the Board of Regents shall provide for participation via electronic means to individuals with a disability.

B. People with disabilities are defined as any of the following:

1. member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. designated caregiver of such a person; or
3. participant member of the agency with an ADA-qualifying disability.

C. The Board of Regents shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the agency representative to whom a disability accommodation may be submitted.

D. The designated agency representative shall provide the requestor with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. Participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2, R.S. 42:2.1, R.S. 42:14 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:1242 (September 2024).

§703. Electronic Open Meetings for Advisory Bodies

A. Any public body created by statute or resolution with purely advisory powers and no final authority to make any

decisions and placed within the Board of Regents (Regents Advisory Body) that meets the criteria established in R.S. 42:2(H) to be eligible to conduct open public meetings via electronic means is eligible to meet electronically in accordance with R.S. 42:2.

B. Regents Advisory Body shall refer to any commission, task force, council, review panel or other such bodies created by the Legislature by law or resolution to study matters within the Regents' jurisdiction and make recommendations to the Regents and/or the Legislature. A Regents Advisory Body is purely advisory and has no authority to make any decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:1242 (September 2024).

§705. Postings Prior to Meeting via Electronic Means

A. At least 24 hours prior to the meeting, the Regents Advisory Body shall post the following on the Regents Advisory Body's webpage, found under www.laregents.edu:

1. meeting notice and agenda
2. detailed information regarding how members of the public may:

a. participate in the meeting via electronic means, including the applicable videoconference link and/or teleconference phone number; and

b. submit written comments regarding matters on the agenda prior to the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:1242 (September 2024).

§707. Electronic Meeting Requirements and Limitations

A. For any meeting conducted via electronic means, the Regents Advisory Body shall ensure compliance with all requirements outlined in R.S. 42:17.2(C).

B. Given that the Regents Advisory Body is strictly advisory, there is no limitation as to the number of successive meetings via electronic means that may be conducted.

C. A schedule of meetings identifying which will be conducted via electronic means and which will be conducted as in-person meetings shall be posted on the Regents Advisory Body's webpage on an annual basis.

D. All members of the Regents Advisory Body, whether participating from the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

E. An online archive of any open meetings conducted via electronic means shall be maintained and available for a minimum of two years on the Regents Advisory Body's webpage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50:1242 (September 2024).

§709. Disability Accommodations

A. The Advisory Body shall provide for participation via electronic means as required under R.S. 42:14 and R.S. 42:17.2.

B. People with disabilities are defined as any of the following:

- 1. member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
- 2. designated caregiver of such a person; or
- 3. participant member of the agency with an ADA-qualifying disability.

C. The Regents Advisory Body shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted.

D. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. Participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:2.1, R.S. 42:14, and R.S. 17.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 50: 1243 (September 2024).

Uma Subramanian
Executive Counsel

2409#004

RULE

**Department of Energy and Natural Resources
Office of Conservation**

Pipeline Safety
(LAC 33:V.Chapters 301-305, LAC 43:XI.3501, and
LAC 43:XIII:Chapters 1-35)

The Department Energy and Natural Resources, Office of Conservation has amended LAC 33:V and LAC 43:XI, XIII, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The Rule changes modify existing Carbon Dioxide rules and codify exiting federal regulations that are required as a part of the Department Energy and Natural Resources certification agreement with the US Department of Transportation and are intended to adopt existing federal regulations as state regulations. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Wastes and Hazardous Materials
Subpart 3. Natural Resources**

**Chapter 301. Transportation of Hazardous Liquids by Pipeline
[49 CFR Part 195]**

**Subchapter A. General
[49 CFR Part 195 Subpart A]**

**§30103. Which Pipelines are Covered by this Subpart?
[49 CFR 195.1]**

A. - B.3.a. ...

b. a pipeline that serves refining, manufacturing, or truck, rail, or vessel terminal facilities, if the pipeline is less than one mile long (measured outside fenced facility grounds) and does not cross an offshore area or a waterway currently used for commercial navigation; [49 CFR 195.1(b)(3)(ii)]

B.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 20:439 (1994), LR 21:814 (August 1995), LR 27:1523 (September 2001), LR 29:2804 (December 2003), LR 33:466 (March 2007), LR 35:2791 (December 2009), LR 38:99 (January 2012), LR 46:1604 (November 2020), LR 50:1243 (September 2024).

§30105. Definitions [49 CFR 195.2]

A. As used in this Subpart:

* * *

Entirely Replaced Onshore Hazardous Liquid or Carbon Dioxide Pipeline Segments—for the purposes of §§30258, 30260, and 30418, where t-o or more miles of pipe, in the aggregate, have been replaced within any 5 contiguous miles within any 24-month period. This definition does not apply to any gathering line.

* * *

Notification of Potential Rupture—the notification to, or observation by, an operator of indicia identified in §30417 of a potential unintentional or uncontrolled release of a large volume of commodity from a pipeline. This definition does not apply to any gathering line.

* * *

Rupture-Mitigation Valve (RMV)—an automatic shut-off valve (ASV) or a remote-control valve (RCV) that a pipeline operator uses to minimize the volume of hazardous liquid or carbon dioxide released from the pipeline and to mitigate the consequences of a rupture. This definition does not apply to any gathering line.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:861 (August 1992), LR 21:815 (August 1995), LR 27:1523 (September 2001), LR 28:83 (January 2002), LR 29:2805 (December 2003), LR 31:675 (March 2005), LR 33:467 (March 2007), LR 38:99 (January 2012), LR 44:1021 (June 2018), LR 46:1604 (November 2020), LR 49:1090 (June 2023), LR 50:1243 (September 2024).

§30117. What is a regulated rural gathering line and what requirements apply? [49 CFR 195.11]

- A. - A.2.b.i. ...
- ii. Reserved [49 CFR 195.11(b)(2)(ii)]
- 2.c. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:2793 (December 2009), amended LR 49:1090 (June 2023), LR 50:1244 (September 2024).

Subchapter B. Reporting Accidents and Safety-Related Conditions [Subpart B]

§30142. Operator Assistance in Investigation [49 CFR 195.60]

A. If the Department of Energy and Natural Resources investigates an accident, the operator involved shall make available to the representative of the department all records and information that in any way pertain to the accident, and shall afford all reasonable assistance in the investigation of the accident. [49 CFR 195.60]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2813 (December 2003), amended LR 50:1244 (September 2024).

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction [49 CFR Part 195 Subpart D]

§30204. Inspection—General [49 CFR 195.204]

A. ...

B. Each operator shall notify the Pipeline Safety Section of the Louisiana Department of Energy and Natural Resources, by submitting the Notice of Construction form by electronic mail at PipelineInspectors@la.gov of proposed pipeline construction at least seven days prior to commencement of said construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2817 (December 2003), repromulgated LR 30:260 (February 2004), amended LR 44:1025 (June 2018), LR 50:1244 (September 2024).

§30258. Valves: General [49 CFR 195.258]

A. - D. ...

E. If an operator elects to use alternative equivalent technology in accordance with Subsection C or D of this Section, the operator must notify PHMSA in accordance with §30122. The operator must include a technical and safety evaluation in its notice to PHMSA. Valves that are installed as alternative equivalent technology must comply with §§30418, 30419, and 30420. An operator requesting use of manual valves as an alternative equivalent technology must also include within the notification submitted to

PHMSA a demonstration that installation of an RMV as otherwise required would be economically, technically, or operationally infeasible. An operator may use a manual pump station valve at a continuously manned station as an alternative equivalent technology. Such a valve used as an alternative equivalent technology would not require a notification to PHMSA in accordance with §30122, but it must comply with §§30419 and 30420. [49 CFR 195.258(e)]

F. The requirements of Subsections C-E of this Section do not apply to gathering lines. [49 CFR 195.285(f)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2820 (December 2003), LR 49:1090 (June 2023), amended LR 50:1244 (September 2024).

§30260. Valves: Location [49 CFR 195.260]

A. - A.7.b. ...

8. an operator may submit for PHMSA review, in accordance with §30123, a notification requesting site-specific exemption from the valve installation requirements or valve spacing requirements of Subsections C, E, or F of this Section and demonstrating such exemption would not adversely affect safety. An operator may also submit for PHMSA review, in accordance with §30123, a notification requesting an extension of the compliance deadline requirements for valve installation and spacing of this section because those compliance deadline requirements would be economically, technically, or operationally infeasible for a particular new construction or pipeline replacement project. [49 CFR 195.260(h)]

9. an operator of a gathering line must only comply with the requirements of §30260 effective as of October 4, 2022, and need not comply with the other requirements of this Section. [49 CFR 195.260(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2821 (December 2003), amended LR 49:1091 (June 2023), repromulgated LR 49:1224 (July 2023), amended LR 50:1244 (September 2024).

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance [49 CFR Part 195 Subpart F]

§30402. Procedural Manual for Operations, Maintenance, and Emergencies [49 CFR 195.402]

A. - C.5.a. ...

b. Analysis of rupture and valve shut-offs; preventive and mitigative measures. If a failure or accident on an onshore hazardous liquid or carbon dioxide pipeline involves the closure of a rupture-mitigation valve (RMV), as defined in §30105, or the closure of an alternative equivalent technology, the operator of the pipeline must also conduct a post-failure or post-accident analysis of all the factors that may have impacted the release volume and the consequences of the release and identify and implement operations and maintenance measures to minimize the consequences of a future failure or accident. The analysis must include all relevant factors impacting the release volume and the consequences, including, but not limited to, the following: [49 CFR 195.402(c)(5)(ii)]

C.5.b.i. - F. ...

G. Exception. An operator of a gathering line must only comply with the requirements of §30402 effective as of October 4, 2022, and need not comply with the other requirements of this section. [49 CFR 195.402(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2824 (December 2003), amended LR 38:106 (January 2012), LR 49:1092 (June 2023), LR 50:1244 (September 2024).

§30417. Notification of Potential Rupture

[49 CFR 195.417]

A. As used in this part, a notification of potential rupture means the notification to, or observation by, an operator (e.g., by or to its controller(s) in a control room, field personnel, nearby pipeline or utility personnel, the public, local responders, or public authorities) of one or more of the below indicia of a potential unintentional or uncontrolled release of a large volume of hazardous liquids or carbon dioxide from a pipeline: [49 CFR 195.417(a)]

1. - 2. ...

3. any unanticipated or unexplained rapid release of a large volume of hazardous liquid or carbon dioxide, a fire, or an explosion, in the immediate vicinity of the pipeline. [49 CFR 195.417(a)(3)]

B. A notification of potential rupture occurs when an operator first receives notice of or observes an event specified in Subsection A of this Section. [49 CFR 195.417(b)]

C. The requirements of this Section do not apply to gathering lines. [49 CFR 195.417(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1093 (June 2023), amended LR 50:1245 (September 2024).

§30418. Valves: Onshore Valve Shut-Off For Rupture

Mitigation [49 CFR 195.418]

A. - B.2.b. ...

3. Laterals. Laterals extending from shut-off segments that contribute less than 5 percent of the total shut-off segment volume may have RMVs or alternative equivalent technologies that meet the actuation requirements of this section at locations other than mainline receipt/delivery points, as long as all of these laterals contributing hazardous liquid or carbon dioxide volumes to the shut-off segment do not contribute more than 5 percent of the total shut-off segment volume, based upon maximum flow volume at the operating pressure. A check valve may be used as an alternative equivalent technology where it is positioned to stop flow into the lateral. Check valves used as an alternative equivalent technology in accordance with this Paragraph are not subject to §30419 but must be inspected, operated, and remediated in accordance with §30420, including for closure and leakage, to ensure operational reliability. An operator using such a valve as an alternative equivalent technology must submit a request to PHMSA in accordance with §30122. [49 CFR 195.418(b)(3)]

B.4. - C. ...

D. Exception. The requirements of this Section do not apply to gathering lines. [49 CFR 195.418(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1093 (June 2023), repromulgated LR 49:1225 (July 2023), amended LR 50:1245 (September 2024).

§30419. Valve Capabilities

[49 CFR 195.419]

A. - G. ...

H. Exception. The requirements of this Section do not apply to gathering lines. [49 CFR 195.419(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1094 (June 2023), amended LR 50:1245 (September 2024).

§30420. Valve Maintenance [49 CFR 195.420]

A. ...

B. Each operator must, at least twice each calendar year, but at intervals not exceeding 7 1/2 months, inspect each mainline valve to determine that it is functioning properly. Each rupture-mitigation valve (RMV), as defined in §30105, and not contained in a gathering line or alternative equivalent technology that is installed under §§30258.C or 30418, must also be partially operated. Operators are not required to close the valve fully during the inspection; a minimum 25 percent valve closure is sufficient to demonstrate compliance, unless the operator has operational information that requires an additional closure percentage for maintaining reliability. [49 CFR 195.420(b)]

C. - G. ...

H. The requirements of Subsections D - G of this Section do not apply to gathering lines. [49 CFR 195.420(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2828 (December 2003), amended LR 49:1095 (June 2023), repromulgated LR 49:1226 (July 2023), amended LR 50:1245 (September 2024).

§30452. Pipeline Integrity Management in High Consequence Areas [49 CFR 195.452]

A. - I.3. ...

4. Emergency Flow Restricting Devices (EFRD). If an operator determines that an EFRD is needed on a pipeline segment that is located in, or which could affect, a high-consequence area (HCA) in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, evaluate the following factors: the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain within the HCA or between the pipeline segment and the HCA it could affect, and benefits expected by reducing the spill size. An RMV installed under this Paragraph must meet all of the other applicable requirements in this part, provided that the requirement of this sentence does not apply to gathering lines. [49 CFR 195.452(i)(4)]

I.4.a. - N.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2830 (December 2003), amended LR 30:1216 (June 2004), LR 33:471 (March 2007), LR 35:2797 (December 2009), LR 38:108 (January 2012), LR 44:1029 (June 2018), LR 46:1608 (November 2020), LR 49:1096 (June 2023), LR 50:1245 (September 2024).

Chapter 305. Transportation of Hazardous Liquids by Pipeline—Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G] and Corrosion Control [49 CFR Part 195 Subpart H]

Subchapter A. Qualification of Pipeline Personnel [49 CFR Part 195 Subpart G]

§30505. Qualification Program [49 CFR 195.505]

A. - A.8. ...

9. after December 16, 2004, notify the administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this Section. Notifications to PHMSA may be submitted by electronic mail to InformationResources Manager @dot.gov and to Louisiana Office of Conservation at Pipelineinspectors@la.gov, or mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22-321, New Jersey Avenue, S.E. Washington, DC 20590, and to the Pipeline Division Director, Pipeline Safety Section, P.O. Box 94275, Baton Rouge, LA 70804-9275. [49 CFR 195.505(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2835 (December 2003), amended LR 33:471 (March 2007), LR 35:2798 (December 2009), LR 44:1029 (June 2018), LR 50:1246 (September 2024).

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation—Pipeline Division

Subpart 4. Carbon Dioxide

Chapter 35. Requirements

§3501. Operation, Construction, Extension, Acquisition, Interconnection or Abandonment of Carbon Dioxide Transmission Facilities (Formerly §703)

A. - F. ...

1. that the applicant is able and willing to perform the services proposed and to conform to all of the applicable provisions of Title 30 of the Louisiana Revised Statutes and the applicable rules and regulations in Title 43 and Title 33 of the Louisiana Administrative Code;

2. that the applicant proposes to construct and/or operate facilities for the transmission of carbon dioxide for injection in connection with a secondary or tertiary recovery project for the enhanced recovery of liquid or gaseous hydrocarbons or a geologic sequestration project; and

3. that the proposed facilities are reasonably necessary to serve a secondary or tertiary recovery project or geologic sequestration project.

G. ...

1. that the applicant is able and willing to perform the services proposed and to conform to all of the applicable provisions of Title 30 of the Louisiana Revised Statutes and

the applicable rules and regulations in Title 43 and Title 33 of the Louisiana Administrative Code;

2. ...

3. that the applicant proposes to construct and/or operate facilities for the transmission of carbon dioxide for injection in connection with a secondary or tertiary recovery project for the enhanced recovery of liquid or gaseous hydrocarbons or geologic sequestration project which has been approved by the commissioner pursuant to the provisions of Title 30 of the Louisiana Revised Statutes and the applicable rules and regulations in Title 43 and Title 33 of the Louisiana Administrative Code; and

G.4. - H....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17), R.S. 30:1104(A), and R.S. 30:1107.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), repromulgated LR 49:303 (February 2023), amended LR 49:904 (May 2023), amended LR 49:1096 (June 2023), LR 35 (January 2024), LR 50:1246 (September 2024).

Part XIII. Office of Conservation—Pipeline Safety

Subpart 1. General Provisions

§101. Applicability

A. ...

B. Notwithstanding the criteria in §101.A above, this regulation shall apply only to those persons identified in the certification or agreement in effect, pursuant to Section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended (Federal Act), duly executed by the Secretary of the Department of Energy and Natural Resources and the United States Secretary of Transportation.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:508 (July 1984), LR 18:852 (August 1992), LR 20:442 (April 1994), LR 27:1535 (September 2001), LR 30:1219 (June 2004), LR 50:1246 (September 2024).

Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards

[49 CFR Part 192]

Chapter 5. General

[49 CFR Part 192 Subpart A]

§503. Definitions

[49 CFR 192.3]

A. ...

* * *

Close Interval Survey—a series of closely and properly spaced pipe-to-electrolyte potential measurements taken over the pipe to assess the adequacy of cathodic protection or to identify locations where a current may be leaving the pipeline that may cause corrosion and for the purpose of quantifying voltage (IR) drops other than those across the structure electrolyte boundary, such as when performed as a current interrupted, depolarized, or native survey.

* * *

Distribution Center—the initial point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption, as opposed to customers who purchase it for resale, for example:

a. at a metering location;

- b. a pressure reduction location;
- c. where there is a reduction in the volume of gas, such as a lateral off a transmission line; or
- d. where downstream pipeline has a maximum allowable operating pressure established under §2719 by the operator below 20 percent SMYS and cannot be classified as a transmission line.

Entirely Replaced Onshore Transmission Pipeline Segments L—for the purposes of §§1139 and 2734, where 2 or more miles, in the aggregate, of onshore transmission pipeline have been replaced within any 5 contiguous miles of pipeline within any 24-month period. This definition does not apply to any gathering line.

Dry Gas or Dry Natural Gas—gas above its dew point and without condensed liquids.

Hard Spot—an area on steel pipe material with a minimum dimension greater than two inches (50.8 mm) in any direction and hardness greater than or equal to Rockwell 35 HRC (Brinell 327 HB or Vickers 345 HV₁₀).

Notification of Potential Rupture—the notification to, or observation by, an operator of indicia identified in §2735 of a potential unintentional or uncontrolled release of a large volume of gas from a pipeline. This definition does not apply to any gathering line.

Rupture-Mitigation Valve (RMV)—an automatic shut-off valve (ASV) or a remote-control valve (RCV) that a pipeline operator uses to minimize the volume of gas released from the pipeline and to mitigate the consequences of a rupture. This definition does not apply to any gathering line.

Transmission Line—a pipeline or connected series of pipelines, other than a gathering line, that:

- a. transports gas from a gathering pipeline or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center;
- b. has an MAOP of 20 percent or more of SMYS;
- c. transports gas within a storage field; or
- d. is voluntarily designated by the operator as a transmission pipeline.

Note 1 to transmission line. A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

Wrinkle Bend—a bend in the pipe that:

- a. was formed in the field during construction such that the inside radius of the bend has one or more ripples with:
 - i. an amplitude greater than or equal to 1.5 times the wall thickness of the pipe, measured from peak to valley of the ripple; or
 - ii. with ripples less than 1.5 times the wall thickness of the pipe and with a wrinkle length (peak to peak) to wrinkle height (peak to valley) ratio under 12.
- b. if the length of the wrinkle bend cannot be reliably determined, then wrinkle bend means a bend in the pipe where $(h/D)*100$ exceeds 2 when S is less than 37,000

psi (255 MPa), where $(h/D)*100$ exceeds $(47000-S)/10000 + 1$ for psi [$324-S/69+1$ for MPa] when S is greater than 37,000 psi (255 MPa) but less than 47,000 psi (324 MPa), and where $(h/D)*100$ exceeds 1 when S is 47,000 psi (324 MPa) or more. Where D = Outside diameter of the pipe, in. (mm); h = Crest-to-trough height of the ripple, in. (mm); and S = Maximum operating hoop stress, psi (S/145, MPa).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1224 (June 2004), amended LR 31:679 (March 2005), LR 33:474 (March 2007), LR 35:2800 (December 2009), LR 38:112 (January 2012), LR 44:1033 (June 2018), LR 45:68 (January 2019), LR 46:1577 (November 2020), LR 50:1246 (September 2024).

§507. What Documents are Incorporated by Reference Partly or Wholly in this Part? [49 CFR 192.7]

A. Certain material is incorporated by reference into this Subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this Section have the full force of law. All approved material is available for inspection at Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-366-4046 <https://www.phmsa.dot.gov/pipeline/regs>, and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html. It is also available from the sources in the following paragraphs of this section. [49 CFR 192.7(a)]

- 1. - 2. Repealed.

Source and Name of Referenced Material	Approved for Title 43 Reference
B. - C.3. ...	
4. ASME/ANSI B31G - 1991 (Reaffirmed 2004), "Manual for Determining the Remaining Strength of Corroded Pipelines," 2004, (ASME/ANSI B31G).	§§2137.C; 2732.A; 2912.B; 3333.A
5. ASME/ANSI B31.8-2007, "Gas Transmission and Distribution Piping Systems," November 30, 2007, (ASME/ANSI B31.8)	§§912, 2719.A
6. ASME/ANSI B31.8S-2004, "Supplement to B31.8 on Managing System Integrity of Gas Pipelines," approved January 14, 2005, (ASME/ANSI B31.8S)	§§513.D; 2914.C and D; 3303 note to potential impact radius; 3307; 3311.A, A.9 and A.11 thru A.13; 3313.A thru C; 3317.A thru E; 3321.A; 3323.B; 3325.B; 3327.B and C; 3329.B; 3333.C and D; 3335.A and B; 3337.C; 3339.A; 3345.A
7. Reserved.	
8. ASME Boiler and Pressure Vessel Code, Section VIII, Division 1 "Rules for Construction of Pressure Vessels," 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 1).	§§1113.A., B and D; 1125.B
9. ASME Boiler and Pressure Vessel Code, Section VIII, Division 2 "Alternate Rules, Rules for Construction of Pressure Vessels," 2007 edition, July 1, 2007, (ASME BPVC, Section VIII, Division 2)	§§1113.B and D; 1125.B

Source and Name of Referenced Material	Approved for Title 43 Reference
10. ASME Boiler and Pressure Vessel Code, Section IX: "Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators," 2007 edition, July 1, 2007, ASME BPVC, Section IX.	§§1305.A; 1307.A; and 5103 Item II
D. - H. ...	
1. NACE Standard Practice 0102 - 2010, "In-Line Inspection of Pipelines," Revised 2010 - 03 - 13, (NACE SP0102)	§§1110.A;2145
2. NACE SP0204-2008, Standard Practice, "Stress Corrosion Cracking (SCC) Direct Assessment Methodology," reaffirmed September 18, 2008, (NACE SP0204)	§§3323.B;3329.B introductory text, B.1 thru B.3, B.5 introductory text, and B.5.a
3. NACE SP0206-2006, Standard Practice, "Internal Corrosion Direct Assessment Methodology for Pipelines Carrying Normally Dry Natural Gas (DG-ICDA)," approved December 1, 2006	§§3323.B; 3327.B, C introductory text, and C.1 thru C.4
4. ANSI/NACE SP0502-2010, Standard Practice, "Pipeline External Corrosion Direct Assessment Methodology," revised June 24, 2010, (NACE SP0502)	§§1719.F;2113.H;3323.B; 3325.B;3331.D;3335.B;3339.A
I. - K.2. ...	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:680 (March 2005), LR 33:474 (March 2007), LR 35:2801 (December 2009), LR 38:113 (January 2012), LR 44:1033 (June 2018), LR 45:68 (January 2019), LR 46:1578 (November 2020), LR 47:1141 (August 2021), LR 50:1247 (September 2024).

§509. What Requirements Apply to Gathering Lines?
[49 CFR 192.9]

A. ...

B. Offshore Lines. An operator of an offshore gathering line must comply with requirements of this part applicable to transmission lines, except the requirements in §§513.D, 1110, 1515.E, 1719.D - G, 2113.F - I, 2117.D and F, 2125.C, 2130, 2137.C, 2145, 2306, 2707, 2713.C, 2719.E, 2724, 2910, 2912, 2914 and Chapter 33 of this Part. Further, operators of offshore gathering lines are exempt from the requirements of §§2717.B - D and 2735. Lastly, operators of offshore gathering lines are exempt from the requirements of §2715 (but an operator of an offshore gathering line must comply with the requirements LAC 43.XIII.2715, effective as of October 4, 2022). [49 CFR 192.9(b)].

C. Type A Lines. An operator of a Type A regulated onshore gathering line must comply with the requirements of this part applicable to transmission lines, except the requirements in §§513.D, 1110, 1515.E, 1719.D - G, 2113.F - I, 2117.D and F, 2125.C, 2130, 2137.C, 2145, 2306, 2707, 2713.C, 2719.E, 2724, 2910, 2912, 2914 and in Chapter 33 of this Part. However, operators of Type A regulated onshore gathering lines in a Class 2 location may demonstrate compliance with Chapter 31 by describing the processes it uses to determine the qualification of persons performing operations and maintenance tasks. Further, operators of Type A regulated onshore gathering lines are exempt from the requirements of §§1139.E - G, 2710, 2717.B - D, 2734,

2735, 2736, and 2745.C - F. Lastly, operators of Type A regulated onshore gathering lines are exempt from the requirements of §2717.B (but an operator of a Type A regulated onshore gathering line must comply with the requirements of LAC 43.XIII.2717.B effective as of October 4, 2022). [49 CFR 192.9(c)].

D. ...

1. if a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of this Part applicable to transmission lines except the requirements in §§717, 927, 1139.E and F, 1165, 1307.C, 1515.E, 1719.D - G, 2306, 2734, and 2736. [49 CFR 192.9(d)(1)]

2. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this Part applicable to transmission lines except the requirements in §§213.F - I, 2117.D and F, 2125.C, 2132, 2137.C and 2145; [49 CFR 192.9(d)(2)];

D.3. - E.1. ...

a. except as provided in Subsection H of this Section for pipe and components made with composite materials, the design, installation, construction, initial inspection, and initial testing of a new, replaced, relocated, or otherwise changed Type C gathering line, must be done in accordance with the requirements in Chapter 7 - 17 and Chapter 23 of this Part applicable to transmission lines. Compliance with §§717, 927, 1139.E, 1139.F, 1165, 1307.C, 1515.E, 1719.D - G, 2306, 2734, and 2736 is not required; [49 CFR 192.9(e)(1)(i)]

b. if the pipeline is metallic, control corrosion according to requirements of Chapter 21 of this Subpart applicable to transmission lines except for §§2113.F - I, 2117.D and F, 2125.C, 2132, 2137.C, and 2145; [192.9(e)(1)(ii)]

c. ...

d. develop and implement procedures for emergency plans in accordance with §2715; effective as of October 4, 2022;

E.1.e. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:1307 (July 1998), LR 30:1227 (June 2004), LR 31:681 (March 2005), LR 33:477 (March 2007), LR 44:1035 (June 2018), LR 46:1579 (November 2020), LR 49:1101 (June 2023), LR 50:1248 (September 2024).

§513. What General Requirements Apply to Pipelines Regulated Under this Subpart [49 CFR 192.13]

A. - C. ...

D. Each operator of an onshore gas transmission pipeline must evaluate and mitigate, as necessary, significant changes that pose a risk to safety or the environment through a management of change process. Each operator of an onshore gas transmission pipeline must develop and follow a management of change process, as outlined in ASME/ANSI B31.8S, section 11 (incorporated by reference, see §507), that addresses technical, design, physical, environmental, procedural, operational, maintenance, and organizational changes to the pipeline or processes, whether permanent or temporary. A management of change process must include

the following: reason for change, authority for approving changes, analysis of implications, acquisition of required work permits, documentation, communication of change to affected parties, time limitations, and qualification of staff. For pipeline segments other than those covered in Chapter 33 of this Part, this management of change process must be implemented by February 26, 2024. The requirements of this Paragraph D do not apply to gas gathering pipelines. Operators may request an extension of up to 1 year by submitting a notification to PHMSA at least 90 days before February 26, 2024, in accordance with §518. The notification must include a reasonable and technically justified basis, an up-to-date plan for completing all actions required by this section, the reason for the requested extension, current safety or mitigation status of the pipeline segment, the proposed completion date, and any needed temporary safety measures to mitigate the impact on safety. [49 CFR 192.13(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:220 (April 1983), amended LR 10:511 (July 1984), LR 30:1227 (June 2004), LR 33:477 (March 2007), LR 50:1248 (September 2024).

§518. How to Notify PHMSA **[49 CFR 192.18]**

A. - B. ...

C. Unless otherwise specified, if an operator submits, pursuant to §§508, 509, 513,1139, 1719, 2113, 2306, 2707, 2719, 2724, 2732, 2734, 2736, 2910, 2912, 2914, 2945, 3317, 3321, 3327, 3333, or 3337, a notification for use of a different integrity assessment method, analytical method, sampling approach, or technique (e.g., “other technology” or “alternative equivalent technology”) than otherwise prescribed in those sections, that notification must be submitted to PHMSA for review at least 90 days in advance of using the other method, approach, compliance timeline, or technique. An operator may proceed to use the other method, approach, compliance timeline, or technique 91 days after submitting the notification unless it receives a letter from the Associate Administrator for Pipeline Safety informing the operator that PHMSA objects to the proposal, or that PHMSA requires additional time and/or more information to conduct its review. [49 CFR 192.18(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1581 (November 2020), amended LR 50:1249 (September 2024).

Chapter 11. Design of Pipeline Components **[49 CFR Part 192 Subpart D]**

§1139. Transmission Line Valves [49 CFR 192.179]

A. - D. ...

E. For onshore transmission pipeline segments with diameters greater than or equal to 6 inches that are constructed after April 10, 2023, the operator must install rupture-mitigation valves (RMV) or an alternative equivalent technology whenever a valve must be installed to meet the appropriate valve spacing requirements of this section. An operator seeking to use alternative equivalent technology must notify PHMSA in accordance with the procedures set forth in Subsection G of this Section. All RMVs and alternative equivalent technologies installed

pursuant to this Subsection E must meet the requirements of §2736. The installation requirements in this Subsection E do not apply to pipe segments with a potential impact radius (PIR), as defined in §3303, that is less than or equal to 150 feet in either Class 1 or Class 2 locations. An operator may request an extension of the installation compliance deadline requirements of this Subsection E if it can demonstrate to PHMSA, in accordance with the notification procedures in §518, that those installation compliance deadlines would be economically, technically, or operationally infeasible for a particular new pipeline. [49 CFR 192.179(e)]

F. For entirely replaced onshore transmission pipeline segments, as defined in §503, with diameters greater than or equal to 6 inches and that are installed after April 10, 2023, the operator must install RMVs or an alternative equivalent technology whenever a valve must be installed to meet the appropriate valve spacing requirements of this section. An operator seeking to use alternative equivalent technology must notify PHMSA in accordance with the procedures set forth in Subsection G of this Section. All RMVs and alternative equivalent technologies installed pursuant to this Subsection must meet the requirements of §2736. The requirements of this Subsection apply when the applicable pipeline replacement project involves a valve, either through addition, replacement, or removal. The installation requirements of this Subsection do not apply to pipe segments with a PIR, as defined in §3303 that is less than or equal to 150 feet in either Class 1 or Class 2 locations. An operator may request an extension of the installation compliance deadline requirements of this Subsection if it can demonstrate to PHMSA, in accordance with the notification procedures in §518, that those installation compliance deadlines would be economically, technically, or operationally infeasible for a particular pipeline replacement project. [49 CFR 192.179(f)]

G. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:225 (April 1983), amended LR 10:518 (July 1984), LR 24:1308 (July 1998), LR 27:1540 (September 2001), LR 30:1237 (June 2004), LR 49:1104 (June 2023), LR 50:1249 (September 2024).

Chapter 17. General Construction Requirements for Transmission Lines and Mains **[49 CFR Part 192 Subpart G]**

§1705. Inspection: General [49 CFR 192.305]

A. ...

B. Each operator shall notify the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Energy and Natural Resources by submitting the Notice of Construction form by electronic mail at PipelineInspectors@la.gov of any new proposed pipeline construction or replacement for a total length of 1 mile or more on transmission lines or mains at least 7 days prior to commencement of said construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:232 (April 1983), amended LR 10:524 (July 1984), LR 20:446 (April 1994), LR 21:821 (August 1995), LR 30:1245 (June 2004), LR 44:1039 (June 2018), LR 50:1249 (September 2024).

§1719. Installation of Pipe in a Ditch

[49 CFR 192.319]

A. - C. ...

D. Promptly after a ditch for an onshore steel transmission line is backfilled (if the construction project involves 1,000 feet or more of continuous backfill length along the pipeline), but not later than 6 months after placing the pipeline in service, the operator must perform an assessment to assess any coating damage and ensure integrity of the coating using direct current voltage gradient (DCVG), alternating current voltage gradient (ACVG), or other technology that provides comparable information about the integrity of the coating. Coating surveys must be conducted, except in locations where effective coating surveys are precluded by geographical, technical, or safety reasons. [49 CFR 192.319(d)]

E. An operator must notify PHMSA in accordance with §518 at least 90 days in advance of using other technology to assess integrity of the coating under Subsection D of this Section. [49 CFR 192.319(e)]

F. An operator of an onshore steel transmission pipeline must develop a remedial action plan and apply for any necessary permits within 6 months of completing the assessment that identified the deficiency. An operator must repair any coating damage classified as severe (voltage drop greater than 60 percent for DCVG or 70 dB μ V for ACVG) in accordance with section 4 of NACE SP0502 (incorporated by reference, see §507) within 6 months of the assessment, or as soon as practicable after obtaining necessary permits, not to exceed 6 months after the receipt of permits. [49 CFR 192.319(g)]

G. An operator of an onshore steel transmission pipeline must make and retain for the life of the pipeline records documenting the coating assessment findings and remedial actions performed under Subsections D - F of this Section. [49 CFR 192.319(g)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 24:1310 (July 1998), LR 27:1542 (September 2001), LR 30:1246 (June 2004), LR 50:1250 (September 2024).

Chapter 21. Requirements for Corrosion Control

[49 CFR Part 192 Subpart I]

§2113. External Corrosion Control: Protective Coating

[49 CFR 192.461]

A. - A.3. ...

4. have sufficient strength to resist damage due to handling (including, but not limited to, transportation, installation, boring, and backfilling) and soil stress; and [49 CFR 192.461(a)(4)]

A.5. - E. ...

F. Promptly after the backfill of an onshore steel transmission pipeline ditch following repair or replacement (if the repair or replacement results in 1,000 feet or more of backfill length along the pipeline), but no later than 6 months after the backfill, the operator must perform an assessment to assess any coating damage and ensure integrity of the coating using direct current voltage gradient (DCVG), alternating current voltage gradient (ACVG), or other technology that provides comparable information about the integrity of the coating. Coating surveys must be

conducted, except in locations where effective coating surveys are precluded by geographical, technical, or safety reasons. [49 CFR 192.461(f)]

G. An operator must notify PHMSA in accordance with §518 at least 90 days in advance of using other technology to assess integrity of the coating under Subsection F of this Section. [49 CFR 192.461(g)]

H. An operator of an onshore steel transmission pipeline must develop a remedial action plan and apply for any necessary permits within 6 months of completing the assessment that identified the deficiency. The operator must repair any coating damage classified as severe (voltage drop greater than 60 percent for DCVG or 70 dB μ V for ACVG) in accordance with section 4 of NACE SP0502 (incorporated by reference, see §507) within 6 months of the assessment, or as soon as practicable after obtaining necessary permits, not to exceed 6 months after the receipt of permits. [49 CFR 192.461(h)]

I. An operator of an onshore steel transmission pipeline must make and retain for the life of the pipeline records documenting the coating assessment findings and remedial actions performed under Subsections F - H of this Section. [49 CFR 192.461(i)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 30:1253 (June 2004), LR 50:1250 (September 2024).

§2117. External Corrosion Control: Monitoring

[49 CFR 192.465]

A. - C. ...

D. Each operator must promptly correct any deficiencies indicated by the inspection and testing required by Subsections A - C of this Section. Remedial action must be completed promptly, but no later than the earliest of the following: prior to the next inspection or test internal or within 90 days from the date the deficiency was discovered. The Commissioner may approve an alternative time period depending on the nature of the deficiency. [49 CFR 192.465(d)]

E. ...

F. An operator must determine the extent of the area with inadequate cathodic protection for onshore gas transmission pipelines where any annual test station reading (pipe-to-soil potential measurement) indicates cathodic protection levels below the required levels in appendix D to this Part. [49 CFR 192.465(f)]

1. Gas transmission pipeline operators must investigate and mitigate any non-systemic or location-specific causes. Remedial action must be in accordance with Subsection D of this Section. [49 CFR 192.465(f)(1)]

2. To address systemic causes, an operator must conduct close interval surveys in both directions from the test station with a low cathodic protection reading at a maximum interval of approximately 5 feet or less. An operator must conduct close interval surveys unless it is impractical based upon geographical, technical, or safety reasons. An operator must complete close interval surveys required by this section with the protective current interrupted unless it is impractical to do so for technical or safety reasons. An operator must remediate areas with insufficient cathodic protection levels, or areas where

protective current is found to be leaving the pipeline. For onshore gas transmission pipelines, each operator must develop a remedial action plan and apply for any necessary permits within six months of completing the inspection or testing that identified the deficiency. Remedial action must be completed promptly, but no later than the earliest of the following: prior to the next inspection or test interval required by this section; within 1 year, not to exceed 15 months, of the inspection or test that identified the deficiency; or as soon as practicable, not to exceed 6 months, after obtaining any necessary permits. An operator must confirm the restoration of adequate cathodic protection following the implementation of remedial actions undertaken to mitigate systemic causes of external corrosion. [49 CFR 192.465(f)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 27:1545 (September 2001), LR 30:1253 (June 2004), LR 38:116 (January 2012), LR 47:1144 (August 2021), LR 50:1250 (September 2024).

§2125. External Corrosion Control: Interference Currents [49 CFR 192.473]

A. -B. ...

C. For onshore gas transmission pipelines, the program required by Subsection A of this Section must include: [49 CFR 192.473(c)]

1. interference surveys for a pipeline system to detect the presence and level of any electrical stray current. Interference surveys must be conducted when potential monitoring indicates a significant increase in stray current, or when new potential stray current sources are introduced, such as through co-located pipelines, structures, or high voltage alternating current (HVAC) power lines, including from additional generation, a voltage up-rating, additional lines, new or enlarged power substations, or new pipelines or other structures; [49 CFR 192.473(c)(1)]

2. analysis of the results of the survey to determine the cause of the interference and whether the level could cause significant corrosion, impede safe operation, or adversely affect the environment or public; [49 CFR 192.473(c)(2)]

3. development of a remedial action plan to correct any instances where interference current is greater than or equal to 100 amps per meter squared alternating current (AC), or if it impedes the safe operation of a pipeline, or if it may cause a condition that would adversely impact the environment or the public; and [49 CFR 192.473(c)(3)]

4. application for any necessary permits within 6 months of completing the interference survey that identified the deficiency. An operator must complete remedial actions promptly, but no later than the earliest of the following: within 15 months after completing the interference survey that identified the deficiency; or as soon as practicable, but not to exceed 6 months, after obtaining any necessary permits. [49 CFR 192.473(c)(4)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:529 (July 1984), LR 30:1254 (June 2004), LR 50:1251 (September 2024).

§2130. Internal Corrosion Control: Onshore Transmission Monitoring and Mitigation [49 CFR 192.478]

A. Each operator of an onshore gas transmission pipeline with corrosive constituents in the gas being transported must develop and implement a monitoring and mitigation program to mitigate the corrosive effects, as necessary. Potentially corrosive constituents include, but are not limited to: carbon dioxide, hydrogen sulfide, sulfur, microbes, and liquid water, either by itself or in combination. An operator must evaluate the partial pressure of each corrosive constituent, where applicable, by itself or in combination, to evaluate the effect of the corrosive constituents on the internal corrosion of the pipe and implement mitigation measures as necessary. [49 CFR 192.478(a)]

B. The monitoring and mitigation program described in Subsection A of this Section must include: [49 CFR 192.478(b)]

1. the use of gas-quality monitoring methods at points where gas with potentially corrosive contaminants enters the pipeline to determine the gas stream constituents. [49 CFR 192.478(b)(1)]

2. technology to mitigate the potentially corrosive gas stream constituents. Such technologies may include product sampling, inhibitor injections, in-line cleaning pigging, separators, or other technology that mitigates potentially corrosive effects. [49 CFR 192.478(b)(2)]

3. an evaluation at least once each calendar year, at intervals not to exceed 15 months, to ensure that potentially corrosive gas stream constituents are effectively monitored and mitigated. [49 CFR 192.478(b)(3)]

C. An operator must review its monitoring and mitigation program at least once each calendar year, at intervals not to exceed 15 months, and based on the results of its monitoring and mitigation program, implement adjustments, as necessary. [49 CFR 192.478(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 50:1251 (September 2024).

§2137. Remedial Measures: Transmission Lines [49 CFR 192.485]

A. - B. ...

C. Under Subsections A and B of this Section, the strength of pipe based on actual remaining wall thickness must be determined and documented in accordance with §2912. [49 CFR 192.485(c)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 24:1311 (July 1998), LR 27:1545 (September 2001), LR 30:1255 (June 2004), LR 44:1041 (June 2018), LR 50:1251 (September 2024).

Chapter 27. Operations

[49 CFR Part 192 Subpart L]

§2710. Change in Class Location: Change in Valve Spacing [49 CFR 192.610]

A. ...

B. If a class location change occurs on a gas transmission pipeline after October 5, 2022 and results in

pipe replacement of less than 2 miles within 5 contiguous miles during a 24-month period, to meet the MAOP requirements in §§2711, 2719, or 2720, then within 24 months of the class location change, in accordance with §2711.D, the operator must either: [49 CFR 192.610(b)]

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1105 (June 2023), amended LR 50:1251 (September 2024).

§2713. Continuing Surveillance

[49 CFR 192.613]

A. - B. ...

C. Following an extreme weather event or natural disaster that has the likelihood of damage to pipeline facilities by the scouring or movement of the soil surrounding the pipeline or movement of the pipeline, such as a named tropical storm or hurricane; a flood that exceeds the river, shoreline, or creek high-water banks in the area of the pipeline; a landslide in the area of the pipeline; or an earthquake in the area of the pipeline, an operator must inspect all potentially affected onshore transmission pipeline facilities to detect conditions that could adversely affect the safe operation of that pipeline. [49 CFR 192.613(c)]

1. An operator must assess the nature of the event and the physical characteristics, operating conditions, location, and prior history of the affected pipeline in determining the appropriate method for performing the initial inspection to determine the extent of any damage and the need for the additional assessments required under this Paragraph C.1. [49 CFR 192.613(c)(1)]

2. An operator must commence the inspection required by Subsection C of this Section within 72 hours after the point in time when the operator reasonably determines that the affected area can be safely accessed by personnel and equipment, and the personnel and equipment required to perform the inspection as determined by Paragraph C.1 of this Section are available. If an operator is unable to commence the inspection due to the unavailability of personnel or equipment, the operator must notify the pipeline division director at pipelineinspectors@la.gov as soon as practicable. [49 CFR 192.613(c)(2)]

3. An operator must take prompt and appropriate remedial action to ensure the safe operation of a pipeline based on the information obtained as a result of performing the inspection required by Subsection C of this Section. Such actions might include, but are not limited to: [49 CFR 192.613(c)(3)]

a. reducing the operating pressure or shutting down the pipeline; [49 CFR 192.613(c)(3)(i)]

b. modifying, repairing, or replacing any damaged pipeline facilities; [49 CFR 192.613(c)(3)(ii)]

c. preventing, mitigating, or eliminating any unsafe conditions in the pipeline right-of-way; [49 CFR 192.613(c)(3)(iii)]

d. performing additional patrols, surveys, tests, or inspections; [49 CFR 192.613(c)(3)(iv)]

e. implementing emergency response activities with Federal, State, or local personnel; or [49 CFR 192.613(c)(3)(v)]

f. notifying affected communities of the steps that can be taken to ensure public safety. [49 CFR 192.613(c)(3)(vi)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:241 (April 1983), amended LR 10:533 (July 1984), LR 30:1262 (June 2004), LR 50:1252 (September 2024).

§2734. Transmission Lines: Onshore Valve Shut-Off For Rupture Mitigation [49 CFR 192.634]

A. - B.2.c. ...

3. Laterals. Laterals extending from shut-off segments that contribute less than 5 percent of the total shut-off segment volume may have RMVs or alternative equivalent technologies that meet the actuation requirements of this section at locations other than mainline receipt/delivery points, as long as all of the laterals contributing gas volumes to the shut-off segment do not contribute more than 5 percent of the total shut-off segment gas volume based upon maximum flow volume at the operating pressure. For laterals that are 12 inches in diameter or less, a check valve that allows gas to flow freely in one direction and contains a mechanism to automatically prevent flow in the other direction may be used as an alternative equivalent technology where it is positioned to stop flow into the shut-off segment. Such check valves that are used as an alternative equivalent technology in accordance with this Subsection are not subject to §2736, but they must be inspected, operated, and remediated in accordance with §2945, including for closure and leakage to ensure operational reliability. An operator using such a check valve as an alternative equivalent technology must notify PHMSA in accordance with §§518 and 1139 develop and implement maintenance procedures for such equipment that meet §2945. [49 CFR 192.634(b)(3)]

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1107 (June 2023), amended LR 50:1252 (September 2024).

§2736. Transmission Lines: Response to a Rupture; Capabilities of Rupture-Mitigation Valves (RMVS) or Alternative Equivalent Technologies [49 CFR 192.636]

A. - G. ...

H. Manual operation upon identification of a rupture. Operators using a manual valve as an alternative equivalent technology as authorized pursuant to §§518, 1139, and 2734 and this Section must develop and implement operating procedures that appropriately designate and locate nearby personnel to ensure valve shutoff in accordance with this section and §2734. Manual operation of valves must include time for the assembly of necessary operating personnel, the acquisition of necessary tools and equipment, driving time under heavy traffic conditions and at the posted speed limit, walking time to access the valve, and time to shut off all valves manually, not to exceed the maximum response time allowed under Subsections B or C of this Section. [49 CFR 192.636(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:1108 (June 2023), amended LR 50:1252 (September 2024).

Chapter 29. Maintenance

[49 CFR Part 192 Subpart M]

§2910. Transmission Lines: Assessments Outside of High Consequence Areas [49 CFR 192.710]

A. - E. ...

F. Remediation. An operator must comply with the requirements in §§2137, 2911, 2912, 2913 and 2914, where applicable, if a condition that could adversely affect the safe operation of a pipeline is discovered. [49 CFR 192.710(f)]

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1594 (November 2020), amended LR 50:1253 (September 2024).

§2911. Transmission Lines: General Requirements for Repair Procedures [49 CFR 192.711]

A. - B. ...

1. Non Integrity Management Repairs: [49 CFR 192.711(b)(1)]

a. gathering lines and offshore transmission lines: For gathering lines subject to this section in accordance with §509 and for offshore transmission lines, an operator must make permanent repairs as soon as feasible. [49 CFR 192.711(b)(1)(i)]

b. onshore transmission lines: Except for gathering lines exempted from this Section in accordance with §509 and offshore transmission lines, after May 24, 2023, whenever an operator discovers any condition that could adversely affect the safe operation of a pipeline segment not covered by an integrity management program under subpart O of this part, it must correct the condition as prescribed in §2914. [49 CFR 192.711(b)(1)(ii)]

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:245 (April 1983), amended LR 10:537 (July 1984), LR 27:1548 (September 2001), LR 30:1268 (June 2004), LR 38:120 (January 2012), LR 50:1253 (September 2024).

§2912. Analysis of Predicted Failure Pressure and Critical Strain Level. [49 CFR 192.712]

A. - B. ...

1. If an operator would choose to use a remaining strength calculation method that could provide a less conservative result than the methods listed in paragraph (b) introductory text, the operator must notify PHMSA in advance in accordance with §518.C. [49 CFR 192.712(b)(1)]

2. The notification provided for by paragraph (b)(1) of this section must include a comparison of its predicted failure pressures to R-STRENG or ASME/ANSI B31G, all burst pressure tests used, and any other technical reviews used to qualify the calculation method(s) for varying corrosion profiles. [49 CFR 192.712(b)(2)]

C. Dents and other mechanical damage. To evaluate dents and other mechanical damage that could result in a stress riser or other integrity impact, an operator must develop a procedure and perform an engineering critical assessment as follows: [49 CFR 192.712(c)]

1. identify and evaluate potential threats to the pipe segment in the vicinity of the anomaly or defect, including ground movement, external loading, fatigue, cracking, and corrosion; [49 CFR 192.712(c)(1)]

2. review high-resolution magnetic flux leakage (HR-MFL) high-resolution deformation, inertial mapping, and crack detection inline inspection data for damage in the dent area and any associated weld region, including available data from previous inline inspections. [49 CFR 192.712(c)(2)]

3. perform pipeline curvature-based strain analysis using recent HR-Deformation inspection data; [49 CFR 192.712(c)(3)]

4. compare the dent profile between the most recent and previous in-line inspections to identify significant changes in dent depth and shape; [49 CFR 192.712(c)(4)]

5. identify and quantify all previous and present significant loads acting on the dent; [49 CFR 192.712(c)(5)]

6. evaluate the strain level associated with the anomaly or defect and any nearby welds using Finite Element Analysis, or other technology in accordance with this section. Using Finite Element Analysis to quantify the dent strain, and then estimating and evaluating the damage using the Strain Limit Damage (SLD) and Ductile Failure Damage Indicator (DFDI) at the dent, are appropriate evaluation methods; [49 CFR 192.712(c)(6)]

7. the analyses performed in accordance with this section must account for material property uncertainties, model inaccuracies, and inline inspection tool sizing tolerances; [49 CFR 192.712(c)(7)]

8. dents with a depth greater than 10 percent of the pipe outside diameter or with geometric strain levels that exceed the lesser of 10 percent or exceed the critical strain for the pipe material properties must be remediated in accordance with §2913, §2914, or §3333, as applicable; [49 CFR 192.712(c)(8)]

9. using operational pressure data, a valid fatigue life prediction model that is appropriate for the pipeline segment, and assuming a reassessment safety factor of 5 or greater for the assessment interval, estimate the fatigue life of the dent by Finite Element Analysis or other analytical technique that is technically appropriate for dent assessment and reassessment intervals in accordance with this section. Multiple dent or other fatigue models must be used for the evaluation as a part of the engineering critical assessment; [49 CFR 192.712(c)(9)]

10. review high-resolution magnetic flux leakage (HR-MFL) high-resolution deformation, inertial mapping, and crack detection inline inspection data for damage in the dent area and any associated weld region, including available data from previous inline inspections; [49 CFR 192.712(c)(10)]

11. an operator using an engineering critical assessment procedure, other technologies, or techniques to comply with Subsection C of this Section must submit advance notification to PHMSA, with the relevant procedures, in accordance with §518. [49 CFR 192.712(c)(11)]

D. - G.19. ...

H. Reassessments. If an operator uses an engineering critical assessment method in accordance with Subsections C and D of this Section to determine the maximum reevaluation intervals, the operator must reassess the anomalies as follows: [49 CFR 192.712(h)]

1. if the anomaly is in an HCA, the operator must reassess the anomaly within a maximum of seven years in accordance with §3339.A, unless the safety factor is expected to go below what is specified in Subsection C or D) of this Section. [49 CFR 192.712(h)(1)]

2. if the anomaly is outside of an HCA, the operator must perform a reassessment of the anomaly within a maximum of 10 years in accordance with §2910.B, unless the anomaly safety factor is expected to go below what is specified in Subsection C or D of this Section. [49 CFR 192.712(h)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1595 (November 2020), LR 47:1146 (August 2021), amended LR 50:1253 (September 2024).

§2914. Transmission Lines: Repair Criteria for Onshore Transmission Pipelines [49 CFR 192.714]

A. Applicability. This section applies to onshore transmission pipelines not subject to the repair criteria in subpart O of this part, and which do not operate under an alternative MAOP in accordance with §§912, 1728, and 2720. Pipeline segments that are located in high consequence areas, as defined in §3303, must comply with the applicable actions specified by the integrity management requirements in Chapter 33. Pipeline segments operating under an alternative MAOP in accordance with §§912, 1728, and 2720 must comply with §2720.D.k. [49 CFR 192.714(a)]

B. General. Each operator must, in repairing its pipeline systems, ensure that the repairs are made in a safe manner and are made to prevent damage to persons, property, and the environment. A pipeline segment's operating pressure must be less than the predicted failure pressure determined in accordance with §2912 during repair operations. Repairs performed in accordance with this section must use pipe and material properties that are documented in traceable, verifiable, and complete records. If documented data required for any analysis, including predicted failure pressure for determining MAOP, is not available, an operator must obtain the undocumented data through §2707. Until documented material properties are available, the operator must use the conservative assumptions in either §2912.E.2 or, if appropriate following a pressure test, in §2912.D.3. [49 CFR 192.714(b)]

C. Schedule for evaluation and remediation. An operator must remediate conditions according to a schedule that prioritizes the conditions for evaluation and remediation. Unless Subsection D of this Section provides a special requirement for remediating certain conditions, an operator must calculate the predicted failure pressure of anomalies or defects and follow the schedule in ASME/ANSI B31.8S (incorporated by reference, see §507), section 7, Figure 4. If an operator cannot meet the schedule for any condition, the operator must document the reasons why it cannot meet the

schedule and how the changed schedule will not jeopardize public safety. Each condition that meets any of the repair criteria in Subsection D of this Section in an onshore steel transmission pipeline must be: [49 CFR 192.714(c)]

1. removed by cutting out and replacing a cylindrical piece of pipe that will permanently restore the pipeline's MAOP based on the use of §905 and the design factors for the class location in which it is located; or [49 CFR 192.714(c)(1)]

2. repaired by a method, shown by technically proven engineering tests and analyses, that will permanently restore the pipeline's MAOP based upon the determined predicted failure pressure times the design factor for the class location in which it is located. [49 CFR 192.714(c)(2)]

D. Remediation of certain conditions. For onshore transmission pipelines not located in high consequence areas, an operator must remediate a listed condition according to the following criteria: [49 CFR 192.714(d)]

1. immediate repair conditions. An operator's evaluation and remediation schedule for immediate repair conditions must follow section 7 of ASME/ANSI B31.8S (incorporated by reference, see §507). An operator must repair the following conditions immediately upon discovery: [49 CFR 192.714(d)(1)]

a. metal loss anomalies where a calculation of the remaining strength of the pipe at the location of the anomaly shows a predicted failure pressure, determined in accordance with §2912.B, of less than or equal to 1.1 times the MAOP. [49 CFR 192.714(d)(1)(i)]

b. a dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) that has metal loss, cracking, or a stress riser, unless an engineering analysis performed in accordance with §2912.C demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(1)(ii)]

c. metal loss greater than 80 percent of nominal wall regardless of dimensions. [49 CFR 192.714(d)(1)(iii)]

d. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current, low-frequency or high-frequency electric resistance welding, electric flash welding, or has a longitudinal joint factor less than 1.0, and the predicted failure pressure determined in accordance with §2912.D is less than 1.25 times the MAOP. [49 CFR 192.714(d)(1)(iv)]

e. a crack or crack-like anomaly meeting any of the following criteria: [49 CFR 192.714(d)(1)(v)]

i. crack depth plus any metal loss is greater than 50 percent of pipe wall thickness; [49 CFR 192.714(d)(1)(v)(A)]

ii. crack depth plus any metal loss is greater than the inspection tool's maximum measurable depth; or [49 CFR 192.712(d)(1)(v)(B)]

iii. the crack or crack-like anomaly has a predicted failure pressure, determined in accordance with §2912.D, that is less than 1.25 times the MAOP. [49 CFR 192.712(d)(1)(v)(C)]

f. an indication or anomaly that, in the judgment of the person designated by the operator to evaluate the assessment results, requires immediate action. [49 CFR 192.714(d)(1)(vi)]

2. two-year conditions. An operator must repair the following conditions within 2 years of discovery: [49 CFR 192.714(d)(2)]

a. a smooth dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12), unless an engineering analysis performed in accordance with §2912.C demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(2)(i)]

b. a dent with a depth greater than 2 percent of the pipeline diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or at a longitudinal or helical (spiral) seam weld, unless an engineering analysis performed in accordance with §2912.C demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(2)(ii)]

c. a dent located between the 4 o'clock and 8 o'clock positions (lower 1/3 of the pipe) that has metal loss, cracking, or a stress riser, unless an engineering analysis performed in accordance with §2912.C demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(2)(iii)]

d. for metal loss anomalies, a calculation of the remaining strength of the pipe shows a predicted failure pressure, determined in accordance with §2912.B at the location of the anomaly, of less than 1.39 times the MAOP for Class 2 locations, or less than 1.50 times the MAOP for Class 3 and 4 locations. For metal loss anomalies in Class 1 locations with a predicted failure pressure greater than 1.1 times MAOP, an operator must follow the remediation schedule specified in ASME/ANSI B31.8S (incorporated by reference, see §507), section 7, Figure 4, as specified in Subsection C of this Section. [49 CFR 192.714(d)(2)(iv)]

e. metal loss that is located at a crossing of another pipeline, is in an area with widespread circumferential corrosion, or could affect a girth weld, and that has a predicted failure pressure, determined in accordance with §2912.B, less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711 or less than 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.714(d)(2)(v)]

f. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current, low-frequency or high-frequency electric resistance welding, electric flash welding, or has a longitudinal joint factor less than 1.0, and the predicted failure pressure determined in accordance with §2912.D is less than 1.25 times the MAOP. [49 CFR 192.714(d)(2)(vi)]

g. a crack or crack-like anomaly that has a predicted failure pressure, determined in accordance with §2912.D, that is less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or less than 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.714(d)(2)(vii)]

3. monitored conditions. An operator must record and monitor the following conditions during subsequent risk assessments and integrity assessments for any change that may require remediation: [49 CFR 192.714(d)(3)]

a. a dent that is located between the 4 o'clock and 8 o'clock positions (bottom 1/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12), and where an engineering analysis, performed in

accordance with §2912.C, demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(3)(i)]

b. a dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12), and where an engineering analysis performed in accordance with §2912.C determines that critical strain levels are not exceeded. [49 CFR 192.714(d)(3)(ii)]

c. a dent with a depth greater than 2 percent of the pipeline diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or longitudinal or helical (spiral) seam weld, and where an engineering analysis of the dent and girth or seam weld, performed in accordance with §2912.C, demonstrates critical strain levels are not exceeded. These analyses must consider weld mechanical properties. [49 CFR 192.714(d)(3)(iii)]

d. a dent that has metal loss, cracking, or a stress riser, and where an engineering analysis performed in accordance with §2912.C demonstrates critical strain levels are not exceeded. [49 CFR 192.714(d)(3)(iv)]

e. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current, low-frequency or high-frequency electric resistance welding, electric flash welding, or that has a longitudinal joint factor less than 1.0, and where the predicted failure pressure, determined in accordance with §2912.D, is greater than or equal to 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or is greater than or equal to 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.714(d)(3)(v)]

f. a crack or crack-like anomaly for which the predicted failure pressure, determined in accordance with §2912.D, is greater than or equal to 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or is greater than or equal to 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.714(d)(3)(vi)]

E. Temporary Pressure Reduction [49 CFR 192.714(e)]

1. Immediately upon discovery and until an operator remediates the condition specified in Paragraph D.1 of this Section, or upon a determination by an operator that it is unable to respond within the time limits for the conditions specified in Paragraph D.2 of this Section, the operator must reduce the operating pressure of the affected pipeline to any one of the following based on safety considerations for the public and operating personnel: [49 CFR 192.714(e)(1)]

a. a level not exceeding 80 percent of the operating pressure at the time the condition was discovered; [49 CFR 192.714(e)(1)(i)]

b. a level not exceeding the predicted failure pressure times the design factor for the class location in which the affected pipeline is located; or [49 CFR 192.714(e)(1)(ii)]

c. a level not exceeding the predicted failure pressure divided by 1.1. [49 CFR 192.714(e)(1)(iii)]

2. An operator must notify PHMSA in accordance with §518 if it cannot meet the schedule for evaluation and remediation required under Subsection C or D of this

Section and cannot provide safety through a temporary reduction in operating pressure or other action. Notification to PHMSA does not alleviate an operator from the evaluation, remediation, or pressure reduction requirements in this section. [49 CFR 192.714(e)(2)]

3. When a pressure reduction, in accordance with Subsection E of this Section, exceeds 365 days, an operator must notify PHMSA in accordance with §518 and explain the reasons for the remediation delay. This notice must include a technical justification that the continued pressure reduction will not jeopardize the integrity of the pipeline. [49 CFR 192.714(e)(3)]

4. An operator must document and keep records of the calculations and decisions used to determine the reduced operating pressure and the implementation of the actual reduced operating pressure for a period of 5 years after the pipeline has been repaired. [49 CFR 192.714(e)(4)]

F. Other conditions. Unless another timeframe is specified in Subsection D of this Section, an operator must take appropriate remedial action to correct any condition that could adversely affect the safe operation of a pipeline system in accordance with the criteria, schedules, and methods defined in the operator's operating and maintenance procedures. [49 CFR 192.714(f)]

G. In situ direct examination of crack defects. Whenever an operator finds conditions that require the pipeline to be repaired, in accordance with this section, an operator must perform a direct examination of known locations of cracks or crack-like defects using technology that has been validated to detect tight cracks (equal to or less than 0.008 inches crack opening), such as inverse wave field extrapolation (IWEX), phased array ultrasonic testing (PAUT), ultrasonic testing (UT), or equivalent technology. "In situ" examination tools and procedures for crack assessments (length, depth, and volumetric) must have performance and evaluation standards, including pipe or weld surface cleanliness standards for the inspection, confirmed by subject matter experts qualified by knowledge, training, and experience in direct examination inspection for accuracy of the type of defects and pipe material being evaluated. The procedures must account for inaccuracies in evaluations and fracture mechanics models for failure pressure determinations. [49 CFR 192.714(g)]

H. Determining predicted failure pressures and critical strain levels. An operator must perform all determinations of predicted failure pressures and critical strain levels required by this Section in accordance with §2912. [49 CFR 192.714(h)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 50:1254 (September 2024).

Chapter 33. Gas Transmission Pipeline Integrity Management **[49 CFR Part 192 Subpart O]**

§3311. What are the Elements of an Integrity Management Program? **[49 CFR 192.911]**

A. - A.10. ...

11. a management of change process as required by §513.D; [49 CFR 192.911(k)]

12. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1275 (June 2004), amended LR 31:686 (March 2005), LR 46:1598 (November 2020), LR 50:1256 (September 2024).

§3317. How Does an Operator Identify Potential Threats to Pipeline Integrity and Use the Threat Identification in Its Integrity Program? **[49 CFR 192.917]**

A. Threat Identification. An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, see §507), Section 2, which are grouped under the following four threat categories [49 CFR 192.917(a)]:

1. ...

2. stable threats, such as manufacturing, welding, fabrication, or construction defects; [49 CFR 192.917(a)(2)]

3. ...

4. human error, such as operational or maintenance mishaps, or design and construction mistakes. [49 CFR 192.917(a)(4)]

B. Data Gathering and Integration. To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, Section 4. Operators must begin to integrate all pertinent data elements specified in this section starting on May 24, 2023, with all available attributes integrated by February 26, 2024. An operator may request an extension of up to 1 year by submitting a notification to PHMSA at least 90 days before February 26, 2024, in accordance with §518. The notification must include a reasonable and technically justified basis, an up-to-date plan for completing all actions required by this Subsection B, the reason for the requested extension, current safety or mitigation status of the pipeline segment, the proposed completion date, and any needed temporary safety measures to mitigate the impact on safety. An operator must gather and evaluate the set of data listed in Paragraph B.1 of this Section. The evaluation must analyze both the covered segment and similar non-covered segments, and it must: [49 CFR 192.917(b)].

1. Integrate pertinent information about pipeline attributes to ensure safe operation and pipeline integrity, including information derived from operations and maintenance activities required under this part, and other relevant information, including, but not limited to: [49 CFR 192.917(b)(1)]

a. pipe diameter, wall thickness, seam type, and joint factor; [49 CFR 192.917(b)(1)(i)]

b. manufacturer and manufacturing date, including manufacturing data and records; [49 CFR 192.917(b)(1)(ii)]

c. material properties including, but not limited to, grade, specified minimum yield strength (SMYS), and ultimate tensile strength; [49 CFR 192.917(b)(1)(iii)]

- d. equipment properties; [49 CFR 192.917(b)(1)(iv)]
- e. year of installation; [49 CFR 192.917(b)(1)(v)]
- f. bending method; [49 CFR 192.917(b)(1)(vi)]
- g. joining method, including process and inspection results; [49 CFR 192.917(b)(1)(vii)]
- h. depth of cover; [49 CFR 192.917(b)(1)(viii)]
- i. crossings, casings (including if shorted), and locations of foreign line crossings and nearby high voltage power lines; [49 CFR 192.917(b)(1)(ix)]
- j. hydrostatic or other pressure test history, including test pressures and test leaks or failures, failure causes, and repairs; [49 CFR 192.917(b)(1)(x)]
- k. pipe coating methods (both manufactured and field applied), including the method or process used to apply girth weld coating, inspection reports, and coating repairs; [49 CFR 192.917(b)(1)(xi)]
 - l. soil, backfill; [49 CFR 192.917(b)(1)(xii)]
 - m. construction inspection reports, including but not limited to: [49 CFR 192.917(b)(1)(xiii)]
 - i. post backfill coating surveys; and [49 CFR 192.917(b)(1)(xiii)(A)]
 - ii. coating inspection (“jeeping” or “holiday inspection”) reports; [49 CFR 192.917(b)(1)(xiii)(B)]
 - n. cathodic protection installed, including, but not limited to, type and location; [49 CFR 192.917(b)(1)(xiv)]
 - o. coating type; [49 CFR 192.917(b)(1)(xv)]
 - p. gas quality; [49 CFR 192.917(b)(1)(xvi)]
 - q. flow rate; [49 CFR 192.917(b)(1)(xvii)]
 - r. normal maximum and minimum operating pressures, including maximum allowable operating pressure (MAOP); [49 CFR 192.917(b)(1)(xviii)]
 - s. class location; [49 CFR 192.917(b)(1)(xix)]
 - t. leak and failure history, including any in-service ruptures or leaks from incident reports, abnormal operations, safety-related conditions (both reported and unreported) and failure investigations required by §2717, and their identified causes and consequences; [49 CFR 192.917(b)(1)(xx)]
 - u. coating condition; [49 CFR 192.917(b)(1)(xxi)]
 - v. cathodic protection (CP) system performance; [49 CFR 192.917(b)(1)(xxii)]
 - w. pipe wall temperature; [49 CFR 192.917(b)(1)(xxiii)]
 - x. pipe operational and maintenance inspection reports, including, but not limited to: [49 CFR 192.917(b)(1)(xxiv)]
 - i. data gathered through integrity assessments required under this part, including, but not limited to, in-line inspections, pressure tests, direct assessments, guided wave ultrasonic testing, or other methods; [49 CFR 192.917(b)(1)(xxiv)(A)]
 - ii. close interval survey (CIS) and electrical survey results; [49 CFR 192.917(b)(1)(xxiv)(B)]
 - iii. CP rectifier readings; [49 CFR 192.917(b)(1)(xxiv)(C)]
 - iv. CP test point survey readings and locations; [49 CFR 192.917(b)(1)(xxiv)(D)]
 - v. alternating current, direct current, and foreign structure interference surveys; [49 CFR 192.917(b)(1)(xxiv)(E)]
 - vi. pipe coating surveys, including surveys to detect coating damage, disbanded coatings, or other

conditions that compromise the effectiveness of corrosion protection, including, but not limited to, direct current voltage gradient or alternating current voltage gradient inspections; [49 CFR 192.917(b)(1)(xxiv)(F)]

- vii. results of examinations of exposed portions of buried pipelines (e.g., pipe and pipe coating condition, see §2111), including the results of any non-destructive examinations of the pipe, seam, or girth weld (*i.e.* bell hole inspections); [49 CFR 192.917(b)(1)(xxiv)(G)]

- viii. stress corrosion cracking excavations and findings; [49 CFR 192.917(b)(1)(xxiv)(H)]

- ix. selective seam weld corrosion excavations and findings; [49 CFR 192.917(b)(1)(xxiv)(I)]

- x. any indication of seam cracking; and 49 CFR 192.917(b)(1)(xxiv)(J)]

- xi. gas stream sampling and internal corrosion monitoring results, including cleaning pig sampling results; [49 CFR 192.917(b)(1)(xxiv)(K)]

- y. external and internal corrosion monitoring; [49 CFR 192.917(b)(1)(xxv)]

- z. operating pressure history and pressure fluctuations, including an analysis of effects of pressure cycling and instances of exceeding MAOP by any amount; [49 CFR 192.917(b)(1)(xxvi)]

- aa. performance of regulators, relief valves, pressure control devices, or any other device to control or limit operating pressure to less than MAOP; [49 CFR 192.917(b)(1)(xxvii)]

- bb. encroachments; [49 CFR 192.917(b)(1)(xxviii)]

- cc. repairs; [49 CFR 192.917(b)(1)(xxix)]

- dd. vandalism; [49 CFR 192.917(b)(1)(xxx)]

- ee. external forces; [49 CFR 192.917(b)(1)(xxxi)]

- ff. audits and reviews; [49 CFR 192.917(b)(1)(xxxii)]

- gg. industry experience for incident, leak, and failure history; [49 CFR 192.917(b)(1)(xxxiii)]

- hh. aerial photography; and [49 CFR 192.917(b)(1)(xxxiv)]

- ii. exposure to natural forces in the area of the pipeline, including seismicity, geology, and soil stability of the area. [49 CFR 192.917(b)(1)(xxxv)]

2. Use validated information and data as inputs, to the maximum extent practicable. If input is obtained from subject matter experts (SME), an operator must employ adequate control measures to ensure consistency and accuracy of information. Control measures may include training of SMEs or the use of outside technical experts (independent expert reviews) to assess the quality of processes and the judgment of SMEs. An operator must document the names and qualifications of the individuals who approve SME inputs used in the current risk assessment. [49 CFR 192.917(b)(2)]

3. Identify and analyze spatial relationships among anomalous information (e.g., corrosion coincident with foreign line crossings or evidence of pipeline damage where overhead imaging shows evidence of encroachment). [49 CFR 192.917(b)(3)]

4. Analyze the data for interrelationships among pipeline integrity threats, including combinations of applicable risk factors that increase the likelihood of incidents or increase the potential consequences of incidents. [49 CFR 192.917(b)(4)]

C. Risk Assessment. An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, Section 5, and that analyzes the identified threats and potential consequences of an incident for each covered segment. An operator must ensure the validity of the methods used to conduct the risk assessment considering the incident, leak, and failure history of the pipeline segments and other historical information. Such a validation must ensure the risk assessment methods produce a risk characterization that is consistent with the operator's and industry experience, including evaluations of the cause of past incidents, as determined by root cause analysis or other equivalent means, and include sensitivity analysis of the factors used to characterize both the likelihood of loss of pipeline integrity and consequences of the postulated loss of pipeline integrity. An operator must use the risk assessment to determine additional preventive and mitigative measures needed for each covered segment in accordance with §3335 and periodically evaluate the integrity of each covered pipeline segment in accordance with §3337. Beginning February 26, 2024, the risk assessment must: [49 CFR 192.917(c)]

1. analyze how a potential failure could affect high consequence areas; [49 CFR 192.917(c)(1)]

2. analyze the likelihood of failure due to each individual threat and each unique combination of threats that interact or simultaneously contribute to risk at a common location; [49 CFR 192.917(c)(2)]

3. account for, and compensate for, uncertainties in the model and the data used in the risk assessment; and [49 CFR 192.917(c)(3)]

4. evaluate the potential risk reduction associated with candidate risk reduction activities, such as preventive and mitigative measures, and reduced anomaly remediation and assessment intervals. [49 CFR 192.917(c)(4)]

5. in conjunction with §3317.B, an operator may request an extension of up to 1 year for the requirements of this paragraph by submitting a notification to PHMSA at least 90 days before February 26, 2024, in accordance with §518. The notification must include a reasonable and technically justified basis, an up-to-date plan for completing all actions required by this Paragraph C.5, the reason for the requested extension, current safety or mitigation status of the pipeline segment, the proposed completion date, and any needed temporary safety measures to mitigate the impact on safety. [49 CFR 192.917(c)(5)]

D. Plastic Transmission Pipeline. An operator of a plastic transmission pipeline must assess the threats to each covered segment using the information in Sections 4 and 5 of ASME B31.8S, and consider any threats unique to the integrity of plastic pipe, such as poor joint fusion practices, pipe with poor slow crack growth (SCG) resistance, brittle pipe, circumferential cracking, hydrocarbon softening of the pipe, internal and external loads, longitudinal or lateral loads, proximity to elevated heat sources, and point loading. [49 CFR 192.917(d)]

E. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1276 (June 2004), amended LR 31:686 (March 2005), LR 33:483 (March 2007), LR 46:1598 (November 2020), LR 50:1256 (September 2024).

§3323. How Is Direct Assessment Used and for What Threats? [49 CFR 192.923]

A. - B.1. ...

2. §3327 and NACE SP0206 (incorporated by reference, see §507), if addressing internal corrosion (IC); [49 CFR 192.923(b)(2)]

3. §3329 and NACE SP0204 (incorporated by reference, see §507), if addressing stress corrosion cracking (SCC). [49 CFR 192.923(b)(3)]

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1278 (June 2004), amended LR 38:121 (January 2012), LR 44:1043 (June 2018), LR 46:1599 (November 2020), LR 50:1258 (September 2024).

§3327. What Are the Requirements for Using Internal Corrosion Direct Assessment (ICDA) [49 CFR 192.927]

A. ...

B. General Requirements. An operator using direct assessment as an assessment method to address internal corrosion in a covered pipeline segment must follow the requirements in this Section and in NACE SP0206 (incorporated by reference, see §507). The Dry Gas Internal Corrosion Direct Assessment (DG-ICDA) process described in this Section applies only for a segment of pipe transporting nominally dry natural gas (see § 507), and not for a segment with electrolyte nominally present in the gas stream. If an operator uses ICDA to assess a covered segment operating with electrolyte present in the gas stream, the operator must develop a plan that demonstrates how it will conduct ICDA in the segment to address effectively internal corrosion, and must notify PHMSA in accordance with §518. In the event of a conflict between this section and NACE SP0206, the requirements in this section control. [49 CFR 192.927(b).]

C. The ICDA Plan. An operator must develop and follow an ICDA plan that meets NACE SP0206 (incorporated by reference, see §507) and that implements all four steps of the DG-ICDA process, including pre-assessment, indirect inspection, detailed examination at excavation locations, and post-assessment evaluation and monitoring. The plan must identify the locations of all ICDA regions within covered segments in the transmission system. An ICDA region is a continuous length of pipe (including weld joints), uninterrupted by any significant change in water or flow characteristics, that includes similar physical characteristics or operating history. An ICDA region extends from the location where liquid may first enter the pipeline and encompasses the entire area along the pipeline where internal corrosion may occur until a new input introduces the possibility of water entering the pipeline. In cases where a single covered segment is partially located in two or more ICDA regions, the four-step ICDA process must be completed for each ICDA region in which the covered segment is partially located to complete the assessment of the covered segment. [49 CFR 192.927(c)]

1. Preassessment. An operator must comply with NACE SP0206 (incorporated by reference, see §507) in conducting the preassessment step of the ICDA process. [49 CFR 192.927(c)(1)]

2. Indirect Inspection. An operator must comply with NACE SP0206 (incorporated by reference, see §507), and the following additional requirements, in conducting the Indirect Inspection step of the ICDA process. An operator must explicitly document the results of its feasibility assessment as required by NACE SP0206, section 3.3 (incorporated by reference, see §507); if any condition that precludes the successful application of ICDA applies, then ICDA may not be used, and another assessment method must be selected. When performing the indirect inspection, the operator must use actual pipeline-specific data, exclusively. The use of assumed pipeline or operational data is prohibited. When calculating the critical inclination angle of liquid holdup and the inclination profile of the pipeline, the operator must consider the accuracy, reliability, and uncertainty of the data used to make those calculations, including, but not limited to, gas flow velocity (including during upset conditions), pipeline elevation profile survey data (including specific profile at features with inclinations such as road crossings, river crossings, drains, valves, drips, etc.), topographical data, and depth of cover. An operator must select locations for direct examination and establish the extent of pipe exposure needed (i.e., the size of the bell hole), to account for these uncertainties and their cumulative effect on the precise location of predicted liquid dropout. [49 CFR 192.927(c)(2)].

3. Detailed Examination. An operator must comply with NACE SP0206 (incorporated by reference, see §507) in conducting the detailed examination step of the ICDA process. When an operator first uses ICDA for a covered segment, an operator must identify a minimum of two locations for excavation within each covered segment associated with the ICDA region and must perform a detailed examination for internal corrosion at each location using ultrasonic thickness measurements, radiography, or other generally accepted measurement techniques that can examine for internal corrosion or other threats that are being assessed. One location must be the low point (e.g., sag, drip, valve, manifold, dead-leg) within the covered segment nearest to the beginning of the ICDA region. The second location must be further downstream, within the covered segment, near the end of the ICDA region. Whenever corrosion is found during ICDA at any location, the operator must: [49 CFR 192.927(c)(3)]

a. evaluate the severity of the defect (remaining strength) and remediate the defect in accordance with §3333; if the condition is in a covered segment, or in accordance with §§2137 and 2914 if the condition is not in a covered segment; [49 CFR 192.927(c)(3)(i)]

b. expand the detailed examination program to determine all locations that have internal corrosion within the ICDA region, and accurately characterize the nature, extent, and root cause of the internal corrosion. In cases where the internal corrosion was identified within the ICDA region but outside the covered segment, the expanded detailed examination program must also include at least two detailed examinations within each covered segment associated with the ICDA region, at the location within the covered segment(s) most likely to have internal corrosion. One location must be the low point (e.g., sags, drips, valves, manifolds, dead-legs, traps) within the covered segment nearest to the beginning of the ICDA region. The second

location must be further downstream, within the covered segment. In instances of first use of ICDA for a covered segment, where these locations have already been examined in accordance with Paragraph C.3 of this section, two additional detailed examinations must be conducted within the covered segment; and [49 CFR 192.927(c)(3)(ii)]

c. expand the detailed examination program to evaluate the potential for internal corrosion in all pipeline segments (both covered and non-covered) in the operator's pipeline system with similar characteristics to the ICDA region in which the corrosion was found and remediate identified instances of internal corrosion in accordance with either §3333 or §§2137 and 2914, as appropriate. [49 CFR 192.927(c)(3)(iii)]

4. Post-Assessment Evaluation and Monitoring. An operator must comply with NACE SP0206 (incorporated by reference, see §507) in performing the post assessment step of the ICDA process. In addition to NACE SP0206, the evaluation and monitoring process must also include: [49 CFR 192.927(c)(4)]

a. an evaluation of the effectiveness of ICDA as an assessment method for addressing internal corrosion and determining whether a covered segment should be reassessed at more frequent intervals than those specified in §3339. An operator must carry out this evaluation within 1 year of conducting an ICDA; [49 CFR 192.927(c)(4)(i)]

b. validation of the flow modeling calculations by comparison of actual locations of discovered internal corrosion with locations predicted by the model (if the flow model cannot be validated, then ICDA is not feasible for the segment); and [49 CFR 192.927(c)(4)(ii)]

c. continuous monitoring of each ICDA region that contains a covered segment where internal corrosion has been identified by using techniques such as coupons or ultrasonic (UT) sensors or electronic probes, and by periodically drawing off liquids at low points and chemically analyzing the liquids for the presence of corrosion products. An operator must base the frequency of the monitoring and liquid analysis on results from all integrity assessments that have been conducted in accordance with the requirements of this subpart and risk factors specific to the ICDA region. At a minimum, the monitoring frequency must be two times each calendar year, but at intervals not exceeding 7 1/2 months. If an operator finds any evidence of corrosion products in the ICDA region, the operator must take prompt action in accordance with one of the two following required actions, and remediate the conditions the operator finds in accordance with §3333 or §§2137 and 2914, as applicable: [49 CFR 192.927(c)(4)(iii)]

i. conduct excavations of, and detailed examinations at, locations downstream from where the electrolytes might have entered the pipe to investigate and accurately characterize the nature, extent, and root cause of the corrosion, including the monitoring and mitigation requirements of §2130; or [49 CFR 192.927(c)(4)(iii)(A)]

ii. assess the covered segment using another integrity assessment method allowed by this subpart. [49 CFR 192.927(c)(4)(iii)(B)]

5. Other Requirements. The ICDA plan must also include the following: [49 CFR 192.927(c)(5)]

a. criteria an operator will apply in making key decisions (including, but not limited to, ICDA feasibility,

definition of ICDA Regions and sub-regions, conditions requiring excavation) in implementing each stage of the ICDA process; [49 CFR 192.927(c)(5)(i)]

b. provisions that the analysis be carried out on the entire pipeline in which covered segments are present, except that application of the remediation criteria of §3333 may be limited to covered segments. [49 CFR 192.927(c)(5)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1279 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007), LR 35:2812 (December 2009), LR 50:1258 (September 2024).

§3329. What Are the Requirements for Using Direct Assessment for Stress Corrosion Cracking (SCCDA) [49 CFR 192.929]

A. Definition. Stress Corrosion Cracking Direct Assessment (SCCDA) is a process to assess a covered pipe segment for the presence of stress corrosion cracking (SCC) by systematically gathering and analyzing excavation data from pipe having similar operational characteristics and residing in a similar physical environment. [49 CFR 192.929(a)]

B. General Requirements. An operator using direct assessment as an integrity assessment method for addressing SCC in a covered pipeline segment must develop and follow an SCCDA plan that meets NACE SP0204 (incorporated by reference, see §507) and that implements all four steps of the SCCDA process, including pre-assessment, indirect inspection, detailed examination at excavation locations, and post-assessment evaluation and monitoring. As specified in NACE SP0204, SCCDA is complementary with other inspection methods for SCC, such as in-line inspection or hydrostatic testing with a spike test, and it is not necessarily an alternative or replacement for these methods in all instances. Additionally, the plan must provide for: [49 CFR 192.929(b)]

1. data gathering and integration. An operator's plan must provide for a systematic process to collect and evaluate data for all covered segments to identify whether the conditions for SCC are present and to prioritize the covered segments for assessment in accordance with NACE SP0204, sections 3 and 4, and Table 1 (incorporated by reference, see §507). This process must include gathering and evaluating data related to SCC at all sites an operator excavates while conducting its pipeline operations (both within and outside covered segments) where the criteria in NACE SP0204 (incorporated by reference, see §507) indicate the potential for SCC. This data gathering process must be conducted in accordance with NACE SP0204, section 5.3 (incorporated by reference, see §507), and must include, at a minimum, all data listed in NACE SP0204, Table 2 (incorporated by reference, see §507). Further, the following factors must be analyzed as part of this evaluation: [49 CFR 192.929(b)(1)];

a. the effects of a carbonate-bicarbonate environment, including the implications of any factors that promote the production of a carbonate-bicarbonate environment, such as soil temperature, moisture, the presence or generation of carbon dioxide, or cathodic protection (CP); [49 CFR 192.929(b)(1)(i)]

b. the effects of cyclic loading conditions on the susceptibility and propagation of SCC in both high-pH and near-neutral-pH environments; [49 CFR 192.929(b)(1)(ii)]

c. the effects of variations in applied CP, such as overprotection, CP loss for extended periods, and high negative potentials; [49 CFR 192.929(b)(1)(iii)]

d. the effects of coatings that shield CP when disbonded from the pipe; and [49 CFR 192.929(b)(1)(iv)]

e. other factors that affect the mechanistic properties associated with SCC, including, but not limited to, historical and present-day operating pressures, high tensile residual stresses, flowing product temperatures, and the presence of sulfides; [49 CFR 192.929(b)(1)(v)]

2. indirect inspection. In addition to NACE SP0204, the plan's procedures for indirect inspection must include provisions for conducting at least two above ground surveys using the complementary measurement tools most appropriate for the pipeline segment based on an evaluation of integrated data; [49 CFR 192.929(b)(2)]

3. direct examination. In addition to NACE SP0204, the plan's procedures for direct examination must provide for an operator conducting a minimum of three direct examinations for SCC within the covered pipeline segment spaced at the locations determined to be the most likely for SCC to occur. [49 CFR 192.929(b)(3)]

4. remediation and mitigation. If SCC is discovered in a covered pipeline segment, an operator must mitigate the threat in accordance with one of the following applicable methods: [49 CFR 192.929(b)(4)]

a. removing the pipe with SCC; remediating the pipe with a Type B sleeve; performing hydrostatic testing in accordance with Subparagraph B.4.b of this Section; or by grinding out the SCC defect and repairing the pipe. If an operator uses grinding for repair, the operator must also perform the following as a part of the repair procedure: nondestructive testing for any remaining cracks or other defects; a measurement of the remaining wall thickness; and a determination of the remaining strength of the pipe at the repair location that is performed in accordance with §2912 and that meets the design requirements of §§911 and 912 as applicable. The pipe and material properties an operator uses in remaining strength calculations must be documented in traceable, verifiable, and complete records. If such records are not available, an operator must base the pipe and material properties used in the remaining strength calculations on properties determined and documented in accordance with §2707, if applicable; [49 CFR 192.929(b)(4)(i)]

b. performing a spike pressure test in accordance with §2306 based upon the class location of the pipeline segment. The MAOP must be no greater than the test pressure specified in §2306.A divided by: 1.39 for Class 1 locations and Class 2 locations that contain Class 1 pipe that has been uprated in accordance with §2711; and 1.50 for all other Class 2 locations and all Class 3 and Class 4 locations. An operator must repair any test failures due to SCC by replacing the pipe segment and re-testing the segment until the pipe passes the test without failures (such as pipe seam or gasket leaks, or a pipe rupture). At a minimum, an operator must repair pipe segments that pass the pressure test but have SCC present by grinding the segment in accordance

with Subparagraph B.4.a of this Section; [49 CFR 192.929(b)(4)(ii)]

5. post assessment. An operator's procedures for post-assessment, in addition to the procedures listed in NACE SP0204, sections 6.3, "periodic reassessment," and 6.4, "effectiveness of SCCDA," must include the development of a reassessment plan based on the susceptibility of the operator's pipe to SCC as well as the mechanistic behavior of identified cracking. An operator's reassessment intervals must comply with §3339. The plan must include the following factors, in addition to any factors the operator determines appropriate: [49 CFR 192.929(b)(5)]

a. the evaluation of discovered crack clusters during the direct examination step in accordance with NACE SP0204, sections 5.3.5.7, 5.4, and 5.5 (incorporated by reference, see §507); [49 CFR 192.929(b)(5)(i)]

b. conditions conducive to the creation of a carbonate-bicarbonate environment; [49 CFR 192.929(b)(5)(ii)]

c. conditions in the application (or loss) of CP that can create or exacerbate SCC; [49 CFR 192.929(b)(5)(iii)]

d. operating temperature and pressure conditions, including operating stress levels on the pipe; [49 CFR 192.929(b)(5)(iv)]

e. cyclic loading conditions; [49 CFR 192.929(b)(5)(v)]

f. mechanistic conditions that influence crack initiation and growth rates; [49 CFR 192.929(b)(5)(vi)]

g. the effects of interacting crack clusters; [49 CFR 192.929(b)(5)(vii)]

h. the presence of sulfides; and [49 CFR 192.929(b)(5)(viii)]

i. disbonded coatings that shield CP from the pipe. [49 CFR 192.929(b)(5)(iv)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1280 (June 2004), amended LR 31:687 (March 2005), LR 33:484 (March 2007), LR 50:1260 (September 2024).

§3333. What Actions Must Be Taken to Address Integrity Issues? [49 CFR 192.933]

A. General Requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the integrity of the pipeline until the next reassessment of the covered segment. Repairs performed in accordance with this section must use pipe and material properties that are documented in traceable, verifiable, and complete records. If documented data required for any analysis is not available, an operator must obtain the undocumented data through §2707. Until documented material properties are available, the operator must use the conservative assumptions in either §2912.E.2 or, if appropriate following a pressure test, in §2912.D.3. [49 CFR 192.933(a)]

1. Temporary Pressure Reduction [49 CFR 192.933(a)(1)]

a. If an operator is unable to respond within the time limits for certain conditions specified in this section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment. An operator must reduce the operating pressure to one of the following: [49 CFR 192.933(a)(1)(i)]

i. a level not exceeding 80 percent of the operating pressure at the time the condition was discovered; [49 CFR 192.933(a)(1)(i)(A)]

ii. a level not exceeding the predicted failure pressure times the design factor for the class location in which the affected pipeline is located; or [49 CFR 192.933(a)(1)(i)(B)]

iii. a level not exceeding the predicted failure pressure divided by 1.1. [49 CFR 192.933(a)(1)(i)(C)]

b. An operator must determine the predicted failure pressure in accordance with §2912. An operator must notify PHMSA in accordance with §518 if it cannot meet the schedule for evaluation and remediation required under Subsection C or D of this Section and cannot provide safety through a temporary reduction in operating pressure or other action. The operator must document and keep records of the calculations and decisions used to determine the reduced operating pressure, and the implementation of the actual reduced operating pressure, for a period of 5 years after the pipeline has been remediated. [49 CFR 192.933(a)(1)(ii)]

2. ...

B. Discovery of Condition. Discovery of a condition occurs when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline. For the purposes of this Section, condition that presents a potential threat includes, but is not limited to, those conditions that require remediation or monitoring listed under Paragraphs D.1 - D.3 of this Section. An operator must promptly, but no later than 180 days after conducting an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator demonstrates that the 180-day period is impracticable. In cases where a determination is not made within the 180-day period, the operator must notify PHMSA, in accordance with §518, and provide an expected date when adequate information will become available. Notification to PHMSA does not alleviate an operator from the discovery requirements of this Subsection B. [49 CFR 192.933(b)].

C. - D.1. ...

a. a metal loss anomaly where a calculation of the remaining strength of the pipe shows a predicted failure pressure determined in accordance with §2912.B less than or equal to 1.1 times the MAOP at the location of the anomaly. [49 CFR 192.933(d)(1)(i)];

b. a dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) that has metal loss, cracking, or a stress riser, unless engineering analyses performed in accordance with §2912.C demonstrate critical strain levels are not exceeded. [49 CFR 192.933(d)(1)(ii)]

c. metal loss greater than 80 percent of nominal wall regardless of dimensions. [49 CFR 192.933(d)(1)(iii)]

d. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current, low-frequency or high-frequency electric resistance welding,

electric flash welding, or with a longitudinal joint factor less than 1.0, and where the predicted failure pressure determined in accordance with §2912.D is less than 1.25 times the MAOP. [49 CFR 192.933(d)(1)(iv)]

e. a crack or crack-like anomaly meeting any of the following criteria:[49 CFR 192.933(d)(1)(v)]

i. crack depth plus any metal loss is greater than 50 percent of pipe wall thickness; [49 CFR 192.933(d)(1)(v)(A)]

ii. crack depth plus any metal loss is greater than the inspection tool's maximum measurable depth; or [49 CFR 192.933(d)(1)(v)(B)]

iii. the crack or crack-like anomaly has a predicted failure pressure, determined in accordance with §2912.D, that is less than 1.25 times the MAOP. [49 CFR 192.933(d)(1)(v)(C)]

f. An indication or anomaly that, in the judgment of the person designated by the operator to evaluate the assessment results, requires immediate action. [49 CFR 192.933(d)(1)(vi)]

2. ...

a. a smooth dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12), unless engineering analyses performed in accordance with §2912.C demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(2)(i)]

b. a dent with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or at a longitudinal or helical (spiral) seam weld, unless engineering analyses performed in accordance with §2912.C demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(2)(ii)]

c. a dent located between the 4 o'clock and 8 o'clock positions (lower 1/3 of the pipe) that has metal loss, cracking, or a stress riser, unless engineering analyses performed in accordance with §2912.C demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(2)(iii)]

d. metal loss anomalies where a calculation of the remaining strength of the pipe at the location of the anomaly shows a predicted failure pressure, determined in accordance with §2912.B, less than 1.39 times the MAOP for Class 2 locations, and less than 1.50 times the MAOP for Class 3 and 4 locations. For metal loss anomalies in Class 1 locations with a predicted failure pressure greater than 1.1 times MAOP, an operator must follow the remediation schedule specified in ASME/ANSI B31.8S (incorporated by reference, see §507), section 7, Figure 4, in accordance with Subsection C of this Section; [49 CFR 192.933(d)(2)(iv)]

e. metal loss that is located at a crossing of another pipeline, or is in an area with widespread circumferential corrosion, or could affect a girth weld, that has a predicted failure pressure, determined in accordance with §2912.B, of less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or less than 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations; [49 CFR 192.933(d)(2)(v)]

f. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current,

low-frequency or high-frequency electric resistance welding, electric flash welding, or with a longitudinal joint factor less than 1.0, and where the predicted failure pressure, determined in accordance with §2912.D, is less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or less than 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations; [49 CFR 192.933(d)(2)(vi)]

g. a crack or crack-like anomaly that has a predicted failure pressure, determined in accordance with §2912.D, that is less than 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or less than 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.933(d)(2)(vii)]

3. Monitored Conditions. An operator is not required by this section to schedule remediation of the following less severe conditions but must record and monitor the conditions during subsequent risk assessments and integrity assessments for any change that may require remediation. Monitored indications are the least severe and do not require an operator to examine and evaluate them until the next scheduled integrity assessment interval, but if an anomaly is expected to grow to dimensions or have a predicted failure pressure (with a safety factor) meeting a 1-year condition prior to the next scheduled assessment, then the operator must repair the condition: [49 CFR 192.933(d)(3)]

a. a dent with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than NPS 12) located between the 4 o'clock position and the 8 o'clock position (bottom 1/3 of the pipe), and for which engineering analyses of the dent, performed in accordance with §2912.C, demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(3)(i)]

b. a dent located between the 8 o'clock and 4 o'clock positions (upper 2/3 of the pipe) with a depth greater than 6 percent of the pipeline diameter (greater than 0.50 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12), and for which engineering analyses of the dent, performed in accordance with §2912.C, demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(3)(ii)]

c. a dent with a depth greater than 2 percent of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or a longitudinal or helical (spiral) seam weld, and for which engineering analyses, performed in accordance with §2912.C, of the dent and girth or seam weld demonstrate critical strain levels are not exceeded. These analyses must consider weld properties; [49 CFR 192.933(d)(3)(iii)]

d. a dent that has metal loss, cracking, or a stress riser, and where engineering analyses performed in accordance with §2912.C demonstrate critical strain levels are not exceeded; [49 CFR 192.933(d)(3)(iv)]

e. metal loss preferentially affecting a detected longitudinal seam, if that seam was formed by direct current, low-frequency or high-frequency electric resistance welding, electric flash welding, or with a longitudinal joint factor less than 1.0, and where the predicted failure pressure, determined in accordance with §2912.D, is greater than or

equal to 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or greater than or equal to 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations; [49 CFR 192.933(d)(3)(v)]

f. a crack or crack-like anomaly for which the predicted failure pressure, determined in accordance with §2912.D, is greater than or equal to 1.39 times the MAOP for Class 1 locations or where Class 2 locations contain Class 1 pipe that has been uprated in accordance with §2711, or greater than or equal to 1.50 times the MAOP for all other Class 2 locations and all Class 3 and 4 locations. [49 CFR 192.933(d)(3)(vi)]

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1281 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), LR 35:2812 (December 2009), LR 44:1044 (June 2018), LR 46:1600 (November 2020), LR 50:1261 (September 2024).

§3335. What Additional Preventive and Mitigative Measures Must an Operator Take?

[49 CFR 192.935]

A. General Requirements. [49 CFR 192.935(a)].

1. An operator must take additional measures beyond those already required by this part to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. Such additional measures must be based on the risk analyses required by § 3317. Measures that operators must consider in the analysis, if necessary, to prevent or mitigate the consequences of a pipeline failure include, but are not limited to: [49 CFR 192.933(a)(1)]

a. correcting the root causes of past incidents to prevent recurrence; [49 CFR 192.935(a)(1)(i)]

b. establishing and implementing adequate operations and maintenance processes that could increase safety; [49 CFR 192.935(a)(1)(ii)]

c. establishing and deploying adequate resources for the successful execution of preventive and mitigative measures; [49 CFR 192.935(a)(1)(iii)]

d. installing automatic shut-off valves or remote-control valves; [49 CFR 192.935(a)(1)(iv)]

e. installing pressure transmitters on both sides of automatic shut-off valves and remote-control valves that communicate with the pipeline control center; [49 CFR 192.935(a)(1)(v)]

f. installing computerized monitoring and leak detection systems; [49 CFR 192.935(a)(1)(vi)]

g. replacing pipe segments with pipe of heavier wall thickness or higher strength; [49 CFR 192.935(a)(1)(vii)]

h. conducting additional right-of-way patrols; [49 CFR 192.935(a)(1)(viii)]

i. conducting hydrostatic tests in areas where pipe material has quality issues or lost records; [49 CFR 192.935(a)(1)(ix)]

j. testing to determine material mechanical and chemical properties for unknown properties that are needed to assure integrity or substantiate MAOP evaluations, including material property tests from removed pipe that is representative of the in-service pipeline; [49 CFR 192.935(a)(1)(x)]

k. re-coating damaged, poorly performing, or disbonded coatings; [49 CFR 192.935(a)(1)(xi)]

l. performing additional depth-of-cover surveys at roads, streams, and rivers; [49 CFR 192.935(a)(1)(xii)]

m. remediating inadequate depth-of-cover; [49 CFR 192.935(a)(1)(xiii)]

n. providing additional training to personnel on response procedures and conducting drills with local emergency responders; and [49 CFR 192.935(a)(1)(xiv)]

o. implementing additional inspection and maintenance programs. [49 CFR 192.935(a)(1)(xv)]

2. Operators must document the risk analysis, the preventive and mitigative measures considered, and the basis for implementing or not implementing any preventive and mitigative measures considered, in accordance with §3347.D. [49 CFR 192.935(a)(2)]

B. - D.2. ...

3. Perform instrumented leak surveys using leak detector equipment at least twice each calendar year, at intervals not exceeding 7 1/2 months. For unprotected pipelines or cathodically protected pipe where electrical surveys are impractical, instrumented leak surveys must be performed at least four times each calendar year, at intervals not exceeding 4 1/2 months. Electrical surveys are indirect assessments that include close interval surveys, alternating current voltage gradient surveys, direct current voltage gradient surveys, or their equivalent. [49 CFR 192.935(d)(3)]

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1282 (June 2004), amended LR 31:688 (March 2005), LR 33:485 (March 2007), amended by the Department of Natural Resources, Office of Conservation, LR 38:122 (January 2012), LR 44:1044 (June 2018), LR 46:1600 (November 2020), LR 50:1263 (September 2024).

§3341. What Is a Low Stress Reassessment

[49 CFR 192.941]

A. - B. ...

1. Cathodically Protected Pipe. To address the threat of external corrosion on cathodically protected pipe in a covered segment, an operator must perform an indirect assessment on the covered segment at least once every 7 calendar years. The indirect assessment must be conducted using one of the following means: indirect examination method, such as a close interval survey; alternating current voltage gradient survey; direct current voltage gradient survey; or the equivalent of any of these methods. An operator must evaluate the cathodic protection and corrosion threat for the covered segment and include the results of each indirect assessment as part of the overall evaluation. This evaluation must also include, at a minimum, the leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. [49 CFR 192.941(b)(1)]

2. Unprotected Pipe or Cathodically Protected Pipe Where Electrical Surveys Are Impractical. If an external corrosion assessment is impractical on the covered segment an operator must: [49 CFR 192.941(b)(2)]

B.2.a. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1284 (June 2004), amended LR 31:689 (March 2005), LR 50:1263 (September 2024).

§3351. Where Does an Operator File a Report?
[49 CFR 192.951]

A. ...

B. Any report required by §3351.A, for intrastate facilities subject to the jurisdiction of the Office of Conservation, must be sent concurrently to the Commissioner of Conservation, Office of Conservation, Pipeline Safety Section, P.O. Box 94279 Baton Rouge, LA 70804-9275 or may be transmitted by electronic mail to PipelineInspectors@la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 30:1286 (June 2004), amended LR 33:487 (March 2007), LR 35:2812 (December 2009), amended by the Department of Natural Resources, Office of Conservation, LR 38:122 (January 2012), LR 50:1264 (September 2024).

Benjamin C. Bienvenu
 Commissioner

2409#031

RULE

**Office of the Governor
 Board of Architectural Examiners**

General Disciplinary Guidelines
 (LAC 46:I.1907)

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144.C, has amended LAC 46:I.1907.E pertaining to its General Disciplinary Guidelines.

The amendment to §1907.E concerns the fine which shall be imposed, absent aggravating or mitigating circumstances, upon firms found to have practiced architecture with an expired certificate of authority. For a firm found to have practiced architecture with an expired certificate of authority, the fine imposed will be reduced to \$250 for practicing architecture three months to six months; \$500 for practicing architecture six months to twelve months or fraction thereof, and \$500 per year for practicing architecture for more than one year or fraction thereof. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
 STANDARDS**

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1907. General Disciplinary Guidelines

A. - D. ...

E. Absent aggravating or mitigating circumstances, the following discipline shall be imposed for the following violations. The maximum penalty for any violation is a \$5,000 fine per violation, revocation, and public reprimand.

Violation	Provision	Discipline
* * *		
Individual or firm practice with an expired license	R.S. 37:152.B provides that no architect shall use his seal or stamp or do any other act as an architect unless he is at the time duly registered. R.S. 37:153.A.3 prohibits practicing architecture at a time when current renewal has not been obtained in accordance with the law.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$500 fine; six (6) months to twelve (12) months or fraction thereof- \$1,000 fine; after one (1) year or fraction thereof, \$1,000 fine per year. Public reprimand.
Firm practice with an expired certificate of authority	R.S. 37:154.A provides that no person, corporation, company, firm, business entity, or individual shall practice, or offer to practice, architecture in this state without being certified in accordance with the provisions of this Chapter or attempt to use an expired certificate of registration.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$250 fine; six (6) months to twelve (12) months or fraction thereof, \$500 fine; after One (1) year of fraction thereof, \$500 fine pers year. Public reprimand.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 39:484 (March 2013), amended LR 50:1264 (September 2024).

Tyson Ducote
 Executive Director

2409#030

RULE

**Office of the Governor
 Board of Home Inspectors**

Meetings, Continuing Education and Ethics
 (LAC 46:XL.107, 121, and 501)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:1475(4), notice is hereby given that the

Board of Home Inspectors amends LAC 46:XL.107, 121 and 501. The amendment to §107 is in compliance with newly enacted R.S. 42:14.E and 42:17.2.1 and provides for reasonable accommodation for members of the public and board members with disabilities to participate in meetings. The amendment to §121 increases the maximum number of hours of continuing education to be obtained by home inspectors from four to ten for attending board meetings. The amendment to §501.B.7 extends to one year the period within which home inspectors and companies and firms with which a home inspector is employed would be restricted from performing contracting services on an inspected home. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XL. Home Inspectors

Chapter 1. General Rules

§107. Meetings

A. - D. ...

E. All members of the public with a disability recognized by the Americans with Disabilities Act or their caretaker shall be allowed to participate in any meeting via electronic means, by video conference, teleconference or other reasonable means. At least 15 days prior to the scheduled meeting, the member of the public with such disability must make a request by email or telephone to the chief operating officer of the board and identify the reasonable means in which he or she wishes to participate in the meeting. This Subsection E does not apply to properly called executive session meetings.

F. All board members with a disability recognized by the Americans with Disabilities Act or their caretaker shall be allowed to participate in any meeting and vote via electronic means, by video conference, teleconference or other reasonably accommodated means. Participation by such board member shall count towards the making of a quorum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475 and R.S. 42:7 and R.S. 42:14(E) and 42:17.2.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 41:919 (May 2015), LR 50:1265 (September 2024).

§121. Continuing Education; Instructors

A.1. - B.5. ...

6. The licensee may receive up to ten hours of continuing education credit per licensing period for attending a quarterly or special board meeting or for serving on a committee appointed by the board and up to three hours of credit per appointment and six hours per licensing period for acting as a special investigating entity as described in §707.

B.7. - F.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 43:314 (February 2017), LR 43:1911 (October 2017), LR 48:2288 (September 2022), LR 50:1265 (September 2024).

Chapter 5. Code of Ethics

§501. Code of Ethics

A. - B.6. ...

7. The LHI or any company or firm with which the home inspector is an employee, owner, or independent contractor, shall not solicit to repair, replace, upgrade, or repair, replace or upgrade for compensation, any system or component of the home which the inspector noted in the inspection report as deficient, in need of repair or replacement, or unsafe for a period of one year following the date of the home inspection.

8 - 14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1475 and 37:1478.B.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 36:2863 (December 2010), LR 37:2406 (August 2011), LR 41:924 (May 2015), repromulgated LR 41:2339 (November 2015), amended LR 43:315 (February 2017), LR 43:1913 (October 2017), LR 50:1265 (September 2024).

Morgan Spinosa
Chief Operating Officer

2409#027

RULE

Office of the Governor Board of Pardons

Clemency
(LAC 22:V.203, 204, 211, and 213)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950) and pursuant to R.S. 15:573.1, the Board of Pardons has amended LAC V.203, 211, 213 and enact 204. The amendment to §203 adds a reference to the new §204, Capital Case eligibility and, extends the time an incarcerated applicant must be disciplinary report free from 24 months to 36 months, and removes capital case eligibility from this section. §204 is new and details the application clemency process for requesting a commutation of a death sentence to life without parole. §211 adds the requirement for advance notice of pardon hearings to be given to the attorney general. §213 defines the reprieve of the death sentence and details the application process and the timeline within which the board must forward the application for reprieve to the governor. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. Eligibility

1. ...

2. Commutation of Sentence. A person may not be considered for a commutation of sentence unless he or she has been granted a hearing by the pardon board and has had his or her case placed upon a pardon board agenda. See §204 for Capital Case eligibility.

A.3. - C.2.a. ...

b. must have been disciplinary report free for a period of at least 36 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and

2.c. - 3.a. ...

b. must have been disciplinary report free for a period of at least 36 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and

C.3.c. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:574 (March 2018), amended by the Office of the Governor, Board of Pardons, LR 44:1006 (June 2018), LR 47:358 (March 2021), repromulgated LR 47:455 (April 2021), amended LR 50:1265 (September 2024).

§204. Capital Cases

A. Clemency in the form of commutation of a death sentence to life without parole may be requested by the person under sentence of death or by the person's attorney acting with the person's written and signed authorization.

B. No application for commutation of a death sentence should be filed before the applicant's direct appeal of the conviction and sentence has been denied, and the applicant has served 25 years from the date of sentence. The 25 years shall not include periods of time prior to the imposition of a sentence in which the applicant was in actual custody for the offense for which s/he was sentenced to death.

C. Applications for commutation of a death sentence must be submitted on the form approved by the Board of Pardons and must also contain the following information:

1. the name of the applicant, together with any other pertinent identifying information;
2. identification of applicant's agents, if any, who are presenting the application;
3. certified copies of the indictment, judgment, verdict of the jury, and sentence in the case, including official documentation verifying the scheduled execution date;
4. a brief statement of the offense for which the prisoner has been sentenced to death;
5. a brief statement of the appellate history of the case, including its current status;
6. a brief statement of the legal issues which have been raised during the judicial progress of the case;
7. a brief statement of the effect of the offender's crime upon the family of the victim.

D. Timely applications for commutation of a death sentence will be reviewed to determine eligibility. If an applicant is deemed eligible, the matter shall be set for public hearing, following the procedures in §211. If the applicant is not eligible, he/she will be notified in writing of the reason for ineligibility.

E. See §213 for procedures to request a reprieve from execution after the inmate has received notification of the scheduled date of execution.

F. Only one application for commutation of the death sentence will be processed to completion. Successive or repetitious reprieve applications submitted on behalf of the

same condemned felon may be summarily denied by the board without a meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15: 572.4, 15:574.12 and 44:12 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 50:1266 (September 2024).

§211. Hearings before the Pardon Board

A. - C.3. ...

4. the attorney general; and

C.5. - E. ...

1. Only three persons in favor and three in opposition, representing the victim/victim's family member, will be allowed to speak either in person, via phone, or via videoconferencing during the clemency hearing. Any person making an oral presentation to the board, either in favor or opposed, will be allowed a maximum of five minutes.

2. The district attorney representing the State and the applicant's attorney will each be allowed a maximum of ten minutes for oral presentation to the board.

F. ...

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

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

I. The applicant's failure to attend and/or notify the board of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of the scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years.

J. - J.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15: 572.4, 15:574.12 and 44:12 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018), LR 47:359 (March 2021), LR 47:1107 (August 2021), LR 50:1266 (September 2024).

§213. Capital Cases. Request for Reprieve of Death Sentence

A. A reprieve halts the implementation of a scheduled execution for a short time and may also be referred to as a "stay of execution." The board will accept, on behalf of the governor, an application for reprieve for an applicant for whom an execution date has been set. Any such application shall contain the following information required in §204.C:

B. The written application, with any supplemental information, must be delivered to the board office, Post Office Box 94304, Baton Rouge, LA 70804, no later than the twenty-first calendar day before the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered no later than the next business day.

C. Any information filed with the application, including but not limited to amendments, addenda, supplements, or

exhibits, which require reproduction facilities, equipment, or technology not operated by the board, must be provided in triplicate.

D. When the board receives an application for reprieve, it shall notify the trial officials of the parish of conviction and the attorney general of the state of Louisiana that the application has been received.

E. At the time of notifying the trial officials, the board shall also notify any representative of the family of the victim (who has previously requested to be notified) of the receipt of the application and of said representative or family member's rights to provide any written comments and instructions for doing so.

F. Within seventy-two hours of receipt of the application for reprieve, the board will submit the application with any available supplemental information to the governor for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:12 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2257 (August 2013), amended LR 50:1266 (September 2024).

Sheryl M. Ranatza
Board Chair

2409#009

RULE

Office of the Governor Board of Pardons Committee on Parole

Corrections, Criminal Justice, and Law Enforcement
(LAC 22:XI.Chapters 3, 5, 7, 8, 9, 11, 13, and 15)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and pursuant to R.S. 15:574 and 15:574.2.D, the Board of Pardons and Committee on Parole has amended LAC XI, in response to Acts 6, 8, and 11 of the 2024 Second Extraordinary Legislative Session. LAC XI, Chapter 8, Ameliorative Penalty Consideration, is being repealed in its entirety.

Amendments to Chapter 3, Parole Eligibility and Types of Parole, Sections 301 and 303, clarify that the Department of Public Safety & Corrections is the authority for determining offender class and release dates.

Amendments to Chapter 5, Meetings and Hearings, Section 501 is technical in nature, removing distinctions of meeting types. Section 504, Subparagraph K establishes that the committee's decision to grant parole is subject to rescission at any time prior to an inmate's release from incarceration, provides examples for rescission, and further establishes that no inmate has any right to parole release based on any initial decision of the committee.

Amendments to Chapter 7, Parole Decisions, Section 705, Subsection B, Paragraph 4 requires the committee to schedule a parole rehearing no later than 10 years from the most recent denial if the inmate has never submitted a request for rehearing. Subsection B, Paragraph 5 establishes that a rehearing does not establish an expectation that an inmate is likely to be granted parole. Subsection D changes

ineligibility for consideration for disciplinary write-up from 12 months to 36 months. Section 707 is being repromulgated due to technical revisions only.

Amendments to Chapter 9, Conditions of Parole, Section 901, Subsection B, allows for special conditions of parole to be imposed based on dynamic risk and needs particular to the circumstances of the individual. Subsection C clarifies that the committee may order payment of fines, court costs, and restitution if ordered by the judge as part of the inmate's sentence. Subsection C, Paragraph 3 allows an exception to the requirement for high school equivalency certification for those who are unable to participate due to mental or physical impairment or due to age.

Amendments to Chapter 11, Violations of Parole, Section 1101, Subsection B defines offenses ineligible for technical violations and adds offenses eligible for technical violations at the discretion of the committee.

Amendments to Chapter 13, Time Served, Section 1301 removes the earning of good time or jail credits if revoked and removes good time credit earned while on parole supervision.

Amendments to Chapter 15, Parole Suspension and Termination of Parole, Section 1501, Subsection A, allows for temporary suspended status if a parolee is displaced to another state due to a natural disaster. Section 1502, Subsection A clarifies that a parolee in inactive status may be revoked due to a new felony conviction. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XI. Committee on Parole

Chapter 3. Parole—Eligibility and Types

§301. General Information

A. The authority for determining parole eligibility dates, offender class, good time release dates, and full-term dates will be the official master prison record computed by the Louisiana Department of Public Safety and Corrections. No inmate may be paroled while there is any pending indictment or bill of information against him for any crimes suspected of having been committed by him while a prisoner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013), LR 50:1267 (September 2024).

§303. Regular Parole

A. An inmate's eligibility is specified by Louisiana law. Not all inmates are eligible for parole consideration. The Department of Public Safety and Corrections determines and calculates parole eligibility.

B. Prior to an inmate's parole hearing, all pertinent information will be compiled concerning the inmate's case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2295 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013), LR 42:1283 (August 2016), LR 44:575 (March 2018), LR 50:1267 (September 2024).

§307. Medical Parole/Medical Treatment Furlough

A. Definitions

Limited Mobility—any inmate who is unable to perform activities of daily living without significant help or is totally confined to a bed or chair, including but not limited to prolonged coma and mechanical ventilation. Due to their significant limitation in mobility, these inmates represent a low public safety risk to society. If granted a medical treatment furlough, limited mobility inmates shall only be discharged to an acute care hospital, nursing home, or other healthcare facility.

Permanently Disabled—any inmate who is unable to engage in any substantial gainful activity by reason of any medically determinable physical impairment which can be expected to result in death or which is or can be expected to be permanently irreversible.

Terminally Ill—any inmate who is diagnosed with a terminal illness and death is expected within one year. The medical condition of a terminally ill inmate is usually permanent in nature and carries a poor prognosis.

B. An inmate determined by the Department of Public Safety and Corrections to be permanently disabled or terminally ill may be eligible for medical parole consideration.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the inmate for a hearing for medical parole consideration.

2. Inmates who are serving a sentence for conviction of first degree murder or second degree murder or who are sentenced to death are not eligible for medical parole consideration.

3. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible. An inmate eligible for both medical parole and traditional parole under the provisions of R.S. 15:574.4 shall be first considered for traditional parole.

4. In considering an inmate for medical parole, the committee may require that additional medical evidence be produced or that additional medical examinations be conducted.

C. An inmate determined by the secretary of the Department of Public Safety and Corrections to be a limited mobility inmate may be considered for medical treatment furlough release to an off-site medical facility appropriate to meet the inmate's medical and treatment needs.

1. Upon referral by the Department of Public Safety and Corrections, the committee may schedule the inmate for a hearing for medical treatment furlough.

2. Inmates who are serving a sentence for conviction of first degree murder or who are sentenced to death are not eligible for medical treatment furlough consideration.

3. Medical parole consideration shall be in addition to any other parole for which an inmate may be eligible. An inmate eligible for both medical parole and traditional parole under the provisions of R.S. 15:574.4 shall be first considered for traditional parole.

4. In considering an inmate for medical parole or medical treatment furlough, the committee may require that additional medical evidence be produced or that additional medical examinations be conducted.

D. The authority to grant medical parole or medical treatment furlough shall rest solely with the committee.

1. The committee on parole shall determine the risk to public safety and shall grant medical parole or medical treatment furlough only after determining that the inmate does not pose a threat to public safety.

2. As a condition of the medical parole or medical treatment furlough, the inmate shall waive their right to medical confidentiality and privacy.

3. An inmate who is denied medical parole or medical treatment furlough may apply for a rehearing within the time frame applicable to a denial of parole under any other provision of this Part if still deemed eligible by the Department of Public Safety and Corrections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013), LR 41:43 (January 2015), LR 42:1283 (August 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:2495 (December 2017), LR 44:575 (March 2018), LR 44:2141 (December 2018), LR 49:256 (February 2023), LR 50:1268 (September 2024).

§309. Diminution of Sentence (Good Time/Parole Supervision Release)

A. Each inmate released on diminution of sentence/parole supervision shall be subject to conditions of parole pursuant to R.S. 15:574.4(H) and Chapter 9 of this Part.

B. If an inmate violates a condition of his diminution of sentence/parole supervision release or other conditions imposed by the committee shall proceed in the same manner as in revocation matters pertaining to those granted regular parole.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2271 (August 2013), LR 50:1268 (September 2024).

Chapter 5. Meetings and Hearings of the Committee on Parole

§501. Meetings

A. All meetings and hearings of the committee shall be open to the public in accordance with the provisions of R.S. 42:1 et seq. (public policy for open meetings) and *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2298 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2262 (August 2013), LR 41:44 (January 2015), LR 47:360 (March 2021), LR 50:1268 (September 2024).

§504. General Procedures

A. - J.2. ...

K. The committee's decision to grant parole is subject to modification, alternation, or rescission for any reason deemed appropriate or necessary by the committee at any time prior to the inmate's release from custody onto supervision. If the committee rescinds its decision to grant parole, the inmate shall promptly receive another parole

hearing. Examples of reasons that are appropriate for rescission include but are not limited to:

1. inmate has received a disciplinary report prior to or subsequent to the hearing but prior to the parole release.
2. time calculation adjustments by the Department of Corrections that changes the parole eligibility dates, causing the inmate to become ineligible for parole or pushing his parole eligibility dates beyond the allowed time frame for parole release or rescheduling.
3. refusing to comply with post and/or prior to release conditions set forth by the panel
4. if it is determined prior to an inmate's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

L. No inmate has any right to parole release based upon any initial decisions of the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:1063 (August 2019), amended LR 46:42 (January 2020), LR 47:360 (March 2021), LR 49:257 (February 2023), LR 50:1268 (September 2024).

§510. Victims and Witnesses

A. Definitions

Victim—a person against whom a crime was committed as listed in R.S. 46:1842.

Witness—any person who has testified for the prosecution relative to the case being considered by the board or committee.

B. Before a parole panel considers parole release for an inmate who is serving a sentence for an offense in which a person was the victim or witness of the offense shall be allowed to present written or oral testimony of their views about the offense, the inmate, and the effect of the offense on the victim of or witness to the offense. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearances or to make contact by phone or other electronic means through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an inmate's consideration for parole.

C. The victim, spouse, or next of kin of a deceased victim and any person who has filed a victim notice and registration form shall be advised in writing no less than 90 days prior to the scheduled hearing date.

D. The notice shall advise that:

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

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

F. Written notice is not required when the victim, witness, spouse, or next of kin of a deceased victim advises

the committee in writing that such notification is not desired.

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

H. Should a hearing be rescheduled by the board for any reason other than the victim's or witness' request, the board shall notify the victim and witness as soon as possible by their preferred method of notification.

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

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

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

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

M. The Committee on Parole shall notify all persons who have filed a victim notice and registration form with the Department of Public Safety and Corrections of an offender's inmate's release from incarceration by parole. Such written notice shall be sent by mail or electronic communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 44:575 (March 2018), LR 44:2142 (December 2018), LR 47:1107 (August 2021), LR 49:257 (February 2023), LR 50:1269 (September 2024).

§511. Panel Action

A. ...

B.1. The panel may consider the following actions with the inmate present:

a. - c. ...

2. The panel may consider the following actions without the inmate present:

a. ...

b. cases where the inmate is housed in a medical treatment facility or facility in another jurisdiction (such hearings conducted in absentia shall observe the same safeguards as hearings where the inmate is present); and

c. ...

C. Inmates incarcerated in a parish jail or parish correctional center may be interviewed by a single member of the Committee on Parole prior to a public parole hearing. The interviewing member will then present the case to the full parole panel for parole release consideration during the public parole hearing. Due to transport considerations, the inmate will not be present during the public hearing.

However, the public hearing will be conducted in a manner which allows for observation and input by members of the public.

D. Generally, public hearings shall be conducted via videoconferencing, with the committee members participating from the committee's headquarters in Baton Rouge and inmates appearing before the committee via videoconferencing at the designated prison facility.

1. In the event the inmate is unable to appear before the board due to a medical condition, a medical professional shall be made available to the parole panel to provide information about the inmate's medical condition. The hearing will occur in absentia

2. In the case of videoconferencing, the family, friends, and attorney of the inmate are strongly encouraged to be at the location of the inmate.

3. In the case of videoconferencing, the victim(s) may appear in person before the parole panel, through other electronic means, or at the office of the district attorney

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2299 (December 1998), amended LR 28:1597 (July 2002), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:57 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), LR 46:1232 (September 2020), LR 47:361 (March 2021), LR 50:1269 (September 2024).

§513. Single-Member Action

A.1. - A.1.b. ...

c. consideration to delay a \parolee's revocation hearing beyond 60 calendar days of the \ parolee's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

2. - 3.a. ...

B. Written documentation must be placed in the inmate's record which clearly documents the reason for the decision by the single member panel.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014), repromulgated LR 40:1695 (September 2014), LR 47:362 (March 2021), amended LR 50:1270 (September 2024).

§514. Voting/Votes Required

A. Unanimous Vote

1. A unanimous vote of those present is required to grant parole.

B. Majority Vote

1. A majority vote is required to impose all special conditions of release.

2. A majority vote is required to revoke parole.

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

4. A majority vote is required to grant an inmate's request for a rehearing.

5. A majority vote is required for executive session.

6. A majority vote is required to recommend to the Board of Pardons as to whether an applicant is eligible for a reduction in sentence pursuant to R.S. 15:308 and Chapter 8, Ameliorative Penalty Consideration.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018), LR 47:362 (March 2021), LR 47:1108 (August 2021), LR 50:1270 (September 2024).

Chapter 7. Parole Decisions

§701. Policy Statement

A. ...

B. The committee shall consider all pertinent information (pre-parole investigation and institutional record) at least six months prior to the inmate's parole eligibility date. The information shall be a part of the inmate's consolidated summary record. At a minimum, a pre-parole investigation shall be made available to the panel for its review. No case may be considered for parole release without a pre-parole investigation.

C. ...

1. Nature and Circumstances of the Crime

a. The committee will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and inmate's versions of the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The committee shall also consider the seriousness of the offense, the inmate's role in the offense and the degree of his involvement, whether the offender inmate was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim, where the inmate committed one or more violent acts indicating a conscious disregard for the lives, safety, or property of others; or the instant offense has elements of brutality, violence, or conscious selection of victim's vulnerability such that the inmate poses a continuing threat to public safety.

2. Prior Criminal Record

a. The committee will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions, including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the inmate's prior criminal history.

b. A pattern of repeated criminal episodes or a pattern of similar offenses may indicate a predisposition to commit criminal acts upon release and the likelihood that the inmate will not succeed on parole.

c. The committee may also consider whether the instant offense was committed while the inmate was on probation or parole and the inmate's response to prior community supervision, if any.

3. Character, Social Background, Emotional, and Physical Conditions

a. The committee will evaluate and consider information pertaining to the inmate’s work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the inmate will not succeed on parole

4. Institutional Adjustment

a. The committee will evaluate and consider information concerning the inmate’s attitude while incarcerated, including the inmate’s participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may be evidence that the inmate will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. Inmates with one or more high court disciplinary report(s) in the 36 months prior to screening for parole eligibility, would generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the inmate has been disciplinary report free for 36 consecutive months. Inmates may be removed from a parole docket if they receive a high court disciplinary report during the investigation period. The inmate is responsible for notifying the board in writing when they are disciplinary report free for 36 consecutive months to be reconsidered for scheduling.

d. Inmates assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk for early release and will, therefore, be ineligible for parole consideration until such time as the inmate has not been in lockdown status for a period of six months.

5. Police, Judicial and Community Attitudes towards the Inmate

a. The committee will evaluate and consider information concerning the inmate from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an inmate will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Any victims or witness of any inmate who appears before the Committee on Parole for a parole hearing may provide the parole panel a re-entry statement to request proximity or contact restrictions, if that inmate is granted parole. Victims must submit the re-entry statement to the Committee on Parole at least 30 days prior to the inmate’s scheduled parole hearing. The committee will consider the re-entry statement only for the purpose of determining the inmate’s parole conditions and not for the purpose of determining whether to order the release of the inmate on parole. The re-entry statement is not binding on the Committee on Parole, but shall be considered in concert with other information when determining conditions of parole.

5.d. - 8.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300

(December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2265 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:576 (March 2018), LR 45:1064 (August 2019), LR 50:1270 (September 2024).

§705. Application for Parole Rehearing or Request for Reconsideration of Decision

A. If denied at the initial parole hearing, an inmate must apply in writing for a subsequent parole hearing, referred to as a parole rehearing. The written request must be submitted by the inmate or his representative

B. ...

1. The inmate must not have had a major (schedule B) disciplinary misconduct report in the 36 months prior to the reapplication request;

2. ...

3. If both criteria in §705.B.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.

Types of Crimes	Eligibility for Rehearing
Nonviolent, except as otherwise restricted	12 months after the most recent denial
First offense Crime of Violence [R.S. 14:2(B)] that is NOT First Degree Murder, Second Degree Murder, First Degree Rape, Second Degree Rape, Third Degree Rape, or Crime Against Nature [R.S. 14:89(A)(2)]	3 years after the most recent denial
Second or subsequent Crime of Violence [R.S. 14:2(B)] or Sex Offense (R.S. 15:541)	5 years after the most recent denial

4. An inmate whose parole has been denied on multiple occasions and who has never submitted a request for rehearing must be scheduled for rehearing no later than 10 years from the most recent denial.

5. A rehearing does not establish an expectation that an inmate is likely to be granted parole.

C. Reconsideration. An inmate may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. ...

2. An inmate whose parole is denied or rescinded or whose parole supervision is revoked may request reconsideration by the committee.

a. The request for reconsideration shall be made in writing by the inmate (or the inmate’s authorized legal representative) and shall be postmarked no later than 21 calendar days from the date of the hearing during which the parole panel action was taken.

b. - d. ...

e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c may be present. The request for reconsideration shall be denied by the chairman or designee if, at his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more

of the reasons for reconsideration set forth in §705.D.2.c are present.

3. - 3.c. ...

4. If the chairman or designee determines there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

D. Disciplinary Removals

1. If the inmate has one or more major (schedule B) disciplinary report(s) in the 36 months prior to their parole eligibility date, they will not be given parole consideration until such time as the inmate has been disciplinary report free for 36 consecutive months. Inmates shall be removed from a parole docket if they receive a schedule B disciplinary report during the investigation period. The inmate will be notified if they are not considered for placement on or removed from a docket.

a. The inmate is responsible for notifying the board in writing when they are disciplinary report free for 12 36 consecutive months to be reconsidered for scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019), LR 47:363 (March 2021), LR 49:257 (February 2023), LR 50:1271 (September 2024).

§707. Parole Plans

A. In order for an inmate to be considered for parole release, the inmate must have a viable transition plan that includes housing, potential job opportunities, and a support network that can incorporate family, friends, church, and rehabilitative programs. The plan for housing and will be investigated and approved by the Division of Probation and Parole.

B. ...

1. The board will not issue a certificate of parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The residence plan should be given to the classification officer at the correctional facility where the inmate is housed at the pre-parole interview or mailed directly to the board 30 days prior to the parole hearing.

B.2. - C. ...

1. Before any inmate can be considered for a plan of supervision in another state, the inmate shall sign an application for interstate compact services agreement to return (waiver of extradition).

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013), repromulgated LR 45:1066 (August 2019), LR 50:1272 (September 2024).

Chapter 8. Ameliorative Penalty Consideration

§801. Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), repealed LR 50:1272 (September 2024).

§802. Victim and District Attorney Notification [Formerly §207]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:46 (January 2015), amended by the Office of the Governor, Committee on Parole, LR 41:1667 (September 2015), repealed LR 50:1272 (September 2024).

§803. Committee Evaluation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:45 (January 2015), repealed LR 50:1272 (September 2024).

§805. Parole Panel Decision/Recommendation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 5:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:46 (January 2015), repealed LR 50:1272 (September 2024).

§809. Consideration by the Board of Pardons

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.15:574.2 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Committee on Parole, LR 41:1667 (September 2015), repealed LR 50:1272 (September 2024).

Chapter 9. Conditions of Parole

§901. Certificate of Parole

A. The certificate of parole will not become operative until specific conditions of release have been acknowledged and agreed to in writing by the inmate.

1. The inmate shall be advised orally and in writing of the conditions of parole prior to his release from incarceration.

2. ...

B. Special conditions of parole, in addition to those required by R.S. 15:574.4, may be imposed based on the dynamic risk and needs factors of the individual and on the particular circumstances of the individual.

C. In addition to any other special condition, the committee shall impose special conditions of parole as set forth below.

1. Restitution to the victim for damage to or loss of property, when such restitution has been imposed by the sentencing judge as part of the sentence

2. Any fine or court cost imposed as part of the sentence if the inmate has not paid.

3. If the inmate does not have a high school degree or its equivalent, the committee shall require the inmate to enroll in and attend an adult education or reading program until he obtains a GED, or until he completes such educational programs required by the committee, and has attained a sixth-grade reading level, or until his term of parole expires, whichever occurs first. All costs shall be paid by the inmate. The provision of this subsection shall not apply to those inmates who are mentally, physically, or by

reason of age, infirmity, or learning disorder unable to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2302 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2267, 2271 (August 2013), LR 50:1272 (September 2024).

Chapter 11. Violations of Parole

§1101. Types of Violations

A. - B. ...

1. Technical violations are any violations of the conditions of parole that may be addressed by an administrative sanction as authorized by the committee pursuant to R.S. 15:547.7, except it shall not include being arrested, charged, or convicted of any of the following:

- a. a felony
- b. an intentional misdemeanor affecting the person
- c. any criminal act that is a violation of a protective order
- d. being in possession of a firearm or other prohibited weapon
- e. absconding from the jurisdiction of the committee
- f. at the discretion of the committee, at any attempt to commit any other misdemeanor
- g. at the discretion of the committee, failing to appear at any court hearing

B.2. - C.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:1066 (August 2019), LR 50:1273 (September 2024).

§1103. Activity Report

A. An activity report is used by the Division of Probation and Parole to advise the committee of an inmate's actions for informational purposes to document and notify an inmate's violation of the conditions of parole. An activity report may, or may not, require action by the committee.

A.1. - A1.h. ...

2. The Division of Probation and Parole will prepare the activity report within five working days following receipt of the preliminary hearing findings from the hearing officer or five working days from the date the parolee waived or deferred the preliminary hearing. The report, along with the preliminary hearing forms and other documents, shall be forwarded to the committee.

3. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:1067 (August 2019), LR 50:1273 (September 2024).

HISTORICAL NOTE: : Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013), amended LR 50:1273 (September 2024).

Chapter 13. Time Served

§1301. Time Must Be Served if Revoked

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., R.S. 15:540 et seq. and R.S. 15:571.5.

HISTORICAL NOTE: : Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Department of Public Safety and Corrections, Corrections Services, LR 36:2872 (December 2010), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:59 (January 2014), repealed LR 50:1273 (September 2024).

Chapter 15. Parole Suspension and Termination

§1501. Suspension of Supervised Parole

A. ...

1. A parole officer may recommend that an inmate be placed in suspended status if the offender inmate meets the following criteria:

- a. completed a minimum of 18 months of supervision;
- b. be a first or second felony offender;
- c. score a "minimum" risk on the DOC Risk Needs Assessment Tool;
- d. completed all special conditions ordered by the sentencing judge and/or committee;
- e. remained conviction free (excludes minor traffic and local municipal statutes) for the period of supervision and has no pending criminal matters;

f. - h. ...

i. A temporary exception may be made to Subparagraph A.1.h for a parole case with a current violent offense who has been displaced to another state due to an emergency situation (i.e., hurricane or other natural disaster).

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2307 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2269 (August 2013), LR 50:1273 (September 2024).

§1502. Inactive Parole Supervision

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

1. As determined by the Division of Probation and Parole the parolee's case will be reviewed based on the following eligibility requirements

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

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

c. upon the committee's approval, the parolee's supervision level will be changed to Administrative-Inactive. At this effective date, the inmate is no longer subject to the conditions of parole as defined in R.S.15:574.4.2(A)(2).

d. A parolee in inactive status may be subject to revocation for a new felony conviction

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 47:1109 (August 2021), amended LR 50:1273 (September 2024).

Sheryl M. Ranatza
Board Chair

2409#008

RULE

Office of the Governor Crime Victims Reparations Board

Compensation (LAC 22:XIII.103, 301, 303, 501, and 503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby promulgates rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

A. ...

Healthcare Facility—a facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center; ambulatory surgical or treatment center; skilled nursing facility; inpatient hospice facility; residential treatment center; diagnostic, laboratory, or imaging center; or rehabilitation or other therapeutic health setting.

Healthcare Provider—a physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 23:861 (July 1997), LR 24:327 (February 1998), LR 37:1605 (June 2011), LR 42:569 (April 2016), LR 50:1274 (September 2024).

Chapter 3 Eligibility and Application Process

§301. Eligibility

A. - A.2.b. ...

i. The victim/claimant must process any potential insurance before applying for reimbursement of mental health claims.

ii. Repealed.

3. - 3.g....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 22:709 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009), LR 36:2278 (October 2010), LR 37:1605 (June 2011), LR 41:1487 (August 2015), amended LR 44:2143 (December 2018), LR 47:364 (March 2021), LR 49:922 (May 2023), LR 50:1274 (September 2024).

§303. Application Process

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

b. Repealed.

A.2.c. - 4. ...

5. All invoices, bills, etc. must indicate the victim/claimant as the guarantor and indicate balances owed. For claims that pertain to victims of sexually oriented criminal offenses, the victim has the discretion to choose whether or not to file for private insurance or Medicaid coverage.

A.6. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), amended by the Office of the Governor, Crime Victims Reparations Board, LR 41:1668 (September 2015), LR 42:570 (April 2016), LR 42:743 (May 2016), LR 49:922 (May 2023), LR 50:1274 (September 2024).

Chapter 5. Awards

§501. Payments of Awards

A. - C. ...

D. Repealed.

E. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May 1994), repromulgated LR 22:710 (August 1996), amended LR 24:328 (February 1998), LR 50:1274 (September 2024).

§503. Limits on Awards

A. - D.8.f. ...

g. Nurse practitioner or physician assistant (under supervision of licensed physician)

D.9. - G.5. ...

6. Rates for Reimbursement

a. Physicians, psychiatrists, state-certified or state-licensed psychologists, licensed professional counselors, and board-certified social workers are eligible for reimbursement. In addition, a provisionally licensed mental health provider, who is under the supervision of a licensed mental health provider, is eligible for reimbursement. The session notes submitted to the board for review must be signed by the supervising mental health provider.

b. - b.ii. ...

iii. All in-patient mental health service charges are reimbursed at the same session rate as out-patient mental health services, that is:

(a). Doctoral Level Providers (e.g. M.D. PhD., PsyD.), \$110/session).

(b). Master’s Level Providers (e.g., L.P.C., L.C.S.W., L.M.F.T., P.L.P.C, P.L.C.S.W, P.L.M.F.T., D.S.W.) \$90/session.

(c). Group Therapy rates (90 minutes)(\$50/session).

G.6.c. - I.1.6.a. ...

b. The rates for reimbursement shall be the same as authorized in §503 Limits on Awards G.6.b.

i. - iii. Repealed.

I.7. - N.4. ...

O. Crime Scene Cleanup

1. ...

2. Expenses submitted for cleaning the residential crime scene of the victim may not exceed \$2500.

3. - 3.c....

4. Expenses for crime scene cleanup cannot be used for:

a. repair of property damaged in the crime

b - c....

P. Loss of Support for Victim in Sexual Crimes

1. - 3. ...

Q. Relocation. Payment for relocation expenses is for those claimants who must relocate as a result of the crime for reasons of imminent danger, personal safety, or threat of injury.

1. “Threat of injury” is:

a. where a victim/claimant is directly threatened and there is a reasonable probability that physical and/or emotional injury would result if the threat were carried out, and/or

b. a victim was within sight and range of proximity of a person brandishing a weapon or other dangerous instrument and who felt reasonably threatened for their own safety.

2. Reimbursement for relocation expenses is limited up to \$5,000 per household of the claimant.

3. A police and/or incident report should be submitted with the claim to verify the basis for relocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR:37:1605 (June 2011), LR 39:1042 (April 2013), LR 41:1668 (September 2015), LR 42:570 (April 2016), LR 42:743 (May 2016), LR 44:270 (February 2018), LR 48:40 (January 2022), LR: 49:922(May 2023), LR:50:1274 (September 2024).

Judy Dupuy
Chair

2409#017

RULE

Department of Health Behavior Analyst Board

Board Composition, Meeting Procedures, and
ADA Accommodations (LAC 46:VIII.Chapter 1)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Behavior Analyst Board adopts Chapter 1. Board.

The purpose of this Rule is to outline board composition, meeting procedures, and ADA accommodations for board meetings. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VIII. Behavior Analysts

Chapter 1. Board

§101. Overview

A. The Sections of this Chapter outline board composition, meetings, procedures, and ADA accommodations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:1275 (September 2024).

§102. Board Composition

A. The board shall be comprised of seven members to include six behavior analysts and one consumer member. Elections will occur when the professional behavior analysts’ board seats become vacant in accordance with policies and procedures and the MOU between the board and the professional association. The governor shall then appoint members from a list of the nominees submitted by the professional association. The consumer member shall possess the qualifications found in R.S. 37:3703 and submit an application to the governor.

B. Each member shall be appointed for a term of four years. No member of the board shall serve more than two consecutive complete terms on the board.

C. Board members shall continue to serve, even if their term has expired, until the governor appoints their replacement.

D. The board shall elect annually from its membership a chair and vice-chair.

E. Members of the board shall serve without compensation but shall be reimbursed for reasonable travel expenses incurred in attendance at meetings and other official business of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:1275 (September 2024).

§103. Board Meetings

A. The board shall meet at least quarterly. The board shall meet at the call of the chair or at the request of at least three members. Meeting dates are to be posted on the board's website when scheduled.

B. The board shall provide written public notice of any regular, special, or re-scheduled meeting no later than 24 hours before the meeting. Notice shall include the agenda, date, time, and place of meeting. Notice shall be published on the board website and the Boards and Commission website.

C. All board meetings and hearings shall be open to the public. In accordance with R.S. 42:16-17, the board may conduct any portion of its meeting in executive session, closed to the public and may request the participation in such executive session of staff members and others as may be needed for the business at hand.

D. A majority of the board shall constitute a quorum for the transaction of all business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:1276 (September 2024).

§104. Board Procedures

A. Board members are expected to attend regularly scheduled meetings, special meetings, open forums and hearings. Attendance constitutes active participation in at least 80 percent of the entire meeting. Missing two meetings per year is generally acceptable; however, exceptions may be granted for good cause. Notification of an expected absence shall be submitted to the board office as early as possible.

B. The board shall keep written minutes of all open meetings. The minutes shall include the date, time, and place of the meeting; the members of the public body recorded as either present or absent; the substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken. The minutes shall be public records and shall be available within a reasonable time after the meeting, except where such disclosures would be inconsistent with R.S. 42:16 and R.S. 42:17.

C. A scheduled time for public comments on agenda items shall be held during each board meeting. Each person making public comments shall announce their identity and the group, organization, company, or entity represented, if any. The chair shall allot the time available to all who wish to comment to ensure an opportunity is afforded to all who desire to comment.

D. Board members will be appointed as chair or member of committees to assist in carrying out specific board functions.

E. The board shall operate on self-generated funds to maintain effective and efficient operations.

F. The board shall annually adopt a budget and comply with all state audit guidelines.

G. The board shall appoint an executive director to carry out the administrative work of the board and shall designate the duties and responsibilities for that position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:1276 (September 2024).

§105. ADA Accommodations

A. Any member of the public with a disability recognized by the Americans with Disabilities Act or a designated caregiver of such a person who would like to submit a request to participate in the open meeting portions of this board meeting is encouraged to contact the board office to discuss viable alternative methods at least three days prior to the meeting. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. a designated caregiver of such a person; or
3. a participant member of the agency with an ADA-qualifying disability.

B. Viable alternative method to be utilized will be teleconference. If additional accommodations are required, such as a translator, the board will make every attempt to meet the requestor's needs utilizing resources available. If in the future the board has access to reliable internet technology in their meeting room, the board will include participation by video as a method.

C. The written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted and shall be posted at least three days prior to the meeting date.

D. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. A board member who has a disability recognized by the ADA shall be allowed to participate and vote in a meeting via electronic means and shall be counted in the quorum. This does not include electronic participation in any disciplinary hearings and/or adjudications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:1276 (September 2024).

Rhonda Boe
Executive Director

2409#007

RULE

Department of Health Board of Examiners of Nursing Home Administrators

Pre-Examination Requirements: Conditions Precedent
(LAC 46:XLIX.1103)

The Board of Examiners of Nursing Facility Administrators, pursuant to R.S. 37:2501 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends this Rule to change the number of required continuing education units from 15 to 18. This change will make §1103 consistent with the requirements as noted in §903. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLIX. Nursing Facility Administrators

Chapter 11. Licenses

§1103. Registration of Licenses and Certificates

A.1. - A.3. ...

B.1. Upon making an application for a new certificate of registration such licensee shall pay an annual registration fee as provided in Chapter 12 of this part and at the same time shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application the registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. Unless prior approval is obtained, originals of the certificate(s) of attendance for 18 hours of approved continuing education shall be attached to the annual re-registration application.

B.2. - G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.7:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:1627 (September 1999), LR 25:2407 (December 1999), repromulgated LR 26:82 (January 2000), LR 26:316 (February 2000), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011), repromulgated LR 37:887 (March 2011), amended LR 50:1277 (September 2024).

Joseph E. Townsend
Executive Director

2409#016

RULE

Department of Health
Board of Pharmacy

Controlled Dangerous Substances (CDS) Licensing
(LAC 46:LIII.2707 and 2711)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy amended §2707 and §2711 of its rules relative to CDS licensing procedures and actions on CDS licenses. The Rule change in §2707 streamlines the CDS license reinstatement process, updates the facility CDS license change of ownership procedures, and adds a new subsection to address changes to CDS license status. The Rule change in §2711 repeals Subsection M and moves that language in a modified version to §2707. This Rule is hereby adopted on the day of publication.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter B. Licenses

§2707. Licensing Procedures

A. - B.3. ...

4. A CDS license not renewed within 30 days following the expiration date shall be considered terminated by the board. The reissuance of a terminated CDS license shall require compliance with the board's reinstatement procedures.

C. Application for Reinstatement of CDS License

1. ...

2. An application for the reinstatement of an expired credential which has been terminated may be approved when the applicant's primary credential is in an acceptable practice status with the issuing agency.

3. An application for the reinstatement of a CDS license inactivated as a consequence of the suspension or revocation of the primary credential by the issuing agency shall require verification of the reinstatement of the primary credential. Where the issuing agency reinstating the primary credential has restricted any privileges for controlled substances, the restrictions shall be attached to the reinstated CDS license.

4. An application for the reinstatement of a CDS license inactivated as a consequence of a Surrender for Cause of DEA Certificate of Registration to the DEA may be approved when the applicant's primary credential is in an acceptable practice status with the issuing agency.

5. An application for the reinstatement of a CDS license for a pharmacy which was suspended or revoked by the board may only be approved by the full board following a hearing to determine whether the reinstatement of the license is in the public's best interest.

6. Applications requiring a reinstatement hearing shall be accompanied by payment of the administrative hearing fee identified in Section 115 of this Part.

D. - D.3....

E. Facility Change of Ownership Procedures

1. A CDS license is not transferable.

2. A new application shall be filed and a new CDS license obtained when a change in the identity of the natural person, partnership, or business entity which directly holds the credential has occurred or there is a change in the person or entity's Federal Employer Identification Number (FEIN).

3. The new owner shall submit an application to the board office at least 15 days before closing the transfer of ownership interests of said business.

4. An application for a new CDS license shall include the direct and first indirect level of ownership information. Any change in the first indirect level of ownership of 20 percent or more must be reported to the board within 30 days of the change.

5. Nothing in this section shall prohibit an entity from applying for a new CDS license in order to separate itself from actions which may have been committed by the previous ownership under the existing CDS license.

F. Change of CDS License Status

1. Any person or facility holding a valid CDS license which ceases to engage in activity requiring a CDS license may relinquish said license to the board.

a. Prior to relinquishment of said license, the person or facility shall dispose of all controlled substances and any unused order forms in his possession or under his control in compliance with federal laws and regulations.

2. In the event a person or facility agrees to a Surrender for Cause of DEA Certificate of Registration to the DEA, then the CDS license of the person or facility shall be inactivated.

3. In the event the primary credential of a person or facility is suspended or revoked by the issuing agency, then the CDS license of the person or facility shall be inactivated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 43:957 (May 2017), LR 46:570 (April 2020), LR 47:1641 (November 2021), amended LR 50:1277 (September 2024).

§2711. Actions on Licenses

A. - L.2. ...

M. - M.4. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2132 (October 2008), amended LR 50:1278 (September 2024).

M. Joseph Fontenot Jr.
Executive Director

2409#010

RULE

**Department of Health
Emergency Response Network Board**

Accommodations for Public Meetings
(LAC 46:I.18601)

The Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and under the authority of R.S. 42:14(E), 42:17.2, R.S. 40:2844(H) and R.S. 40:2846(A), and enacts LAC 48:I, Chapter 186, Meetings, Section 18601, Conduct of Meetings, as approved by the Louisiana Emergency Response Network Board in a meeting of April 18, 2024. The amendment enacts Chapter 186, Section 18601 to establish a uniform methodology for certain members of the public and certain member participation in open meetings. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 15. Emergency Response Network

Chapter 186. Meetings

§18601. Conduct of Meetings

A. The Louisiana Emergency Response Network Board (LERN Board), its committees and regional commissions are obligated to provide for participation via teleconference or video conference, or if unavailable, by viable alternative methods, on an individualized basis for people with disabilities.

1. People with disabilities are defined as any of the following:

a. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);

b. a designated caregiver of such a person; or

c. a participant member of the LERN board, a LERN committee or a regional commission.

2. The LERN board, LERN Executive committee and each regional commission shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the board, committee or commission representative to whom a disability accommodation may be submitted.

B. The designated representative shall provide the requestor with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

C. Member participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2844(H), R.S. 42:14 and 42:17.2.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 50:1278 (September 2024).

Paige Hargrove
Executive Director

2409#055

RULE

**Department of Health
Health Standards Section**

Hospitals Licensing Standards
(LAC 48:I.9303 and 9353)

The Department of Health, Health Standards Section has amended LAC 48:I.9303 and §9353 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This Rule has been promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9303. Definitions

A. ...

* * *

Naloxone Nasal Spray—an over-the-counter (OTC) Food and Drug Administration (FDA) approved medication that rapidly reverses the effects of opioid overdose.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:1221 (July 2023), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1934 (November 2023), amended by the Department of Health, Health Standards Section, LR 50:1279 (September 2024).

Subchapter D. Pharmaceutical Services

§9353. Delivery of Services

A. - L. ...

M. Naloxone nasal spray, as an over-the-counter (OTC) non-prescription drug, may be distributed by the hospital to patients and/or non-patients who present in the hospital. Other non OTC formulations and dosages of naloxone will remain available by prescription only.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2411 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1279 (September 2024).

Michael Harrington, MBA, MA
Secretary

2409#050

RULE

**Department of Health
Health Standards Section**

Rural Health Clinics
Licensing Standards
(LAC 48:I.Chapter 75)

The Department of Health (the department), Health Standards Section has amended LAC 48:I.Chapter 75, and has repealed §7533 as authorized by R.S. 46:153 and R.S. 40:2197. This Rule has been promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 75. Licensing of Rural Health Clinics

Subchapter A. General Provisions

§7517. Personnel Qualifications/Responsibilities

A. - A.3. ...

B. Qualifications. All personnel shall be licensed in accordance with their respective professions and be either board certified or board eligible as required by their respective certifying organizations. In addition, rural health clinics (RHCs) shall be responsible for verifying and monitoring that professional certified personnel maintain continuous license/certification.

1. Physician Services. The physician, a medical doctor or doctor of osteopathic medicine, shall provide the following:

a. medical direction for the clinic's healthcare activities, and consultation for and medical supervision of the healthcare staff;

b. in conjunction with the physician assistant and/or midlevel practitioner, participation in the development, execution, and periodic review of the RHCs' written policies and services provided to patients; and

c. periodic review of the RHCs' patient records, and provision of medical orders and medical care services to the patients of the RHC.

2. Mid-level Practitioner. The mid-level practitioner shall be appropriately licensed and credentialed as either an advanced practice registered nurse (family nurse practitioner) or physician's assistant. The mid-level practitioner(s) shall be required to maintain Advanced Cardiac Life Support (ACLS) certification to assure his/her proficiency in accepted standards of emergency care. If a facility has a current written agreement with an advanced life support provider, who can provide care within 10 minutes, then the mid-level practitioner and/or physician are exempt from this required certification.

a. - b. Repealed.

3. ...

3. Governing Body. All owners of RHCs shall be disclosed. Ownership of five percent or more constitutes ownership. In the case of an entity requiring a board of directors by law and/or as a condition of its articles of incorporation or bylaws, members of the board of directors must be identified and minutes of the board meetings shall be made available to LDH/HSS. In those RHCs requiring a board of directors, the board shall meet at least once a year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002), amended by the Department of Health, Health Standards Section, LR 50:1279 (September 2024).

§7519. Services

A. - B.6. ...

C. Treatment Services

1. - 2.b....

3. All facilities shall have written policies and procedures that identify a prearranged plan for access to a nearby hospital that provides advanced life support services.

4. Contracted Treatment Services. Written agreements with full-service hospitals and credentialed practitioner(s) for specialty care must be current, clearly written, and reviewed annually. The RHC retains responsibility for all medical care provided until the patient is referred to or admitted into another facility. Agreements must be signed and dated by all parties.

D. - D.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:509 (March 2002), amended by the Department of Health, Health Standards Section, LR 50:1279 (September 2024).

§7521. Agency Operations

A. Municipals. Rural health clinics shall function as a community resource for all citizens of the service area and shall promote improvement of the health of the entire community by providing educational opportunities where feasible, resource lists for referrals, assistance with accessing other resources, wellness programs, and participation in community efforts to promote health and safety. Rural health clinics shall demonstrate the following:

1. ...

2. Emergency Preparedness. A RHC shall:

a. - b. ...

c. maintain emergency supplies to provide basic emergency care in the case of a disaster in the community;

d. participate in the development of local community disaster plan, and;

e. test the emergency preparedness plan annually, by participating in a community-based full-scale exercise (if available) or conduct an individual facility-based functional exercise every other year. In the opposite years off the full-scale exercise, RHCs are required to conduct a testing exercise of its choice, which may include either a community-based full-scale exercise (if available), an individual, facility-based functional exercise, a drill, or a table-top exercise or workshop.

i. RHCs that activate their emergency plans are exempt from the next required full-scale community-based or individual, facility-based functional exercise. In this case, the RHC must be able to demonstrate, through written documentation, that it activated its emergency preparedness plan due to the emergency.

B. ...

C. Operation Hours. A RHC shall provide:

1. RHC services during the hours of operation as indicated on their licensing application, and in their policies and procedures. In addition, patient care services by a nurse practitioner, physician assistant, or certified nurse-midwife shall be available at least 50 percent of the time the RHC operates.

a. - c. Repealed.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 March 2002), amended by the Department of Health, Health Standards Section, LR 50:1280 (September 2024).

§7523. Procedural Standards

A. The following processes are required for RHCs in Louisiana:

1. - 4.e....

5. Infection Control. A facility shall maintain and implement written and dated effective infection control policies and procedures that protect the patients and staff from infections and communicable diseases.

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002), amended by the Department of Health, Health Standards Section, LR 50:1280 (September 2024).

§7529. Quality Assurance

A. ...

B. Purpose

1. Utilization Review. The purpose of the review is to determine whether:

- a. the utilization of services are appropriate;
- b. the established policies are followed; and
- c. if any changes are needed.

2. - 5.i. Repealed.

C. Process

1. Rural health clinics shall carry out, or arrange for, a biennial evaluation of its total program.

2. The evaluation shall include review of:

a. utilization of the RHCs' services, including at least the number of patients served and the volume of services; and

b. a representative sample of both active and closed clinical records; and

c. the RHC's health care policies.

D. Quality Assurance/Continuous Quality Improvement. The RHC shall have ongoing programs to assure that the overall function of the clinic is in compliance with federal, state, and local laws, and is meeting the needs of the citizens of the area, as well as attaining the goals and objectives developed from the mission statement established by the RHCs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1851 (October 1999), amended by the Department of Health, Health Standards Section, LR 50:1280 (September 2024).

§7531. Patient's Rights and Responsibilities

A. The RHCs shall provide education to personnel regarding patient rights during orientation at least annually, and post a copy of the patient's rights in a conspicuous place.

1. Patients of RHCs shall have the right to the following, including but not limited to:

1.a. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1852 (October 1999), amended by the Department of Health, Health Standards Section, LR 50:1280 (September 2024).

§7533. Advisory Committee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153 and R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1846 (October 1999), amended LR 28:510 (March 2002), repealed by the Department of Health, Health Standards Section, LR 50:1281 (September 2024).

§7535. Physical Environment

A. ...

B. Safety. The following are fundamental to the effective management of RHCs:

1. - 9.b....

10. miscellaneous:

a. - c. ...

d. - d.iii. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2197.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1852 (October 1999), amended by the Department of Health, Health Standards Section, LR 50:1281 (September 2024).

Michael Harrington, MBA, MA
Secretary

2409#051

RULE

Department of Health

Licensed Professional Counselors Board of Examiners

Supervision Requirement for Provisional Licensed Professional Counselors (LAC 46:LX.803)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners amends the supervision requirements for Provisional Licensed Professional Counselors to allow the discretion of the board-approved supervisor to determine if audiotapes and/or videotapes of counseling sessions shall be required as part of the supervision process.

The Licensed Professional Counselors Board of Examiners adopts Chapter 8, Section 803 for publication in the September 20, 2024, edition of the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Professional Counselors

Subpart 1. Licensed Professional Counselors

Chapter 8. Licensed Professional Counselor Supervisors

§803. Supervised Experience of Provisional Licensed Professional Counselors

A. - A.3. ...

4. The process of supervision must encompass multiple modes of supervision, including regularly

scheduled live observation of counseling sessions (where possible) and review of audiotapes and/or videotapes of counseling sessions, at the board approved supervisor's discretion. The process may also include discussion of the provisional licensed professional counselor's self-reports, microtraining, interpersonal process recall, modeling, role-playing, and other supervisory techniques. (Supervision as defined in these rules does not require the approved supervisor to be in the same room with the provisional licensed professional counselor during the provisional licensed professional counselor's provision of services to clients.)

5. - 13. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:722 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019), LR 50:1281 (September 2024).

Jamie S. Doming
Executive Director

2409#036

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 31—Holding Company (LAC 37:XIII.128 and 131)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends Regulation 31.

The purpose of the amendment to Regulation 31 is to add additional language permitting electronic filing and to provide clarification as to the exemption with respect to the group capital calculation. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 1. Regulation 31—Holding Company

§128. Group Capital Calculation

A. - B.1.c. ...

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to Subsection A or B, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

C.1. - E.4 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:611 et seq., R.S. 22:631 et seq., and R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 49:488 (March 2023), amended LR 50:1281 (September 2024).

§131. Instructions for Forms A, B, C, D, E and F

A. - A.2 ...

3. Statements should be prepared either electronically or on paper 8 1/2" x 11" in size and preferably bound at the top or the top left corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

A.4 - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1298 (July 2015), LR 50:1281 (September 2024).

Timothy J. Temple
Commissioner

2409#013

RULE

Department of Insurance Office of the Commissioner

Regulation 46—Long-Term Care Insurance (LAC 37:XIII.1931)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends Regulation 46—Long-Term Care Insurance. The Department of Insurance is amending Regulation 46 to remove §1931 because it is not statutorily authorized. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 19. Regulation 46—Long-Term Care Insurance

§1931. Discretionary Powers of the Commissioner (Formerly §1927)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1736(A), 22:1736(E), 22:1738(C), 22:1739, and 22:1740.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 19:1153 (September 1993), amended LR 23:975 (August 1997), amended LR 31:470 (February 2005), repealed LR 50:1282 (September 2024).

Timothy J. Temple
Commissioner

2409#014

RULE

Department of Insurance Office of the Commissioner

Regulation 47—Actuarial Opinion and Memorandum Regulation (LAC 37:XIII.Chapter 21)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby amends Regulation 47 for the purpose of amending redesignated legal citations. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 21. Regulation 47—Actuarial Opinion and Memorandum Regulation

§2101. Purpose

A. The purpose of this regulation is to prescribe:

1. requirements for statements of actuarial opinion that are to be submitted in accordance with R.S. 22:752, and for memoranda in support thereof;

2. - 3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 50: 1282 (September 2024).

§2103. Authority

A. This regulation is issued pursuant to the authority vested in the Commissioner of Insurance of the State of Louisiana under R.S. 22:752. This regulation will take effect for annual statements for the year 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 50: 1282 (September 2024).

§2107. Definitions

Actuarial Opinion—the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with §2111 of this regulation and with applicable Actuarial Standards of Practice.

Actuarial Standards Board—the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

Annual Statement—that statement required by Section R.S. 22:571 of the Insurance Law to be filed by the company with the office of the commissioner annually.

Appointed Actuary—an individual who is appointed or retained in accordance with the requirements set forth in §2109.C. of this regulation to provide the actuarial opinion and supporting memorandum as required by R.S. 22:752.

Asset Adequacy Analysis—an analysis that meets the standards and other requirements referred to in §2109.D of this regulation

Commissioner—the commissioner of insurance of Louisiana.

Company—a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this regulation.

Qualified Actuary—an individual who meets the requirements set forth in §2109.B of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2544 (October 2005), amended LR 50: 1282 (September 2024).

§2109. General Requirements

A. - D.3. ...

E. Liabilities to be Covered

1. Under authority of R.S. 22:752, the statement of actuarial opinion shall apply to all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued, e.g., reserves of Exhibits 5, 6 and 7, and claim liabilities in Exhibit 8, Part I and equivalent items in the separate account statement or statements.

2 - 3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2544 (October 2005), amended LR 50:1283 (September 2024).

§2111. Statement of Actuarial Opinion Based on an Asset Adequacy Analysis

A. - B.1.b. ...

2. The scope paragraph should include a statement such as:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20[]. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis."

Asset Adequacy Tested Amounts—Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a)(2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 5 A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability – Active					
F Disability – Disabled					
G Miscellaneous					
Total (Exhibit 5 Item 1, Page 3)					
Exhibit 6 A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Exhibit 7 Premium and Other Deposit					

Asset Adequacy Tested Amounts—Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (a)(2)	Analysis Method (b)	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 7 (Column 1, Line 14)					
Exhibit 8, Part 1 1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 8, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					

IMR (General Account, Page ___ Line ___)	
(Separate Accounts, Page Line)	
AVR (Page ___ Line ___)	(c)
Net Deferred and Uncollected Premium	

* * *

B.3 - F.1. ...

2. The Standard Valuation Law gives the commissioner broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of Subsection B.6.c of this Section, the commissioner may make one or more of the following additional approaches available to the opining actuary.

F.2.a. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2545 (October 2005), amended LR 37:598 (February 2011), amended LR 50:1283 (September 2024).

§2113. Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

A. General

1. In accordance with R.S. 22:752, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum shall be made available for examination by the commissioner upon his or her request but shall be returned to the company after such examination and shall not be considered a record of the insurance department or subject to automatic filing with the commissioner.

2 - 4 ...

5. In accordance with R.S. 22:752, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection C. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2548 (October 2005), amended LR 50:1284 (September 2024).

Timothy J. Temple
Commissioner

2409#015

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 89—Suitability in Annuity Transactions
(LAC 37:XIII.Chapter 117)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends Regulation 89—Suitability in Annuity Transactions. The purpose of the amendments to Regulation 89 is to implement the provisions of Act No. 73 of the 2023 Regular Session and to adopt changes made to date to the National Association of Insurance Commissioners’ Suitability in Annuity Transactions Model Regulation. This Rule is hereby adopted on the day of promulgation.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 117. Regulation Number 89—Suitability in Annuity Transactions

§11701. Purpose

A. The purpose of this regulation is to require producers, as defined in this regulation, to act in the best interest of the

consumer when making a sale or recommendation of an annuity and to require insurers to establish and maintain a system to supervise annuity recommendations and sales so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

B. Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation or to subject a producer to civil liability under the best interest standard of care outlined in §11711 or under standards governing the conduct of a fiduciary or a fiduciary relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50:1284 (September 2024).

§11703. Scope

A. This regulation shall apply to any sale or recommendation of an annuity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50: 1284 (September 2024).

§11705. Authority

A. This regulation is promulgated under the authority of R.S. 22:11, R.S. 22:919, and R.S. 22:1576(B)(10).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50: 1284 (September 2024).

§11707. Exemptions

A. - A.2.b. ...

c. a government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

d. ...

3. settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

4. formal prepaid funeral contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50: 1284 (September 2024).

§11709. Definitions

Annuity—an annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

Cash Compensation—any discount, concession fee, service fee, commission, sales charge, loan, override, or cash

benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

Consumer Profile Information—information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

1. age;
2. annual income;
3. financial situation and needs, including debts and other obligations;
4. financial experience;
5. insurance needs;
6. financial objectives;
7. intended use of the annuity;
8. financial time horizon;
9. existing assets or financial products, including investment, annuity, and insurance holdings;
10. liquidity needs;
11. liquid net worth;
12. risk tolerance, including, but not limited to, willingness to accept non-guaranteed elements in the annuity;
13. financial resources used to fund the annuity; and
14. tax status.

Continuing Education Credit or *CE credit*—continuing education credit as required by the Department.

Continuing Education Provider or *CE Provider*—an individual or entity that is approved to offer continuing education courses pursuant to Regulation 89.

Department—The Louisiana Department of Insurance.

FINRA—the Financial Industry Regulatory Authority or a succeeding agency.

Insurer—a company required to be licensed under the laws of this state to provide insurance products, including annuities.

Intermediary—an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by producers.

Material Conflict of Interest—a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. *Material Conflict of Interest* does not include cash compensation or non-cash compensation.

Non-Cash Compensation—any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

Non-Guaranteed Elements—the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest-based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

Producer—a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this regulation, *producer* includes an insurer where no producer is involved.

Recommendation—advice provided by a producer to an individual consumer that was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice. *Recommendation* does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

Replacement—a transaction in which an annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer, whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

1. lapsed, forfeited, surrendered, or partially surrendered, assigned to the replacing insurer, or otherwise terminated;
2. converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits, or other policy values;
3. amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;
4. reissued with any reduction in cash value; or
5. used in a financed purchase.

SEC—The United States Securities and Exchange Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019), amended LR 50: 1284 (September 2024).

§11711. Duties of Insurers and Producers

A. **Best Interest Obligations.** A producer, when making a sale or recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer’s or the insurer’s financial interest ahead of the consumer’s interest. A producer has acted in the best interest of the consumer if they have satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

1.a. **Care Obligation.** The producer, in making a sale or recommendation, shall exercise reasonable diligence, care, and skill to:

- i. know the consumer’s financial situation, insurance needs, and financial objectives;
- ii. understand the available recommendation options after making a reasonable inquiry into options available to the producer;
- iii. have a reasonable basis to believe the recommended option effectively addresses the consumer’s financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and
- iv. communicate the basis of the recommendation.

b. The requirements under Subparagraph a. of this Paragraph include making reasonable efforts to obtain consumer profile information from the consumer prior to the sale or recommendation of an annuity.

c. The requirements under Subparagraph a. of this Paragraph require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the sale or recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

d. The requirements under this Subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this regulation.

e. The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this Paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

f. The requirements under Subparagraph a. of this Paragraph include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

g. The requirements under Subparagraph a. of this Paragraph apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders, and similar product enhancements, if any.

h. The requirements under Subparagraph a. of this Paragraph do not mean that the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

i. The requirements under Subparagraph a. of this Paragraph do not mean the producer has ongoing monitoring obligations under the care obligation under this Paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

j. In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

i. the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

ii. the replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

iii. the consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

k. Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to, any securities license, in order to fulfill the duties and obligations contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

2. Disclosure Obligation.

a. Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to Appendix A:

i. a description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

ii. an affirmative statement on whether the producer is licensed and authorized to sell the following products:

- (a). fixed annuities;
- (b). fixed indexed annuities;
- (c). variable annuities;
- (d). life insurance;
- (e). mutual funds;
- (f). stocks and bonds; and
- (g). certificates of deposit;

iii. an affirmative statement describing the insurers the producer is authorized, contracted (or appointed), or otherwise able to sell insurance products for, using the following descriptions:

- (a). from one insurer;
- (b). from two or more insurers; or
- (c). from two or more insurers although primarily contracted with one insurer.

iv. a description of the sources and types of cash compensation and non-cash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary or other producer or by fee as a result of a contract for advice or consulting services; and

v. a notice of the consumer's right to request additional information regarding cash compensation described in Subparagraph b. of this Paragraph;

b. Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

i. a reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

ii. whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

c. Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or

other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance, and investment components and market risk.

3. Conflict of Interest Obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

4. Documentation Obligation. A producer shall at the time of recommendation or sale:

a. make a written record of any recommendation and the basis for the recommendation subject to this regulation;

b. obtain a consumer-signed statement on a form substantially similar to Appendix B documenting:

i. a customer's refusal to provide the consumer profile information, if any; and

ii. a customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

c. obtain a consumer-signed statement on a form substantially similar to Appendix C acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

5. Application of the Best Interest Obligation. Any requirement applicable to a producer under this Subsection shall apply to every producer who has exercised material control or influence in the making of a sale or recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back-office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

B. Transactions Not Based on a Recommendation.

1. Except as provided under Paragraph 2., a producer shall have no obligation to a consumer under Paragraph A.1. related to any annuity transaction if:

a. no recommendation is made;

b. a recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

c. a consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

d. a consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

2. An insurer's issuance of an annuity subject to Paragraph 1 shall be reasonable under all circumstances actually known to the insurer at the time the annuity is issued.

C. Supervision System.

1. Except as permitted under Subsection B., an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives based on the consumer's consumer profile information.

2. An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this regulation, including, but not limited to, the following:

a. the insurer shall establish and maintain reasonable procedures to inform its insurance producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals;

b. the insurer shall establish and maintain standards for insurance producer product training and shall establish and maintain reasonable procedures to require its insurance producers to comply with the requirements of §11712.

c. the insurer shall provide product-specific training and training materials that explain all material features of its annuity products to its producers;

d. the insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that is designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

e. the insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with Subsections A., B., D., and E. This may include but is not limited to, confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations, and programs of internal monitoring. Nothing in this Subparagraph prevents an insurer from complying with this Subparagraph by applying sampling procedures, or by confirming the consumer profile information or other required information under this Section after issuance or delivery of the annuity;

f. the insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this Section;

g. the insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

h. the insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this Subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits, or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

i. the insurer shall annually provide a written report to senior management, including the senior manager

responsible for audit functions, which details a review with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

3.a. Nothing in this Subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under this Subsection. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to §11713 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with Subparagraph b of this Paragraph.

b. An insurer's supervision system under this Subsection shall include supervision of contractual performance under this Subsection. This includes, but is not limited to, the following:

i. monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

ii. annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

4. An insurer is not required to include in its system of supervision:

a. a producer's recommendations to consumers of products other than the annuities offered by the insurer; or

b. consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer.

D. Prohibited Practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

1. truthfully responding to an insurer's request for confirmation of suitability information;

2. filing a complaint; or

3. cooperating with the investigation of a complaint.

E. Safe Harbor

1. Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this regulation. This Subsection applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product, sale, or recommendation at issue. However, nothing in this Subsection shall limit the insurance commissioner's ability to investigate and enforce the provisions of this regulation.

2. Nothing in Paragraph 1. shall limit the insurer's obligation to comply with §11711.C.1, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

3. For Paragraph 1 to apply, an insurer shall:

a. monitor the relevant conduct of the financial professional seeking to rely on Paragraph 1. or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities laws using

information collected in the normal course of an insurer's business; and

b. provide to the entity responsible for supervising the financial professional seeking to rely on Paragraph 1., such as the financial professional's broker-dealer or investment adviser registered under federal or state securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

4. For purposes of this Subsection, "financial professional" means a producer that is regulated and acting as:

a. a broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;

b. an investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or

c. a plan fiduciary under Section 3(21) of ERISA or fiduciary under Section 4975(e)(3) of the IRC or any amendments or successor statutes thereto.

5. For purposes of this Subsection, "comparable standards" means:

a. with respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, regulation Best Interest and any amendments or successor regulations thereto;

b. with respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities law, including, but not limited to, the Form ADV and interpretations; and

c. with respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:760 (June 2019), amended LR 50:1285 (September 2024).

§11712. Producer Training

A. A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this Section.

B.1.a. A producer who engages in the sale of annuity products shall complete a one-time, four-credit training course approved by the department and provided by a department-approved education provider.

b. Producers who hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the requirements of

this Subsection within six months after the effective date of this regulation. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this Subsection has been completed.

2. The minimum length of the training required under this Subsection shall be sufficient to qualify for at least four CE credits but may be longer.

3. The training required under this Subsection shall include information on the following topics:

- a. the types of annuities and various classifications of annuities;
- b. identification of the parties to an annuity;
- c. how product-specific annuity contract features affect consumers;
- d. the application of income taxation of qualified and non-qualified annuities;
- e. the primary uses of annuities; and
- f. appropriate standard of conduct, sales practices, replacement and disclosure requirements.

4. Providers of courses intended to comply with this Subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

5. A provider of an annuity training course intended to comply with this Subsection shall register as a CE provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth in this regulation.

6. A producer who has completed an annuity training course approved by the department prior to the effective date of this regulation shall, within six months, complete either:

- a. a new four-credit training course approved by the department after the effective date of this regulation; or
- b. an additional one-time, one-credit training course approved by the department and provided by a department-approved education provider on appropriate sales practices, replacement, and disclosure requirements under this regulation.

7. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with this regulation.

8. Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with this regulation.

9. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this Subsection shall be deemed to satisfy the training requirements of this Subsection in this state.

10. The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this Subsection shall be deemed to satisfy the training requirements of this Subsection in this state.

11. An insurer shall verify that a producer has completed the annuity training course required under this Subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its

responsibility under this Subsection by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1288 (September 2024).

§11713. Compliance Mitigation; Penalties; Enforcement

A. An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its producer, the Department may order:

1. an insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this regulation by the insurer, an entity contracted to perform the insurer's supervisory duties, or by the producer;

2. a general agency, independent agency, or producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this regulation; and

3. appropriate penalties and sanctions.

B. Any applicable penalty for a violation of this regulation may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:761 (June 2019), amended LR 50:1289 (September 2024).

§11715. Recordkeeping

A. Insurers, general agents, independent agencies and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:761 (June 2019), amended LR 50:1289 (September 2024).

§11717. Severability

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December

2006), amended LR 45:761 (June 2019), amended LR 50:1289 (September 2024).

§11719. Effective Date

A. Regulation 89, as amended, shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:761 (June 2019), amended LR 50:1290 (September 2024).

§11721. Appendices

A. Insurance Agent (Producer) Disclosure for Annuities

**APPENDIX A
INSURANCE AGENT (PRODUCER)
DISCLOSURE FOR ANNUITIES**

Do Not Sign Unless You Have Read and Understand the Information in this Form

Date:

**INSURANCE AGENT (PRODUCER) INFORMATION
("Me", "I", "My")**

First Name: Last Name:
Business\Agency Name: Website:
Business Mailing Address:
Business Telephone Number:
Email Address:
National Producer Number in [state]:

CUSTOMER INFORMATION ("You", "Your")

First Name: Last Name:

What Types of Products Can I Sell You?

I am licensed to sell annuities to You in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs, and financial objectives. Other financial products, such as life insurance or stocks, bonds, and mutual funds, also may meet Your needs.

I offer the following products:

- Fixed or Fixed Indexed Annuities
- Variable Annuities
- Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. I have checked below any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- Mutual Funds
- Stocks/Bonds
- Certificates of Deposits

Whose Annuities Can I Sell to You?

I am authorized to sell:

Annuities from Only One (1) Insurer	Annuities from Two or More Insurers
Annuities from Two or More Insurers although I primarily sell annuities from:	

How I'm Paid for My Work:

It's important for You to understand how I'm paid for My work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurance company while fees are generally paid to Me by You. If You have questions about how I'm paid, please ask Me.

Depending on the particular annuity You buy, I will or may be paid cash compensation as follows:

Commission, which is usually paid by the insurance company or other sources. If other sources, describe:

Fees (such as a fixed amount, an hourly rate, or a percentage of your payment), are usually paid directly by the customer.

Other (Describe):

If you have questions about the above compensation I will be paid for this transaction, please ask Me.

I may also receive other indirect compensation resulting from this transaction (sometimes called "non-cash" compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurance company or other sources.

Drafting Note: This disclosure may be adapted to fit the particular business model of the producer. As an example, if the producer only receives commission or only receives a fee from the consumer, the disclosure may be refined to fit that particular situation. This form is intended to provide an example of how to communicate producer compensation, but compliance with the regulation may also be achieved with a more precise disclosure, including a written consulting, advising, or financial planning agreement.

Drafting Note: The acknowledgement and signature should be in immediate proximity to the disclosure language.

By signing below, You acknowledge that You have read and understand the information provided to You in this document.

Customer Signature

Date

Agent (Producer) Signature

Date

B. Consumer Refusal to Provide Information

**APPENDIX B
CONSUMER REFUSAL TO PROVIDE INFORMATION**

Do Not Sign Unless You Have Read and Understand the Information in this Form

Why are You being given this form?

You're buying a financial product – an annuity.

To recommend a product that effectively meets Your needs, objectives, and situation, the agent, broker, or company needs information about You, Your financial situation, insurance needs, and financial objectives.

If You sign this form, it means You have not given the agent, broker, or company some or all the information needed to decide if the annuity effectively meets Your needs, objectives, and situation. You may lose protections under the Insurance Code of [this state] if You sign this form or provide inaccurate information.

Statement of Purchaser:

I **REFUSE** to provide this information at this time.
I have chosen to provide **LIMITED** information at this time.

Customer Signature

Date

C. Consumer Decision to Purchase an Annuity Not Based on a Recommendation

APPENDIX C
Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

Why are You being given this form? You are buying a financial product – an annuity.

To recommend a product that effectively meets Your needs, objectives, and situation, the agent, broker, or company has the responsibility to learn about You, Your financial situation, insurance needs, and financial objectives.

If You sign this form, it means You know that You’re buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker, or company did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the Insurance Code of [this state].

Customer Signature

Date

Agent/Producer Signature

Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:919, 22:1576, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1290 (September 2024).

Timothy J. Temple
Commissioner

2409#052

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes
(LAC 37:XIII.Chapter 197)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby promulgates Regulation 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes. Regulation 129 defines the requirements to receive a surplus lines insurance refund or credit for taxes paid on gross premium received by the Department of Insurance. This Rule is hereby adopted on the day of promulgation.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 197. Regulation Number 129—Surplus Lines Insurance Refund or Credit of Gross Premium Taxes

§19701. Purpose

A. The purpose of this regulation is to define the requirements to receive a surplus line insurance refund for taxes paid on gross premium received by the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1291 (September 2024).

§19703. Applicability and Scope

A. Regulation 129 shall apply to impositions of a tax of four and eighty-five one hundredths of one percent per annum on the gross premium without regard to the location of the covered property, risk, or exposure for all insurance placed through a Louisiana licensed surplus lines broker with a surplus lines insurer or other unauthorized insurer and for which Louisiana is the home state of the policyholder as defined in R.S. 22:46.

B. The refund or credit shall only apply to Louisiana licensed surplus lines brokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50: 1291 (September 2024).

§19707. Authorization of Refunds or Credit

A. For the purpose of this Chapter, a refund or credit of gross premium taxes is authorized when there is a payment of tax when none was due.

B. The commissioner may make a refund or credit of each payment where it is determined that the payment was the result of an error, omission, or a mistake of fact of consequence to the determination of the tax liability, whether on the part of the taxpayer or the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50: 1291 (September 2024).

§19709. Prescription Period of Refund or Credits

A. After three years from the 31st day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever is the later, no refund or credit for a payment shall be made unless the commissioner has been notified of a claim for credit or refund by the taxpayer claiming such credit or refund before the expiration of said three-year or one-year period. The maximum amount which shall be refunded or credited shall be the amount paid within said three-year or one-year period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50: 1291 (September 2024).

§19711. Effective Date

A. This regulation shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 22:439.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1292 (September 2024).

Timothy J. Temple
Commissioner

2409#026

RULE

**Department of Revenue
Office of Charitable Gaming**

**Limited Raffle Licenses
(LAC 42:I.1722)**

Under the authority of R.S. 4:707, 707.1, and 729, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Office of Charitable Gaming has adopted LAC 42:I.1722.

Revised Statute 4:707.1, enacted by 2023 Acts, No. 89, establishes a limited raffle license and provides exemptions from the requirements of R.S. 4:705(2)(c) (\$75 license fee) and 4:714(F)(1) (requiring a separate charitable gaming account). LAC 42:I.1722 sets forth the qualifications and requirements for a limited raffle license. The Rule establishes a reduced license and renewal fee of \$25. Limited raffle licenses are available to organizations who conduct one or more raffle games during the 12-month license period with aggregate total prize winnings that do not exceed \$10,000.

An Emergency Rule outlining the qualifications and requirements was issued on September 1, 2023 (*Louisiana Register*, Volume 49, Number 9). A revised Emergency Rule was issued on February 29, 2024. This Rule will adopt the provisions set forth in the February 29, 2024 Emergency Rule. This Rule is hereby adopted on the day of promulgation.

Title 42

LOUISIANA GAMING

Part I. Charitable Bingo, Keno, Raffle

Subpart 1. Bingo

Chapter 17. Charitable Bingo, Keno and Raffle

Subchapter B. Gaming Requirements

§1722. Limited Raffle License Requirements

A. A limited raffle license may be issued pursuant to R.S. 4:707.1 to an organization that:

1. qualifies under Louisiana law to conduct charitable gaming;
2. holds one or more raffle games during the 12-month license period for which the aggregate value of all

prizes to be awarded for all raffle games does not exceed \$10,000; and

3. the raffles are not conducted at a time and place other games of chance allowed under R.S. 4:707 are conducted.

B. Limited raffle licensees shall be subject to the same requirements as other licensed organizations conducting raffles except that:

1. the license and renewal fee shall be \$25;
2. a separate charitable gaming account shall not be required;
3. the information required by R.S. 4:716 shall be submitted annually rather than quarterly; and
4. the license renewal application may be submitted after June 30 without penalty, provided it is filed at least 30 days prior to the scheduled raffle unless the secretary waives this requirement for good cause.

C. Notwithstanding Paragraph B.1 of this Section, if the aggregate value of all prizes to be awarded during the license period will not exceed \$250, the license and renewal fees shall be waived.

D. Raffle games for which the prize value cannot reasonably be predetermined, such as 50/50 and split the pot raffles do not qualify for a limited raffle license. Similarly, raffles with prizes that by nature exceed \$10,000, such as automobiles and immovable property, do not qualify for the limited raffle license.

E. If the total prize winnings distributed by the licensee during the 12-month limited license period exceed \$10,000, the organization shall be prohibited from renewing its limited raffle license. In this case, the organization shall apply for a standard charitable gaming license. In the event that the organization does not apply for a standard charitable gaming license, the organization's limited raffle license will be deemed suspended for a calendar year. After the expiration of the calendar year, the organization may reapply for a limited raffle license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:707.1 and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Charitable Gaming, LR 50:1292 (September 2024).

Luke Morris
Assistant Secretary

2409#028

RULE

**Department of Revenue
Policy Services Division**

Aviation Fuel Dealer Sales Tax Returns,
Form R-1029E—Electronic Filing
and Payment Requirement
(LAC 61.III.1549 and 1550)

Under the authority of R.S. 47:1511, 47:1519, 47:1520 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, through this Notice of Intent, adopts rules to require electronic filing and payment requirements for aviation fuel dealers who are filing the Form 1029, *Louisiana Sales Tax Return*.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(3) grants the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 47:1520(A)(1)(d) also allows the secretary to require electronic filing when the report is required for dedicated fund distribution. The purpose of this regulation is to require aviation fuel dealers to electronically file all state sales tax returns and electronically submit all related sales and use tax payments. Article VII §27(B)(1) of the Louisiana Constitution requires the revenue dedicated to airports be appropriated based on annual estimated revenue from sales taxes collected and received on aviation fuel. Aviation fuel dealers must file and pay electronically so that aviation fuel revenues can be tracked to ensure the accuracy of future revenue estimates.

This Rule is written in plain language in an effort to increase transparency. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1549. Aviation Fuel Dealers—Electronic Filing Requirements

A. Definitions. The terms *aviation fuel*, *aviation fuel dealer*, *aviation gasoline*, and *aviation jet fuel* shall have the same meanings given to them in R.S. 47:818.2.

B. For filing periods beginning on or after October 1, 2024, aviation fuel dealers shall be required to file the Form R-1029E, Louisiana Sales Tax Return, electronically.

C. Aviation fuel dealers may not file paper versions of the Form R-1029.

D.1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B), beginning with the October 2024 filing period.

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 50:1293 (September 2024).

§1550. Aviation Fuel Dealers—Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require aviation fuel dealers to pay sales and use tax by electronic funds transfer.

B. Effective for all filing periods beginning on or after October 1, 2024, all payments by any aviation fuel dealer shall be electronically transferred to the department on or before the twentieth day following the close of the reporting period using the electronic format provided.

C. For purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602, beginning on November 20, 2024.

E. If an aviation fuel dealer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910 but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, aviation fuel dealers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the aviation fuel dealer can prove payment by electronic funds transfer would create an undue hardship, the secretary may exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically; separately from the electronic transmission of the remittance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 50:1293 (September 2024).

Richard Nelson
Secretary

2409#029

RULE

Department of Revenue Tax Policy and Planning Division

Installment Agreement for Payment of Tax (LAC 61.I.4919)

Under the authority of R.S. 47:105(B), 47:1511, and 47:1576.2 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, has amended LAC 61.I.4919 relative to installment agreements for the payment of tax.

R.S. 47:105(B) and 47:1576.2 authorizes the payment of taxes in installments and gives the secretary authority to promulgate rules to administer the installment program. This Rule increases the maximum threshold and extends the payment period for informal installment agreements.

This Rule is written in plain language in an effort to increase transparency. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Administrative and Miscellaneous Provisions Chapter 49. Tax Collection

§4919. Installment Agreement for Payment of Tax

A. - C.4. ...

D. Forms of Installment Agreements

1. Informal installment agreements shall be allowed only if the amount owed is less than \$50,000 and the payment period is 60 months or less.

2. Formal installment agreements shall be required if the amount owed is \$50,000 or more or the payment period exceeds 60 months. Information relative to the taxpayer's employment, bank account, credit, income statement, balance sheets, cash-flow data, and any other information shall be provided to the department upon request.

D.3. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:105 and R.S. 47:1576.2.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 42:281 (February 2016), amended by the Department of Revenue, Policy Services Division, LR 47:892 (July 2021), amended by the Department of Revenue, Tax Policy and Planning Division, LR 50:1293 (September 2024).

Richard Nelson
Secretary

2409#079

RULE

Uniform Local Sales Tax Board

Authorization of Participation for Americans with Disabilities Act Compliance (LAC 72:I.Chapter 2)

Under the authority of R.S. 47:337.102 and 47:337.94, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Uniform Local Sales Tax Board adopts LAC 72:I.Chapter 2.

Pursuant to Act 393 of the 2023 Regular Session of the Louisiana Legislature, which authorizes certain public bodies to allow members of the public and members of a public body who have a disability recognized by the Americans with Disabilities Act the ability to participate in meetings via teleconference or video conference. This Rule is hereby adopted on the day of promulgation.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 2. Open Meetings via Electronic Means Policy

§201. Agency Eligibility

A. The Louisiana Uniform Local Sales Tax Board (LULSTB) meets the below criteria pursuant to R.S. 42:14, to be eligible to conduct open public meetings via electronic means:

1. LULSTB is a public body as contemplated by R.S. 42:14(E)(1), political subdivision of the state pursuant to R.S. 47:337.102(A) with rulemaking authority pursuant to R.S. 47:337.102(E) and R.S. 47:337.94;

2. has powers, duties, or functions that are not limited in scope to a particular political subdivision or region;

3. conducts at least six regularly scheduled meetings in a calendar year; and

4. is not one of the agencies identified by R.S. 42:17.2(I), to which open meetings via electronic means shall not apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1294 (September 2024).

§203. Postings Prior to Meeting via Electronic Means

A. No later than 24 hours, exclusive of Saturdays, Sundays, and legal holidays, prior to the meeting via electronic means, the LULSTB shall post the meeting notice and agenda on the board's website, the Boards and Commissions website, and as otherwise required by law pursuant to R.S. 42:17.2(B). The notice will include:

1. detailed information for participants to submit comments regarding matters on the agenda via electronic means; and

2. applicable teleconference phone number and /or videoconference link.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1294 (September 2024).

§205. Electronic Meeting Requirements and Limitations

A. The LULSTB shall not conduct more than one-third of its regularly scheduled meetings in a calendar year via electronic means and will only conduct successive meetings via electronic meetings as reasonably needed.

B. The presiding officer shall be present and shall preside over the meeting at the anchor location. The anchor location shall be open to the public. Any member of the public body or the LULSTB shall be allowed to participate in person at the anchor location.

C. A schedule of meetings shall be posted on the board's website, and annually on the boards and commission website.

D. In an electronic meeting, board members of the LULSTB, whether participating from the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

E. The LULSTB shall identify and acknowledge all public comments inclusive of those received in person during the meeting and those received in writing or electronically before any submission deadline (if any) for the meeting and shall maintain those comments in its record of the meeting.

F. If the LULSTB is aware of a technical problem that causes the meeting to no longer be audible, or if applicable, visible and audible to the public the meeting shall be recessed until the problem is resolved. If the problem is not resolved within one hour, the meeting shall be adjourned, and the presiding officer shall make an effort to alert all participants to that fact.

G. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on the board's website.

H. A member of the advisory committee who participates in a meeting via electronic means shall not be eligible to receive per diem for attending the meeting virtually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1294 (September 2024).

§207. Disability Accommodations

A. People with disabilities are defined as any of the following:

RULE
Workforce Commission
Plumbing Board

Plumbers—ADA Accommodations (LAC 46:LV.509)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Plumbing Board (board), hereby has amended LAC 46:LV to outline ADA accommodations for board meetings. This Rule will be effective upon final publication in the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LV. Plumbers

Chapter 5. The Board

§509. ADA Accommodations

A. Any member of the public with a disability recognized by the Americans with Disabilities Act (ADA) or a designated caregiver of such a person who would like to submit a request to participate in the open meeting portions of this board meeting is required to contact the board office to discuss viable alternative methods at least three days prior to the meeting. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the ADA;
2. a designated caregiver of such a person; or
3. a participant member of the agency with an ADA-qualifying disability.

B. Viable alternative method to be utilized will be teleconference. If additional accommodations are required, such as a translator, the board will make every attempt to meet the requestor's needs utilizing resources available. If in the future the board has access to reliable internet technology in their meeting room, the board will include participation by video as a method.

C. The written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated agency representative to whom a disability accommodation may be submitted and shall be posted at least three days prior to the meeting.

D. The requestor shall be provided with an accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

E. A board member who has a disability recognized by the ADA shall be allowed to participate and vote in a meeting via electronic means and shall be counted in the quorum. This does not include electronic participation in any disciplinary hearings and/or adjudications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 50:1295 (August 2024).

Ashley Jones Tullier
Executive Director

2409#001

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);

2. any designated caregiver of such a person; or

3. a participant member of the board with an ADA-qualifying disability.

B. The public notice for an open meeting, as required by R.S. 42:19, shall include the name, telephone number, and email address of the LULSTB representative to whom disability accommodation requests may be submitted.

C. The designated agency representative shall provide the requestor with reasonable accommodation, including the teleconference phone number and/or video conference link, for participation via electronic means as soon as practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1294 (September 2024).

§209. Board Participation

A. LULSTB is a public body which has powers, duties, or functions that are not limited to a particular subdivision or region and that conducts 12 meetings per year.

B. A member of the board who has a disability recognized by the ADA shall be allowed to participate and vote in a meeting via electronic means as defined in R.S. 42:17.2.

C. A board member who has such a disability shall be counted towards the making of a quorum under R.S. 42:17.2.1(A).

D. A member of the board who has a disability recognized by the ADA is not limited in the number of meetings they may attend electronically.

E. A member of the board who participates in a meeting via electronic means shall not be eligible to or receive per diem for attending the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1295 (September 2024).

§215. Uniform Electronic Local Return and Remittance Advisory Committee Participation

A. The Uniform Electronic Local Return and Remittance Advisory Committee (UELRRAC) is an advisory board.

B. Meetings shall be called by the chair at a time and place to be selected by the chair, or at a time and place provided for upon the written request of three members under R.S. 47:337.23(B)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:17.2, R.S. 42:14, and R.S. 17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Uniform Local Sales Tax Board, LR 50:1295 (September 2024).

Clarence J. Lymon, CPA
Executive Director

2409#077

Notices of Intent

NOTICE OF INTENT

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

Structural Pest Control Commission
(LAC 7:XXV.101, 113, and 117)

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, propose to adopt additions to LAC 7:XXV.101, 113 and 117. The proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed Rule change is made in accordance with R.S. 3:3366, which gives the Structural Pest Control Commission the authority to adopt rules and regulations. This proposed Rule is written in plain language in an effort to increase transparency.

The proposed Rule removes the term and definition for material safety data sheet and creates a new term and definition for safety data sheet. The proposed Rule clarifies language for the employer records requirement. The proposed Rule removes continuing education program and adds language for training of registered technicians. The proposed Rule clarifies language for obligations of a licensee and/or permittee. Also, the proposed Rule clarifies language for the period of years for record retention of a person applying pesticides for a fee and the permittee or the primary licensee. The proposed Rule adds language for record retention for applications of pesticides and termite control inspections to include "per location, per application". The proposed Rule adds language for record keeping of applications of general pest and commercial phases of pesticides to include the "total amount of product applied per location, per application; and the size of area treated (square feet or linear feet)". The proposed Rule also adds language for records of applications of pesticides in the fumigation phase to include "per location, per application". Lastly, the proposed Rule clarifies language for records for using bait and baiting systems.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§101. Definitions

A. - B. ...

* * *

Safety Data Sheet (S.D.S.)—a document which states chemical characteristics and safety precautions regarding a specific chemical.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3362 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission LR 15:954 (November 1989),

17:251 (March 1991), LR 23:855 (July 1997), LR 30:1143 (June 2004), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 31:26 (January 2005), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 32:796 (May 2006), repromulgated LR 32:1015 (June 2006), amended LR 33:39 (January 2007), LR 35:204 (February 2009), LR 35:1468 (August 2009), LR 37:272 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:300 (February 2013), LR 41:333 (February 2015), LR 42:213 (February 2016), LR 44:1235 (July 2018), LR 46:1541 (November 2020), LR 47:1100 (August 2021), LR 48:2728 (November 2022), LR 49:2074 (December 2023), repromulgated LR 50:171 (February 2024), repromulgated LR 50:774 (June 2024), amended LR 50:

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - N. ...

O. Each employer shall keep complete records at the place of business establishment of all structural pest control work performed as required in LAC 7:XXV.117.H.

P. Each registered technician shall participate in a training as a condition of maintaining his or her status as a registered technician at least once annually (January 1 to December 31).

1. The annual training shall be a minimum of four hours of technical training, shall be approved in advance by the department, and shall meet or exceed the requirements set forth in 40 CFR 171.201.

P.2. - P.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016), LR 44:1236 (July 2018), LR 50:

§117. Obligations of the Licensee/Permittee

A. - C. ...

D. The primary licensee shall be responsible for training the employee in the kind of work which he will perform. The training shall occur annually and meet or exceed the requirements set forth in 40 CFR 171.201.

E. Maintenance of a commercial applicator certification by a licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the department that meets or exceeds the requirements set forth in 40 CFR 171.103;

E.1.b. - G. ...

H. Any person applying pesticides for a fee and the permittee or the primary licensee shall maintain records according to LAC 7:XXV.117.H, at the physical address

listed on the place of business permit of all applications of pesticides and inspections for wood destroying insects on a record keeping form or in a format approved by the director of pesticide and environmental programs of the department. These records shall be retained for a period of three years after the date of the pesticide application for ship and commodity fumigation, general pest control and commercial vertebrate control, and a period of three years after the expiration of applicable contracts for termite control and structural fumigation. The licensee shall make a copy of these records available to any employee of the department for inspection during normal working hours within 48 hours upon notification, excluding legal holidays.

H.1. - H.1.l. ...

m. total amount of product applied per location, per application;

H.1.n. - H.2.k. ...

l. total amount of product applied per location, per application; and

m. size of area treated (square feet or linear feet);

H.3. - H.3.l. ...

m. total amount of product applied per location, per application;

H.3.n. - H.4.m. ...

n. inspection diagram; and

H.4.o. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 44:1236 (July 2018), LR 46:1541 (November 2020), LR 49:2076 (December 2023), repromulgated LR 50:776 (June 2024), amended LR 50:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable impact on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small business as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule via U.S. Mail or hand delivery. Written submissions must be directed to Kelly Moore, Director, Structural Pest Control, Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3000, LA 70806, and must be received no later than 4 p.m. on Thursday, October 10, 2024. All written comments must be signed and dated.

Public Hearing

A public hearing will be held on Monday, October 28, 2024, at 9:30 a.m. in the Veterans' Auditorium at the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. 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 Kelly Moore at the address given above in the Public Comments section or at (225) 952-8042.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Structural Pest Control Commission

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

The proposed rule change is not anticipated to have any costs or savings to the Louisiana Department of Agriculture and Forestry (LDAF), other than the cost to promulgate the rule in FY 25. The cost of promulgation is included in the agency's annual operating budget.

The proposed rule change is pursuant to the Environmental Protection Agency's (EPA) Federal Insecticide, Fungicide, and Rodenticide Act, which requires certifying authorities to have an EPA-approved certification plan to certify applicators of Restricted Use Pesticides. The proposed rule change updates and clarifies existing rules by amending language to include the following:

- (1) Removes the term and definition for "material safety data sheet"
- (2) Creates a new term and definition for "safety data sheet"

(3) Corrects language for the employer records requirement

(4) Removes "continuing education program" and adds language for training of registered technicians

(5) Adds language for obligations of a licensee and/or permittee

(6) Corrects language for the period of years for record retention of a person applying pesticides for a fee and the permittee or the primary licensee

(7) Adds language for record retention for applications of pesticides and termite control inspections to include "per location, per application;"

(8) Adds language for record keeping of applications of general pest and commercial phases of pesticides to include the "total amount of product applied per location, per application; and the size of area treated (square feet or linear feet)"

(9) Adds language for records of applications of pesticides in the fumigation phase to include "per location, per application;" and

(10) Adds the word "and" for records for using bait and baiting systems

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

The proposed rule change is not anticipated to have any effect on revenue collections of state or local governmental units. This proposed rule change provide clarifications and updates to existing rules by amending language. Thus, no revenue increase or decrease is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not directly affect persons, small businesses, or non-governmental groups as there is no anticipated increase or decrease costs to the market.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to influence competition or employment.

Dane Morgan
Assistant Commissioner
2409#040

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agro Consumer Services
Agricultural Commodities Commission

Fees: Amount, Time of Payment (LAC 7:XXVII.128)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 3:3414.3, the Department of Agriculture and Forestry (LDAF), Office of Agro-Consumer Services, Agricultural Commodities Commission, proposes to amend LAC 7:XXVII, Subchapter E. Assessments and Fees, Section 128 in order to update the hourly and overtime fee rate.

Pursuant to R.S. 3:3414.3(L) the department shall inspect, classify, and grade grain in accordance with standards adopted by the United States Department of Agriculture, Federal Grain Inspection Service, for sampling and grading grain. The department may charge a fee for inspecting,

classifying, and grading grain. The fee shall be fixed by the commission by rule and shall be based on the actual cost of providing the service. The proposed changed to LAC 7:XXVII, Chapter 1, Subchapter E, Section 128 modifies the hourly and overtime rate for these services. This proposed Rule is written in plain language in an effort to increase transparency.

Title 7
AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and
Warehouse Law
Chapter 1. Louisiana Agricultural Commodities
Commission

Subchapter E. Assessments and Fees
§128. Fees: Amount, Time of Payment

A. - C.1. ...

2. The hourly rate shall be \$30 per hour, including travel time. Overtime hours shall be billed at one and one-half times the hourly rate and shall be assessed in half-hour increments.

3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$30
Overtime hourly rate, per hour	\$45
Unit Inspection Fees:	
Aflatoxin Testing, per sample	\$30
Rail Car, per car	\$20.50
Truck/Trailer, per carrier	\$10
Barge, per 1,000 bushels	\$2.60
Submitted sample inspection	\$12.30
Rail Car (per sample)	\$10.30
Truck/Trailer (per sample)	\$5.30
Barge (per sample)	\$25.30
Factor only determination, per factor (not to exceed full grade fee)	\$5.20
Probe Sampling Barge (per barge)	\$100
On-Line Sampling Barge (per hour)	\$20
Vomitoxin test (applicant supplies kit)	\$25
Vomitoxin test (LDAF supplies kit)	\$35

D. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:1502 (September 2016), LR 50:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons regarding the education and supervision of their children;

3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fees: Amount, Time of Payment**

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Gene Cavalier, Director of Louisiana Agricultural Commodities Commission, 5825 Florida Blvd., Suite 5000 Baton Rouge, LA 70806 or via email to gcavalier@ldaf.state.la.us. Comments will be accepted until 3 p.m. on October 10, 2024.

Public Hearing

No public hearing on this proposed Rule has been scheduled. If a public hearing is needed, all interested parties will be afforded an opportunity to submit data, views, or arguments either orally or in writing. Interested parties may submit a written request to conduct a public hearing to Gene Cavalier, Director of Louisiana Agricultural Commodities Commission, 5825 Florida Blvd., Suite 5000 Baton Rouge, LA 70806 or via email to gcavalier@ldaf.state.la.us; however such request must be received no later than 3 p.m. on Thursday, October 10, 2024.

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

The proposed rule change will have an estimated one-time cost of \$1,000 in FY 25. This cost includes time spent updating registration forms, software, website pages, and internal documents to reflect the fee changes.

The proposed rule change increases the regular hourly rate for grain sampling and inspection by \$4 from \$26 to \$30 and the overtime hourly rate by \$6 from \$39 to \$45.

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

The proposed rule change is estimated to increase in revenue collections in the amount of \$63,124 annually based on analysis by Louisiana Department of Agriculture and Forestry (LDAF) staff.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will cost licensees an additional \$4 per regular hour billed for grain sampling and grading. The proposed fee change will cost licensees an additional \$6 per overtime hour billed for grain sampling and grading. The total across the industry is estimated at \$63,124 based on the hours billed in calendar year 2023. There were an estimated 241 invoices for these services in 2023.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The department does not expect the proposed change to impact competition or employment due to the specialized nature of these services.

Dane Morgan
Assistant Commissioner
2409#037

Patricia Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Prescribed Burning
(LAC 7:XXXIX.Chapter 9)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:17, notice is hereby given that the Department of Agriculture and Forestry (“Department”), through the Office of Forestry, intends to amend LAC 7:XXXIX.901 and 911, and proposes to adopt 915, 917 and 919 relative to prescribed burning. R.S. 3:17 establishes the commissioner’s authority to adopt and promulgate rules and regulations for prescribed burning. The proposed Rule changes are being

made pursuant to ACT 288 in the 2024 Regular Session, which defines and establishes the requirements for prescribed burning by non-certified prescribed burn managers. The proposed Rule changes establish the requirements for prescribed burning conducted by non-certified prescribed burn managers.

The department intends to amend LAC 7:XXXIX.901 to define “certified prescribed burn manager,” and “non-certified prescribed burn manager.” The department intends to amend LAC 7:XXXIX.911 to correct the language, and include both the Louisiana Voluntary Smoke Management Guidelines, and the Louisiana Smoke Management Guidelines for Agriculture. Further the department proposes to adopt LAC 7:XXXIX.915, 917, and 919 to establish guidelines for conducting a prescribed burn by a non-certified prescribed burn manager. Non-certified prescribed burn managers will be required to contact the Louisiana Department of Agriculture and Forestry, Office of Forestry, prior to conducting a prescribed burn and provide the location, date, and time of the prescribed burn. Failure to provide this information to the Office of Forestry may result in a civil penalty of up to \$250 for a first offense and \$500 for two or more offenses. This proposed Rule is written in plain language in an effort to increase transparency.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 9. Prescribed Burning

§901. Definitions

* * *

Certified Prescribed Burn Manager—an individual who has successfully completed the prescribed burning certification program of the Louisiana State University Agricultural Center or other approved program and is certified by the Department of Agriculture and Forestry.

* * *

Non-Certified Prescribed Burn Manager—an individual who has not successfully completed the prescribed burning certification program of the Louisiana State University Agricultural Center or other approved program and is not certified by the Department of Agriculture and Forestry.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995), LR 50:

§911. Smoke Management Guidelines

A. Louisiana Voluntary Smoke Management Guidelines for Forestry and Marsh. The Louisiana Department of Agriculture and Forestry provides the official guidelines for handling smoke resulting from prescribed burns for forestry and marsh through the *Louisiana Voluntary Smoke Management Guidelines* (published November 2014). The Department of Agriculture and Forestry will make the latest edition of the *Louisiana Voluntary Smoke Management Guidelines* available to the public on its website.

B. Louisiana Smoke Management Guidelines for Agriculture. The Louisiana Department of Agriculture and Forestry and the LSU AgCenter provides the official guidelines for handling smoke resulting from prescribed

burns for agriculture through the *Louisiana Smoke Management Guidelines for Agriculture* (published December 2023, Publication Number 3246). The Department of Agriculture and Forestry will make the latest edition of the *Louisiana Smoke Management Guidelines for Agriculture* available to the public on its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995), amended LR: 48:2084, LR 50:

§915. Prescribed Burning by Non-Certified Prescribed Burn Managers

A. Prior to conducting a prescribed burn, non-certified prescribed burn managers shall provide the Department of Agriculture and Forestry, Office of Forestry, the location, date, and time of the prescribed burn.

B. The Department of Agriculture and Forestry will receive and review the information provided and may accept the notification if the non-certified prescribed burn manager agrees to follow the relevant smoke management guidelines (see §911. Smoke Management Guidelines of this Chapter).

C. Notice shall be provided 24-72 hours in advance. Notification may be made through either the designated phone number, or the submission form on the department’s website.

D. The designated phone number for receiving calls regarding prescribed burning by non-certified burn managers is 1-855-452-5323.

E. The non-certified prescribed burn managers shall agree to follow the relevant smoke management guidelines on the department’s website for the prescribed burn notification to be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR: 50:

§917. Civil Penalties

A. Any person who violates this regulation may be subject to a civil penalty up to \$250 for the first offense, and up to \$500 for any secondary offenses. Civil penalties will be assessed by a ruling of the commissioner of Agriculture and Forestry in an adjudicatory hearing held in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR: 50:

§919. Burning of Leaf Piles, Yard Debris, or Hand-Piled Natural Vegetation

A. The provisions of this Section shall not apply to the burning of leaf piles, yard debris, or hand-piled natural vegetation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR: 50:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
- 4 the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rules via U.S. Mail or hand delivery. Written submissions must be directed to Wade Dubea, State Forester, Assistant Commissioner for Forestry, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on October 10, 2024. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Prescribed Burning**

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

The proposed rule change is not anticipated to have any costs to create and maintain a phone line as the Louisiana Department of Agriculture and Forestry (LDAF) will use the

already established emergency line. The LDAF will use existing staff and existing software for all other implementation factors related to the receiving and documenting notifications for prescribed burning by non-certified prescribed burn managers.

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

The proposed rule change establishes a civil penalty, which could result in revenue collections for the department. The proposed rule change establishes a civil penalty up to \$250 for a first offense and a civil penalty up to \$500 for a second or subsequent offense. LDAF is unable to determine the amount of civil penalties that are anticipated to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishes the requirements for prescribed burning by non-certified prescribed burn managers. Non-certified prescribed burn managers will be required to contact the Office of Forestry prior to conducting a prescribed burn and provide the location, date, and time of the prescribed burn, prior to conducting. Failure to provide this information to the Office of Forestry may be subject to a civil penalty up to \$250 for a first offense and \$500 for two or more offenses. There are no estimated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups for contacting the LDAF Office of Forestry with the required information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated impacts on competition and employment as a result of the proposed rule change.

Dane Morgan
Assistant Commissioner
2409#048

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Campaign Finance: Reporting for a Tie Vote
(LAC 52:I.1615)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics, has initiated rulemaking procedures and is proposing to adopt a rule regarding the reporting requirements for candidates and political committees participating in an additional election following a tie vote or court ordered election.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1615. Reporting for a Tie Vote

A. If there is a tie vote in a general election, candidates, political committees and other persons required to file campaign finance disclosure reports, shall file the following additional reports:

1. Special Reports for the twenty-day period preceding the tie vote election pursuant to R.S. 18:512. The

Special Reports shall be filed as required by R.S. 18:1491.6C and La. R.S. 18:1495.4C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 50:

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:978.5.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on October 10, 2024.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Campaign Finance: Reporting for a Tie Vote

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

The proposed rule change is not anticipated to result in any cost or savings to the state or local government units, other than the cost to publish the Notice of Intent and the rule in the State Register.

The proposed rule codifies Act 136 of the 2024 Regular Session, which provides for reporting requirements for candidates and political committees participating in an additional election following a tie vote or court ordered elections following an election contest.

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

The proposed rule change has no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may increase those persons required to file a campaign finance disclosure report if there is a tie vote in a general election, but should not have a fiscal impact on these groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change has no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
2409#060

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Contributions: Receiving, Redesignation,
and Reattribution (LAC 52:I.1617 and 1619)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics, has initiated rulemaking procedures and is proposing to adopt a Rule regarding receiving, redesignating, and reattributing contributions.

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1617. Receiving Contributions

A. Candidate, political committee or other persons who are required to file campaign finance disclosure reports have 10 days from receipt of a contribution to take the following actions:

- 1. deposit the contribution into their designated campaign account; or,
- 2. return the contribution to the contributor.

B. If the contribution is deposited into a designated campaign account, it shall be disclosed as being received as the date that it was

- 1. hand-delivered to the candidate, political committee, other person who is required to file campaign finance disclosure reports, or their authorized representatives; or,
- 2. received in the mail or courier service by the candidate or their treasurer.

C. For contributions to candidates,

1. Unless the contribution is designated in writing by the contributor for a particular election, the contribution shall be presumed to be applied to the next election in which the candidate is participating.

2. If the contributor designates a contribution in writing for a particular election, the candidate shall maintain a copy of the designation in their campaign finance records.

3. A contributor cannot designate a contribution for a candidate for a future election which is past the next election cycle in which the candidate is participating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 50:

§1619. Redesignation and Reattribution of Contributions

A. Redesignation is an action taken by a candidate or his campaign committee and/or the contributor to designate an excess contribution to another election in which the contributor has not exceeded the contribution limits.

- 1. Redesignation of a contribution designated by the contributor for a particular election, the candidate or their campaign committee shall obtain written redesignation of

the contribution to another election on a form approved by the board or in writing that contains the following:

- a. the name and address of the contributor;
- b. date and amount of initial contribution;
- c. date of election to which the initial contribution was designated;
- d. date and amount of redesignated contribution;
- e. date of election to which the contribution is redesignated;
- f. signature of contributor and date signed;
- g. date redesignation received by the candidate or their committee.

B. Reattribution is an action taken by a candidate or his campaign committee and the contributor to attribute the excess portion of a contribution to another contributor who has not otherwise made a contribution that exceeded the contribution limits.

1. Funds may only be reattributed to another contributor who has a legal claim to the funds being reattributed because contributions through or in the name of another are prohibited by La. R.S. 18:1505.2A.

2. To reattribute the excess portion of a contribution, the candidate or their campaign committee shall obtain written reattribution of the contribution from the initial contributor and the contributor to which the contribution is being reattributed on a form approved by the board or in writing that contains the following:

- a. the name and address of the initial contributor;
- b. date and amount of initial contribution;
- c. date of election to which the initial contribution was designated;
- d. date contribution reattributed to another contributor and the amount of the reattributed contribution;
- e. date of election to which the contribution is reattributed;
- f. signature of initial contributor and date signed;
- g. signature of contributor to whom the contribution is reattributed;
- h. date reattribution received by the candidate or their committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 50:

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:978.5.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on October 10, 2024.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Contributions: Receiving, Redesignation, and Reattribution

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

The proposed rule change will result in a one-time increase in expenditures, estimated to be approximately \$60,000 in State General Fund, for information technology updates and changes to the Louisiana Ethics Administration Disclosure and Electronic Reporting System (LEADERS). The Ethics Administration will absorb the increased workload with its existing staff and resources. The only other cost to the state is the cost to publish the Notice of Intent and the rule in the State Register.

The proposed rule change codifies Act 664 of the 2024 Regular Session regarding the receipt, redesignation, and reattribution of campaign contributions by candidates or their campaign committee. The proposed rule change provides for guidance and procedures to those persons receiving, redesignating, and reattributing campaign contributions.

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

The proposed rule change has no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated economic benefit to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule change. The proposed rule change provides instructions to candidates (or their campaign committees) on the designation of contributions to a particular election, the redesignation of an excess contribution to another election, and the reattribution of an excess contribution to another contributor.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
2409#059

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Political Committees; Filing Fees (LAC 52:I.1603)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Board of Ethics, has initiated rulemaking procedures and is proposing to amend a rule regarding the acceptance of payments via electronic funds transfer for political committee registration fees.

**Title 52
ETHICS**

Part I. Board of Ethics

**Chapter 16. The Board as Supervisory Committee of
the Louisiana Campaign Finance
Disclosure Act**

§1603. Political Committees; Filing Fees

A. A fee of \$100 shall be remitted to the supervisory committee with each statement of organization required to be filed by a political committee.

B. The \$100 fee shall be due only once per calendar year per committee. In the event that an amended statement of organization is filed by a political committee, no additional fee is required to be paid.

C. All fees paid in compliance with §1603 shall be by check drawn upon, or by electronic funds transfer drawn from, the designated depository of the political committee.

D. Certificates of registration will be issued to political committees only after a sufficient time has elapsed to insure that the funds used to pay the required fee have been paid by the bank upon which it is drawn.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1301 (October 1997), amended LR 50:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:978.5.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, Louisiana 70821, telephone (225) 219-5600, until 4:45 p.m. on October 10, 2024.

Kathleen M. Allen
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Political Committees; Filing Fees

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

The proposed rule change will result in a one-time in-house information technology update to allow the political committee fees to be drawn by electronic funds transfer. The Ethics Administration will absorb the increased workload with its existing staff and resources. The only cost to the state is the cost to publish the Notice of Intent and the rule in the State Register.

The proposed rule change codifies Act 664 of the 2024 Regular Session, which provides for acceptance of payments via electronic funds transfer for political committee registration fees.

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

The proposed rule change has no anticipated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change allows political committees to pay their filing fees via electronic funds transfer, but should not have a fiscal impact on these groups. Previously, all fees paid were required to be paid by check.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule change has no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
2409#058

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs
Education Savings Account
(LAC 28:CLIII.Chapter 15)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CLIII in *Bulletin 133—Scholarship Programs*. Act 1 of the 2024 Regular Legislative Session established the Louisiana Giving All True Opportunity to Rise (LA GATOR) Program and required promulgation of rules for implementation and administration of the program.

Title 28

EDUCATION

Part CLIII. Bulletin 133—Scholarship Programs

**Chapter 15. Louisiana Giving All True Opportunity to
Rise (LA GATOR) Scholarship Program**

§1501. Purpose

A. The purpose of this Chapter is to establish guidelines for the implementation and operation of the Louisiana Giving All True Opportunity to Rise (LA GATOR) Scholarship Program, created to ensure that all students have access to diverse educational opportunities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.1; R.S. 17:4037.5; and R.S. 17:4037.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1503. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever the words appear in this Chapter, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

Account—an education scholarship account established in R.S. 17:4037.1, et seq. and composed of state funds deposited on behalf of a student eligible to participate in the LA GATOR Program.

Account Funds—the funds deposited into an ESA account on behalf of a participating student.

Account Holder—the parent(s) of a participating student or a participating student who has attained the age of majority, who signs the agreement, and who is responsible for complying with all of the ESA requirements.

Applicant—a prospective participating student who has attained the age of majority or the parent of a prospective participating student applying to the LA GATOR Program on behalf of the student.

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

Department's Website or *LDOE Website*—the website created and maintained by or on behalf of the LDOE to make program information available to the public.

Eligible Nonpublic School—a nonpublic school having received approval according to *Brumfield, et al. v. Dodd, et al.* 425 F. Supp.528 and having been approved, provisionally approved, or probationally approved by BESE pursuant to R.S. 17:11.

ESA—an education scholarship account established pursuant to R.S. 17:4037.1, et seq.

ESA Funds—funding from one or more ESAs.

LA GATOR Program—the Louisiana Giving All True Opportunity to Rise Scholarship Program.

Louisiana Scholarship Program—the Student Scholarships for Educational Excellence Program as provided in R.S. 17:4014, et. seq. and Chapter 13 of this Part.

Norm-Referenced Examination or *Norm-Referenced Test*—a type of assessment that reports results on a scale that is nationally normed. Such norming is established using a representative sample of examinees from across the country, matched by age or educational level, and are derived through national norming studies.

Parent—a parent, legal guardian, or custodian.

Parental Placement—students with disabilities enrolled by their parents in private, including religious, schools or facilities pursuant to LAC 28:XLIII.130.

Participating Nonpublic School—a nonpublic school that is approved by the LDOE to receive ESA funds and agrees to enroll students; not a service provider.

Participating Service Provider—a business, individual, nonprofit organization, city or parish public school, public charter school, or other entity that offers educational materials, courses, or educational services that are qualifying ESA expenses as defined pursuant to §1511 of this Chapter and has been approved for participation pursuant to §1517 of this Chapter.

Participating Student—an eligible student for whom an ESA has been awarded and established.

Program Manager—an entity selected by the LDOE and approved by BESE to administer the LA GATOR Program as provided in R.S. 17:4037.5.

Resident—a student who is physically present in the State of Louisiana, whose residence has not been established in another state by operation of law, and who is in the state for the purpose of making a home and not solely for school purposes.

Resident School System—the city or parish public school system within the boundaries of which the student resides and which the student is zoned to attend.

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

Students with Exceptionalities—a student identified as having a disability consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5 and R.S. 17:4037.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1505. Student Eligibility

A. For a student to be eligible for an ESA, the following conditions must be met:

1. The student must be a resident of Louisiana and meet at least one of the following:

a. The student participated in the Louisiana Scholarship Program for the previous school year.

b. The student is entering kindergarten.

c. The student was enrolled in a public school for the previous school year.

d. The student is from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines.

2. An applicant must submit an application according to a process and timeline outlined by the LDOE and provide information as required by the LDOE.

3. An applicant must attest to and agree with, at a minimum, the following:

a. The applicant has full authority to make this application for the prospective participating student and to attest to and take all of the actions herein listed;

b. The applicant will provide for the education of the participating student in at least the subjects of English language arts (ELA), mathematics, social studies, and science;

c. The applicant will use account funds only for qualified education expenses of the participating student;

d. The applicant will ensure the provision of an education for the participating student that satisfies the compulsory school attendance requirement. Each participating student who fails to comply with the attendance requirements shall be reported to the state director of child welfare and attendance by the participating nonpublic school or service provider and shall be subject to the provisions of R.S. 17:233 which may include referral to juvenile or family court;

e. The applicant agrees that the student will participate in student assessments as required by BESE policy including arranging transportation to and from the testing location;

f. The applicant agrees to comply with the acceptable uses of ESA funds and all responsibilities as the account holder;

g. The applicant agrees to comply with all statutory and regulatory program requirements;

h. The applicant agrees to immediately disenroll from the LA GATOR program upon enrollment in a public school, home study program, Course Choice Program, or School Choice Program for Certain Students with Exceptionalities;

i. The applicant agrees that the student shall not participate concurrently with a home study program approved by BESE or a home study program registered with LDOE as a nonpublic school not seeking state approval, the Course Choice Program, or the School Choice Program for Certain Students with Exceptionalities;

j. The applicant agrees to share the participating student's personally identifiable, assessment, performance, and attendance information with the LDOE to be used to monitor program effectiveness and for other purposes consistent with state law and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1507. Student Application Process

A. The LDOE shall commence accepting online student applications no later than March 1, 2025, for the 2025-2026 school year. For the 2026-2027 school year and beyond, online applications will be accepted beginning with a date specified by the LDOE to facilitate efficient administration and participation in the program.

B. An online application must be completed and submitted according to procedures, including the provision of information and deadlines, set by the LDOE.

C. If an application is denied, the LDOE shall notify the applicant, outlining the reasons for the denial and steps to rectify the submission and appeal the denial.

D. If an application is approved so that a student is deemed eligible, then an account will be awarded except as limited by the legislative appropriation.

E. The LDOE shall inform the account holder, at the time of the participating student's initial entry into the program and at the beginning of the student's school year in grades eight through twelve, of the eligibility requirements for the Taylor Opportunity Program for Students for participating students as provided in R.S. 17:5029(F).

F. An applicant may apply annually to the program, except for an account that has been terminated pursuant to §1513.A.4 of this Chapter.

G. Existing account holders must submit an annual renewal application according to procedures established by the LDOE to ensure continued eligibility according to program requirements. Failure to annually reaffirm participation may result in a suspension of quarterly funding allocation to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1509. Funds Transfer and Management

A. The LDOE shall establish procedures to effectuate the ESA funds transfer process into accounts and from accounts to nonpublic schools and service providers.

B. The program manager will facilitate the electronic transfer of funds to accounts and to nonpublic schools and

service providers through procedures established by the program manager and the department.

C. Tuition and fee payments will be transferred quarterly to participating nonpublic schools subject to submission of required student enrollment and attendance data for the quarter according to the procedures established by the LDOE.

1. If a participating school requires partial payment of tuition or fees prior to the start of the school year to reserve space for a student, the LDOE may transfer the partial payment prior to the start of the school year and deduct the amount from subsequent quarterly account deposits to ensure adequate funds remain available throughout the school year; however, if the parent decides not to use the school or service provider, the school or service provider shall return the partial reservation payment to the LDOE, which shall credit the amount to the account.

D. Frequency of payments to service providers will be established according to procedures developed by LDOE and commonly used within marketplace settings.

E. If a student begins participating in the LA GATOR Program for less than an entire school year, the ESA award amount transferred to the account shall be prorated for that school year.

F. If the account holder is unable to administer a student's account for any reason, the account holder may file a request to designate a secondary account holder at any time during the school year. The LDOE will approve a secondary account holder request if the proposed secondary account holder is deemed one of the following:

1. a biological or adoptive parent;
2. a legal guardian or custodian;
3. a person standing in loco parentis to a participating student; or
4. another person with legal authority to act on behalf of a participating student.

G. The LDOE shall allow an applicant parent for multiple participating students to access all accounts through one portal, but with the individual accounts remaining separate and segregated at all times.

H. Funds remaining in an account closed when a participating student becomes ineligible or withdraws from the LA GATOR Program during the fiscal year, will be transferred by the program manager to the department for use towards new accounts as feasible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1511. Use of Funds

A. Any of the following expenses are allowable for the use of the funds deposited in the ESA according to established procedures:

1. tuition or fees at a participating nonpublic school or for nonpublic online learning programs;
2. curricula and textbooks or other instructional materials, including but not limited to supplemental materials or online instruction required by a participating nonpublic school or service provider;
3. tuition, fees, instructional materials, and examination fees at a career or technical school;
4. fees for assessments approved by the LDOE, Advanced Placement examinations, CLEP examinations,

International Baccalaureate examinations, and other examinations related to postsecondary education institution admission;

5. educational services and therapies, including but not limited to occupational, behavioral, physical, speech-language, and audiology therapies;

6. tuition and fees at a postsecondary education institution providing instruction for a student participating in dual enrollment;

7. tutoring provided by a tutor or a tutoring service;

8. services contracted for and provided by a participating public school, including, but not limited to, individual classes and extracurricular activities and programs;

9. computer hardware or other technological devices primarily used to help meet a student's educational needs;

10. educational software applications;

11. school uniforms;

12. tuition or fees for summer education programs and before or after-school education or childcare programs that offer academic support;

13. parent navigation services, including professional consultations to assist parents with the selection of, application for, and enrollment in educational services addressing the academic needs of students, curriculum selection, and advice on career and postsecondary education opportunities; and

14. any other educational supplies or expenses approved by BESE.

B. A student participating in the LA GATOR Program may use account funds to obtain educational services through in-person education, virtual education, or a hybrid approach that combines both methods.

C. An account holder may only use funds in an account for the participating student to whom the funds were allocated.

D. ESA funds may not be used for tuition or fees at a non-participating nonpublic school.

E. Account holders are not required to spend the entire sum each year; however, a portion of the funds must be used each year on approved expenses for the benefit of the student participating in the LA GATOR Program.

F. Any unused funds in a student's account at the end of an academic year will remain in the renewed account and carry forward for the student's use during the upcoming academic year so long as their eligibility and participation in the program is maintained.

G. Any tuition or fees charged by a participating school, program, postsecondary institution, or service provider that exceed the ESA amount shall be the responsibility of the account holder.

H. The LDOE shall provide account holders with a written explanation of the allowable uses of ESA funds and the responsibilities of account holders regarding ESA funds. The LDOE shall also provide account holders a written explanation of the department's duties.

I. No account funds shall be refunded, rebated, or shared with a parent or student in any manner. Any rebate or refund for goods or services purchased with account funds shall be credited directly to the account.

J. If account funds are used to make a partial payment to a participating school or service provider to reserve a student's enrollment and the student does not participate, the participating school or service provider must electronically credit such payment back to the student's account within 30 days after receiving notice that the student will not participate or after the services have commenced, whichever occurs first.

K. No later than the beginning of the 2026-2027 school year, funds may be used to pay for more than one school or provider.

L. Funds will be directed by account holders to purchase services from participating schools and/or service providers for approved expenses as provided in §1511 of this Chapter according to guidelines established by the LDOE.

M. The account holder may transfer the participating student from the participating school to another participating school in accordance with procedures set by the LDOE.

N. If the LDOE determines that ESA funds have been misused, the department shall notify the account holder; and the account holder shall repay the misused amount in the manner and within the timeframe set by the department. Additionally, the LDOE is authorized to freeze or withdraw funding directly from the student's ESA for reasons including, but not limited to, fraud, misuse of funds, account holder failure to comply with state laws, rules, procedures, or the agreement, the participating student's return to the resident school system, or the funds having been deposited into the account in error.

1. The LDOE shall conduct an inquiry into any report of fraud, or make a referral to the appropriate agency for an investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1513. Termination of Student Eligibility and Account

A. A participating student shall cease to be eligible to participate in the LA GATOR Program when the participating student meets at least one of the following, whichever occurs first:

1. enrolls full-time in a public school;

2. ceases to be a resident of Louisiana;

3. is found to have any fraudulent representation in the application for the account or in conjunction with payment of funds therefrom;

4. graduates or withdraws from high school;

5. the account has been inactive for two consecutive years unless inactivity is due to a lack of available funding for accounts.

B. The LDOE may deem any participating student ineligible for the LA GATOR Program if the participating student or account holder has failed to comply with the requirements of this Chapter or has committed financial malfeasance.

C. A participating student may voluntarily withdraw from the LA GATOR Program at any time. The account holder shall complete the procedures for withdrawal from the LA GATOR Program as set by the LDOE.

D. If a participating student becomes ineligible to participate in the LA GATOR Program for any reason or withdraws from the LA GATOR Program, the participating student's ESA shall be closed and any remaining funds shall be returned to the LDOE.

E. If an account holder does not renew for two consecutive school years, the LDOE will send a notice that the account will be terminated. If no response is received within 60 days of this notice, the account will be closed, and all remaining funds from the account will be returned to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1515. Nonpublic Schools Eligibility and Application

A. A nonpublic school applying to participate in the ESA program must meet one of the following:

1. be approved by BESE as an accredited approved school, Louisiana Montessori accredited approved school, or Louisiana Montessori provisionally accredited approved school;

2. provide evidence that it is working toward accreditation and has met all other criteria for approval as a nonpublic school; or

3. be approved as a non-accredited school and receive a successful evaluation of academic and safety criteria according to a process developed by LDOE.

B. To be considered for participation in the ESA program, a nonpublic school must complete and submit an online application by the LDOE's annual deadline.

1. Nonpublic schools must agree and attest at a minimum to the following as a condition of the application, and annually if approved as a participating school:

a. accept account funds for providing only services covered as approved expenses as detailed in §1511 of this Chapter;

b. notify the LDOE within 5 days if a participating student withdraws or accumulates five or more unexcused absences within one semester;

c. remain in compliance with the criteria set forth in *Brumfield, et al. v. Dodd, et al.* 425 F. Supp.528;

d. ensure that all personnel with supervisory or disciplinary authority over participating students have cleared a criminal background check and fingerprinting process pursuant to R.S. 15:587.1 and 15:587.3 and that the school meets deadlines for completion of the background check and fingerprinting by deadlines determined by the LDOE;

e. annually report its full-time tuition and fees to the LDOE;

f. hold valid occupancy of buildings as required by the relevant municipality in which the nonpublic school is located;

g. operate according to its published disciplinary procedures that, at a minimum, outline the terms and conditions regarding the expulsion of a student and conform to the requirements of R.S. 17:416.1 regarding corporal punishment;

h. administer student assessments in accordance with §1525 of this Chapter.

2. If a nonpublic school is expected to receive more than \$100,000 of account funds in a school year, the nonpublic school must meet at least one of the following additional criteria annually to participate in the program:

a. provide evidence that supports the nonpublic school has been in operation for at least three (3) school years; or,

b. provide a statement by a certified public accountant confirming that the school is insured and has sufficient capital or credit to operate in the upcoming school year;

c. files with the LDOE a surety bond or letter of credit for the amount equal to the account funds needed by the nonpublic school for any school year.

C. A nonpublic school may be deemed ineligible to participate in the LA GATOR Program if any of the following conditions occur:

1. failure to comply with the terms of this Section; or

2. failure to adhere to the tenets of its published disciplinary procedures before expelling a participating student; or

3. failure to comply with all applicable state laws and rules governing nonpublic schools and with all applicable health and safety laws and rules; or

4. previous determination of ineligibility for participation in the Louisiana Scholarship Program.

D. A participating nonpublic school shall notify the LDOE within thirty (30) days of taking any action rendering the school ineligible to participate in the LA GATOR Program.

E. Any nonpublic school participating in the Louisiana Scholarship Program during the 2024-2025 school year, provided that it has not subsequently been found to be ineligible to participate in the Louisiana Scholarship Program, may participate in the LA GATOR Program during the 2025-2026 school year without undergoing a separate application or approval process. Such a nonpublic school opting to participate in the LA GATOR Program will be required to register and attest to program requirements according to the process outlined by the department.

1. For each school year thereafter, such schools shall comply with the LA GATOR Program requirements with respect to the application process.

F. Participating nonpublic schools shall not charge an ESA account holder additional tuition or fees that are not also charged to non-participating students.

G. An ineligibility determination is subject to appeal pursuant to §1519 of this Chapter.

H. A participating school shall not be required to alter its creed, practices, admissions policy, or curriculum to accept payments from an ESA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1517. Service Providers Eligibility and Application

A. A service provider must complete and submit an online application by the deadline set by the LDOE to be considered for participation in the ESA program.

B. Each public school governing authority may adopt a policy allowing it to become a service provider and accept account funds for providing services enumerated in §1511 of this Chapter to a participating student who may receive services in a school under its jurisdiction or who may take individual courses provided by such a school without being enrolled in the school.

C. A charter school not approved for charter renewal by the authorizer will not be eligible to participate in the LA GATOR Program as a service provider beginning with the following school year.

D. Service providers must attest, at a minimum, to accept account funds for providing only services covered as approved expenses as detailed in §1511 of this Chapter and must reaffirm such attestation annually if approved as a participating service provider.

E. Service providers may also be required to attest in writing to additional provisions as applicable, including:

1. ensure that all personnel with supervisory or disciplinary authority over participating students have cleared a criminal background check and fingerprinting process pursuant to R.S. 15:587.1 and 15:587.3;

2. notify the LDOE within 5 days if a participating student withdraws or accumulates five or more unexcused absences;

3. annually report its pricing structure and fees for each service or product provided to the LDOE;

4. hold valid occupancy of buildings to be occupied by students as required by the relevant municipality in which the service provider is located;

5. operate according to its published disciplinary procedures that, at a minimum, outline the terms and conditions regarding the discontinuation of recurring services for a participating student;

6. administer student assessments in accordance with §1525 of this Chapter.

F. If a service provider is budgeted to receive more than \$100,000 of account funds in a fiscal year, the service provider must meet at least one of the following criteria annually to participate in the program:

1. provide evidence that supports the service provider has been in operation for at least three (3) school years; or,

2. provide a statement by a certified public accountant confirming that the service provider is insured and has sufficient capital or credit to operate in the upcoming school year; or

3. files with the LDOE a surety bond or letter of credit for the amount equal to the account funds needed by the service provider for any school year.

G. Service providers approved as student-facing providers of instructional services will be required to provide additional information regarding the education and qualifications of tutors or instructors. Such information will be provided to account holders to use in the selection of a service provider.

H. A participating service provider shall not be required to alter its creed, practices, admissions policy, or curriculum to accept payments from an ESA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1519. Appeals Process

A. The following decisions of the program administrator may be appealed:

1. denial of a school or service provider application to participate;

2. suspension or termination of a participating school or service provider from the LA GATOR Program;

3. restriction of the ability of a participating school or service provider to serve additional students;

4. denial of an account holder's application to participate in the LA GATOR Program;

5. determinations regarding the use of funds by account holders; or

6. suspension, termination, or removal of a participating student from the LA GATOR Program.

B. All appeals shall be filed pursuant to the following process:

1. The appeal shall be submitted to the LDOE on the form provided by the LDOE within ten business days of notice of the decision being appealed. Date of submission shall be determined as three days from the date of postmark for a mailed submission or as the business day on which an electronic submission is received.

2. Notice of receipt of the appeal shall be provided electronically and via first-class USPS mail and shall be deemed to be received three business days after the date of postmark.

3. The appeal shall be reviewed by the LDOE, and a decision shall be issued within forty-five calendar days of receipt of the appeal.

4. The appellant shall be notified of the LDOE decision electronically and via first-class USPS mail. Such notice shall be deemed received three business days after the date of postmark.

C. If the deadline to submit an appeal falls on a weekend or state holiday, the appeal shall be considered submitted in a timely manner if it is received by the next business day after the weekend or state holiday. An appeal not submitted in a timely manner shall be denied.

D. A nonpublic school or service provider may apply for reinstatement if it returns to compliance with §1515 or 1517 of this Chapter, as applicable.

1. The LDOE shall determine whether the nonpublic school or service provider is not in compliance with these rules and issue a formal notice of its determination to the nonpublic school or service provider.

2. A nonpublic school or service provider applying for reinstatement under this Section shall provide documentation to the LDOE of the nonpublic school's efforts to come back into compliance with these rules. Upon receipt of the evidence, the LDOE shall issue a decision regarding the nonpublic school's reinstatement in writing to the nonpublic school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; and R.S. 17:4037.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1521. Special Education Services

A. Prior to the enrollment process, the LDOE shall provide information to parents regarding the services available to students with disabilities.

B. A parent may make a parental placement to receive special education and related services from a participating school that has demonstrated the capacity to offer such services in accordance with LAC 28:XLIII.

C. A participating school may adhere to its own admissions policy in considering the admission of students participating in the LA GATOR Program but shall not discriminate against a student with disabilities during the LA GATOR Program admissions process.

D. If a participating student enrolled in a participating school would have been entitled to receive special education services in the resident school system, the parent shall acknowledge in writing, as part of the LA GATOR Program enrollment process, that the parent agrees to accept only such services as are available to all students enrolled in the participating school.

E. A participating school is required to offer only the services that it already provides or such services as necessary to assist students with disabilities that it can provide with minor adjustments.

F. A city or parish public school system or a public charter school may apply to become a service provider of special education services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.3; R.S. 17:4037.5; and R.S. 17:4037.9.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1523. LA GATOR Program Funding

A. Funding of student accounts is subject to annual legislative appropriation of state funds available for the program. Neither BESE nor the LDOE is obligated to provide funding in any year in which funding is not appropriated or is insufficient to provide account deposits to all eligible students.

B. If allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

c. siblings of students currently participating in the LA GATOR Program;

d. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Section.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

C. The maximum annual award amount to which participating students are entitled under the LA GATOR Program shall be calculated based on the prior year Minimum Foundation Program (MFP) formula average state

and local per pupil amount times a specific percent. The 2024-2025 MFP state and local per pupil amount is \$9,533.

1. For the 2025-2026 school year, the award will be the following:

a. for a student identified as having a disability consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1401, an award up to one hundred sixty percent of the amount, or up to \$15,253;

i. Amounts awarded will be calculated according to a tiered methodology established by the LDOE;

b. for a student from a family with a total income that does not exceed two hundred fifty percent of the federal poverty guidelines, an award equal to eighty percent of the amount, or \$7,626;

c. for any other student, an award equal to fifty-five percent of the amount, or \$5,243.

D. The maximum annual award amount to which LA GATOR participating students are entitled shall be adjusted in any school year for which the approved prior year MFP formula average state and local per pupil amount increases.

E. Students having participated in the Louisiana Scholarship Program during the 2024-2025 school year, subject to the allocation of state funds, shall be awarded an amount equal to the award amount received during the 2024-2025 school year and shall continue to receive this award until the student completes the school's terminal grade or until the student leaves the school, whichever comes first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.6; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1525. Assessments

A. The LDOE shall develop a process for the annual administration of the following for participating students:

1. assessment in ELA and mathematics required pursuant to the school and district accountability system at the prescribed grade level; or

2. a nationally norm-referenced test or assessment in ELA and mathematics approved by BESE and provided by the participating school or, as applicable, service provider.

B. Participating students not enrolled in a nonpublic school must encumber funds sufficient to cover the cost of assessment administration.

C. Upon BESE approval, a participating nonpublic school or service provider may select an assessment substantially aligned with its program of study and the student's grade level to be administered to participating students.

D. A student with an exceptionality shall not be required to take any assessment from which the student would be exempt if enrolled in a public school.

E. Each participating school or, as applicable, service provider that enrolls one or more participating students shall provide the following information to the LDOE no later than June 30, 2026, and annually thereafter no later than June 30:

1. a list of participating students who have taken an examination or norm-referenced test pursuant to this Section and the achievement results for each student;

2. For each participating student, the following shall be provided as applicable:

a. highest score earned on ACT, CLT, SAT, WorkKeys, or ASVAB, if taken;

b. an updated transcript in the state's student transcript system for any student in grades 9-12 to include the number of college credits earned through dual enrollment and advanced placement.

F. The LDOE shall develop a process for the collection and aggregate reporting of assessment results and shall ensure that the results of such assessments are provided to parents of participating students and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1527. LA GATOR Program Evaluation

A. The LDOE shall annually administer a survey to account holders to assess their satisfaction with the department's administration of the LA GATOR Program and their experience with participating schools and service providers. The survey shall collect no more than one (1) response from each account holder according to timelines established by the department.

B. The LDOE shall provide for a system by which parents of current or formerly participating students can publicly rate, review, and share information about participating schools and service providers limiting the publication of comments strictly for such purposes. LDOE may adopt terms of use for any such system limiting comments to such purpose only and prohibiting the publication of threats, profane language, and sexual content.

C. The LDOE shall annually issue a written report to the Senate Committee on Education, the House Committee on Education, and the Joint Legislative Committee on the Budget regarding the implementation of the LA GATOR Program in accordance with R.S. 17:4037.11.

1. The report shall include, at a minimum:

a. total number of students participating in the program;

b. a list of participating schools and service providers;

c. the total student enrollment of each participating school, the number of participating students enrolled in each school, and the percentage of the total enrollment of each school represented by program participants;

d. aggregate student performance data provided according to §1525 of this Chapter;

e. the percentage of funds used for each type of qualified education expense;

f. an analysis of the financial impact of the program;

g. the amount withheld for program administration to include the amount retained by LDOE and the amounts paid to the program manager or vendors for program and payment system administration;

h. the amount of program funds received by each participating school and service provider;

i. tuition amounts charged by participating schools; and

j. aggregate results of the parent satisfaction survey administered according to this Section.

D. The LDOE shall establish a dedicated phone line for the exclusive use of the program. The department shall implement customer service performance management policies, procedures, and metrics for the dedicated call center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.8; and R.S. 17:4037.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1529. Monitoring and Compliance

A. The LDOE shall contract with an independent audit firm to conduct a compliance audit to ensure funds are used only for allowable expenses and other provisions in the program as deemed appropriate.

1. The LDOE shall maintain a copy of the audit plan and all associated audit reports in accordance with the records retention schedule approved by the Secretary of State.

B. The LDOE shall establish an online anonymous fraud reporting service. Individuals may notify the LDOE of any alleged violation by an account holder or participating school(s) of state laws, rules, or procedures relating to the LA GATOR Program. The department shall conduct an inquiry into any report of fraud, or make a referral to the appropriate agency for an investigation, including but not limited to the Office of the Attorney General of Louisiana.

C. In accordance with the procedures set by the LDOE, the department may remove any account holder from eligibility for an ESA if the account holder fails to comply with the terms of the agreement or applicable laws, rules, or procedures, or misuses funds.

1. The LDOE shall investigate any report of fraud or refer the matter to the appropriate agency, including but not limited to the Office of the Attorney General of Louisiana, for investigation.

D. If the LDOE determines that a participating nonpublic school or service provider has failed to maintain continuing eligibility criteria or has demonstrated a gross or persistent lack of academic competence or lack of compliance with the statute and BESE policy, the department shall restrict the school's ability to serve additional students through the LA GATOR Program and may terminate participation in the LA GATOR Program.

1. The state superintendent of education may declare a nonpublic school or service provider ineligible to participate in cases of financial malfeasance or if participation endangers the academic welfare, health, or safety of children.

2. The LDOE shall report termination of the participation of a nonpublic school or service provider to parents of participating students as soon as practicable, and any such action shall be reported to BESE annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; and R.S. 17:4037.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1531. Return to the Resident School System

A. A participating student who is otherwise eligible to return to their resident school system may return to the resident school system at any time after enrolling in the LA GATOR Program. Upon enrollment in the resident school system, the student's participation in the LA GATOR Program shall be terminated.

B. If a participating student enrolls in the resident school system, the account holder shall notify the LDOE in accordance with the procedures and timelines set by the department.

C. Upon enrollment in the resident school system, if the account holder requests an evaluation for eligibility pursuant to the Individuals with Disabilities Education Act, the resident school system shall treat the request as a request for an initial evaluation pursuant to LAC 28:XLIII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1533. Account Termination

A. If an account holder has violated the requirements of this Chapter, the LDOE may terminate the student's account.

1. Following the termination of a student's account, the LDOE shall provide written notice of such closure to the account holder within 48 hours. The notice will detail the reason for the termination and notify the account holder of the process to appeal a decision or action of the department.

B. If a participating school or service provider has violated the requirements of this rule, the LDOE may restrict its ability to serve additional students through the LA GATOR Program and may terminate its participation in the program.

1. As soon as practicable, following the termination of a participating school or service provider, the LDOE shall report any such action to the state board and to the parents of participating students.

C. Upon termination of a student's participation in the LA GATOR Program, the LDOE shall close the participating student's ESA and any remaining funds shall be returned to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; R.S. 17:4037.6; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

§1535. Conflict of Interest

A. Use of ESA funds must be for the sole benefit of the participating student for which the ESA is established. ESA funds shall only be used by the account holder for qualifying expenses.

B. It is a conflict of interest and is considered a misuse of ESA funds and a violation of LA GATOR Program rules and procedures for an account holder to provide ESA funds directly to his or her family member(s), or to any company, corporation, or business owned by his or her family member(s). Family member(s) shall include an account holder's spouse, parent, step-parent, parent-in-law, child, step-child, son-in-law, daughter-in-law, brother, sister, or any person who resides in the same household as a participating student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? Yes.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? Yes.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, October 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary

Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Tavares A. Walker
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 133—Scholarship Programs
Education Savings Account**

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

The proposed rule change, providing the developmental and operational framework for the Louisiana Giving All True Opportunity to Rise (LA GATOR) scholarship program, will result in increased implementation costs to the Louisiana Department of Education (LDOE). LDOE requires one (1) Education Program Consultant (EPC) 4 position and one (1) Budget Analyst 4 position to support program operations. The EPC 4 will develop programmatic guidance and policy, manage the program administrator, and coordinate public outreach. FY 25 costs associated with this employee are estimated at \$138,587 (\$84,989 salary, \$37,098 related benefits, and \$16,500 operating expenses). The Budget Analyst 4 will manage the fiscal part of the program and, in collaboration with other LDOE finance staff and the program administrator, ensure that the program has appropriate fiduciary accountability. FY 25 costs associated with this employee are estimated at \$123,139 (\$74,235 salary, \$32,404 related benefits, and \$16,500 operating expenses). These costs are expected to increase incrementally each year.

Act 1 of the 2024 RS permits LDOE to enter into a contract with a program manager (also referenced as program administrator). Based on contract negotiations with the selected vendor, Primary Class Inc., (Odyssey) the one-time initial start-up cost for the program is estimated at \$350,000. This includes costs to design an electronic process that aligns with policy adopted by BESE, including application acceptance and approval, account management, review and approval of account expenditures, a payment process, and development of program and fiscal reports. The vendor will charge an account management fee of \$143.50 per student.

Additionally, there will be costs incurred to hire an external auditor for the LA GATOR program. Currently, costs for external audits of scholarship programs total approximately \$850,000 annually; however, the scope of the audit for the program, as required by the proposed rules will be more extensive, making the audit cost of the new program indeterminable at this time.

The program will result in indeterminable costs to fund accounts for participating students. At this time, the number of students that will apply to participate is unknown. In addition to this, award amounts are dependent on a specific participant's characteristics as outlined in the proposed rule and detailed below. Regardless of the number of applicants, the number that will be able to participate is dependent on legislative appropriation of funding for accounts.

For the 2025-2026 school year, if only the estimated 6,000 students currently participating in Student Scholarships for

Education Excellence Program (SSEEP) participate in LA GATOR and receive the same FY 25 average award amount of \$7,023, the estimated cost to fund scholarship accounts will total \$42 M and management fees for these accounts will total \$858,000. The FY 25 budgeted amount for these students in SSEEP is \$44,565,189. It is unknown whether all of these students will choose to participate in the program.

Additional students who choose to participate, are eligible, and are funded through legislative appropriation will receive account deposits as follows: (1) students with disabilities will receive an award up to \$15,253, as calculated according to a tiered methodology which will be established by LDOE; (2) students without disabilities whose families report a total income that does not exceed 250% of the federal poverty guidelines will receive an award equal to \$7,626; and (3) all other students will receive an award equal to \$5,243. These awards are based off of a percentage of the 2024-2025 average MFP state and local per pupil amount. Should the MFP average increase in subsequent years, the award amounts will also be adjusted. The number of families that will choose to apply, the number of eligible students, the award category into which they will fall, and the legislative appropriation determining whether they participate are all unknown at this time.

For informational purposes, in the event the legislature was to fund accounts for the estimated 150,000 current non-public students, the total cost of the LA GATOR program, using the minimum award amount of \$5,243, in addition to a per participant administrative cost of \$143.50, would approach \$1 B annually.

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

The fiscal impact on revenue collected by local education agencies (LEAs) will vary based on the extent to which students currently funded through the Minimum Foundation Program (MFP) participate in the LA GATOR program and on the extent to which local systems enroll as service providers to provide additional courses or services through the program. While students who leave the public school system will result in a decrease in revenues for LEAs, students who participate in LA GATOR and use account funds to enroll in services provided by participating LEAs will increase anticipated revenue collections.

SGF revenues may shift depending on how education savings accounts impact the annual amount of tax credits claimed for nonpublic school tuition expenses. This tax credit permits parents to annually claim up to \$6,000 of nonpublic school tuition costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Families of current Student Scholarships for Educational Excellence Program (SSEEP) students should experience little impact, as those students will continue to be funded at the same rate until they graduate or exit the terminal grade of the school in which they are currently enrolled. Families of entering kindergarteners or current public school students who would have chosen to enroll their children in nonpublic school the following year but who choose to participate in the LA GATOR program will benefit from program funding. Families of current nonpublic school students who fall below 250% of the federal poverty guidelines and who participate in the program will benefit by having to fund less of their children's tuition and fees through their personal finances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional competition for student enrollment may result from the program. This will primarily be due to whether or not public schools opt to allow for part-time enrollment for

students seeking to participate in specific programs, courses or activities. It is expected these spots, like those in programs targeted towards students with disabilities, will be limited. There is a potential the implementation of LA GATOR will lead to the opening of additional nonpublic education institutions in order to provide services for an increased student population. If this were to occur, increased competition between institutions may result.

Beth Scioneaux
Deputy Superintendent
2409#056

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs
2024 Legislation and Louisiana GO Grant
(LAC 28:IV.301, 704, 804, and 1203 and Chapter 13)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements COVID-19 as a circumstance for which students may request an exception to the continuous, full time, and earned annual hours requirements for TOPS. (SG25218NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa. The term “the board” refers to the Louisiana Board of Regents.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation. Effective with the 2024-2025 award year, this calculation has been replaced with the Student Aid Index (SAI).

Steady Academic Progress—the maintenance of a minimum cumulative grade point average of 2.00 on a 4.00 scale, except at eligible cosmetology or proprietary schools, where it is meeting the federal grant aid requirement for steady academic progress at that school.

Student Aid Index (SAI)—an eligibility index number that a college's financial aid office uses to determine how much federal student aid a student would receive if they attended that school.

Substantial Financial Need—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1880 (November 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:486 (March 2018), LR 45:1172 (September 2019), LR 48:479 (March 2022), LR 50:185 (February 2024), LR 50:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§704. Opportunity, Performance, and Honors Award Core Curriculum and Equivalent

A. - A.10. ...

11. Beginning with the graduates of academic year (high school) 2028-2029, at the time of high school graduation, an applicant must have successfully completed 20 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Department of Education as follows:

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math- Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL; Computer Science
Science - 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, IB Physics II, or AP Physics II; Biology II or AP Biology or IB Biology II; Computer Science
Social Studies – 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics, Economics, AP Macroeconomics, or AP Microeconomics; African American History.
Foreign Language – 2 Units Or Computer Science- 2 Units	
2	Foreign Language, two units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB. Or Computer Science, two units, which may include: AP Computer Science A;

Units	Course
Art – 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
1	Financial Literacy
Computer Science – 1 Unit	
The requirement shall be satisfied as a math elective, as a science elective, or as a foreign language.	

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 50:188 (February 2024), LR 50:

Chapter 8. TOPS-Tech Award

§804. TOPS-Tech Award and Core Equivalents

A. - A.7. ...

8. For students graduating in the 2027-2028 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
1	Geometry or an applied Geometry course
1	Financial Literacy
1	Algebra II, Math Essentials, Business Math, Algebra III, Advanced Math -Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, Computer Science, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, Computer Science, Physics, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major. One of these courses shall be Computer Science, unless Computer Science is taken to fulfill a math or science elective.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 50:206 (February 2024), LR 50:

Chapter 12. Louisiana GO Grant

§1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa. The term “the board” refers to the Louisiana Board of Regents.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation. Effective with the 2024-2025 award year, this calculation has been replaced with the Student Aid Index (SAI).

Federal Pell Grant—the Pell Grant provided under title IV of the Higher Education Act of 1965, as amended.

Financial Need—the student's costs of attendance at the institution attended minus the student aid index (SAI).

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a GO Grant recipient is enrolled for measuring a student's progress in his or her educational program.

Student Aid Index (SAI)—an eligibility index number that a college's financial aid office uses to determine how much federal student aid a student would receive if they attended that school.

Undergraduate Program—a program of study that is designed to lead to a certificate or undergraduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3046 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2615 (December 2007), amended LR 34:236 (February 2008), LR 35:647 (April 2009), LR 35:2349 (November 2009), LR 36:2853 (December 2010), LR 39:2234 (August 2013), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:536 (March 2018), LR 48:485 (March 2022), LR 50:

Chapter 13. Leveraging Educational Assistance Partnership (LEAP)

§1301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1458 (August 1999), repromulgated LR 27:1860 (November 2001), amended LR 28:2332 (November 2002), LR 32:2239 (December 2006), LR 33:440 (March 2007), LR 34:240 (February 2008), LR 34:1885 (September 2008), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:540 (March 2018), repealed LR 50:

§1303. Establishing Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:641 (April 1998), amended LR 24:1910 (October 1998), LR 25:1459 (August 1999), repromulgated LR 27:1861 (November 2001), amended LR 28:448 (March 2002), LR 35:1491 (August 2009), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:540 (March 2018), repealed LR 50:

§1305. Maintaining Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:642 (April 1998), LR 24:1911 (October 1998), amended LR 25:1459 (August 1999), repromulgated LR 27:1861 (November 2001), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:541 (March 2018), repealed LR 50:

§1307. Annual Application for Participation in, and Certification of Recipients of the LEAP Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:541 (March 2018), repealed LR 50:

Family Impact Statement

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

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG25218NI) until 4:30 p.m., October 10, 2024, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
2024 Legislation and Louisiana GO Grant**

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

There are no anticipated costs or savings to state or local governmental units as result of the proposed rule change outside the cost associated with the rulemaking process.

The proposed change implements the provisions of Act 211 of the 2024 Regular Session of the Louisiana Legislature, which adds a requirement that students must earn one Carnegie unit of credit in Computer Science to meet the TOPS Tech, Opportunity, Performance, and Honors core curricula. It also adds a new definition for “Student Aid Index” which will replace the “Expected Family Contribution” metric in the 2024-2025 award year. Finally, the proposed change deletes the Leveraging Educational Assistance Partnership (LEAP) Program as well as the definition for substantial financial need, which is only applicable to the LEAP Program. This program has not been funded since 2011, and as a result, it is no longer necessary to provide administrative rules for it.

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

No direct material change in revenue is anticipated resulting from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not provide or impact economic benefits to DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these changes.

Robin Rhea Lively
Senior Attorney
2409#045

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs
2024 M.J. Foster Legislation
(LAC 28:IV.Chapter 22)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking implements House Bill 782 and Act 102 of the 2024 Regular Session of the Louisiana Legislature with respect to the M.J. Foster Promise Program (SG25217NI)

Title 28

EDUCATION

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

**Chapter 22. M.J. Foster Promise Program
§2203. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa. The term *the board* refers to the Louisiana Board of Regents.

* * *

Award Year—the period beginning July 1 through the following June 30.

* * *

One Year—365 days.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:1094 (April 2022), LR 50:

§2205. Initial Eligibility

A. To be eligible for an M.J. Foster Promise Award, a student must:

1.a. for the 2022-2023 and 2023-2024 award years, be at least 21 years of age as of the date of application;

b. for the 2024-2025 award year, be at least 20 years of age as of the date of application;

c. for the 2025-2026 award year, be at least 19 years of age as of the date of application;

d. for the 2026-2027 award year, be at least 18 years of age as of the date of application; and

e. for the 2027-2028 award year and thereafter, be at least 17 years of age as of the date of application.

A.2. - C. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:1095 (April 2022), LR 50:

§2209. Responsibilities of Eligible Colleges

A. - B. ...

C. Packaging Policy

1. Eligible colleges must establish and use a policy on M.J. Foster Promise Program packaging that provides:

a. procedures for compliance with these rules and the guidance established by the board and published by LOSFA for determining the award amount;

b. record retention to comply with Subsection J. of this Section;

c. the basis used to establish award amounts;

d. award amounts for less than full-time students;

e. procedures for identification of transfer students and ensuring transfer students receive awards on the same basis as home students;

f. procedures that identify students who meet the criteria provided in §2211.F. when sufficient funding is not available to fund all eligible students;

g. method for determining that a student has made steady academic progress;

h. the method by which funds will be disbursed to students who are enrolled in a high-cost program; and

i. a method by which students who are enrolled in a program of study that crosses award years are notified and acknowledge that they must reapply for M.J. Foster Promise Program funds for the new award year and that funding for the subsequent award year is not guaranteed.

2. Eligible colleges must revise the institution's M.J. Foster Promise Program packaging policy as necessary to reflect changes to the applicable legislation and administrative rules promulgated by the board to implement this program.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:1096 (April 2022), LR 50:

§2213. Responsibilities of the Louisiana Board of Regents

A. The Board of Regents shall enter into Memoranda of Understanding with the Louisiana Department of Public Safety and Corrections, the Louisiana State Police, the Louisiana Department of Revenue, the Louisiana Department of Children and Family Services, the Louisiana Department of Health, and the Louisiana Workforce Commission for the purpose of obtaining data to verify applicant statements and reporting.

B. The Board of Regents shall develop an information reporting system which shall include data on all award recipients and shall include all of the following:

B.1. - B.12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:1097 (April 2022), LR 50:

§2215. Responsibilities of the Louisiana Workforce Commission

A. Advisory Council

1. The Louisiana Workforce Commission shall convene an Advisory Council to perform the following

functions for the purpose of identifying qualified programs of study for the M.J. Foster Promise Program:

a. identify not more than five industry sectors and that lead to high demand, high wage jobs that are aligned to state workforce priorities;

b. review postsecondary education requirements of each job identified;

c. identify programs of study at the associate level and below that lead to the identified jobs in each industry sector;

d. convene the Advisory Council at least once each year for program updates;

e. review the state's return on investment in awards made at least once every three years.

2. Identification of industry sectors, high demand high wage jobs, and required degrees and credentials of the identified jobs shall, at a minimum, be based upon the following:

a. a review of the most current statewide and regional industry and occupational forecasts approved by the Occupational Forecasting Conference and the Louisiana Workforce Investment Council;

b. a review of nationally recognized databases for industry and occupational projections; and

c. input from the regional development organizations in each region.

3. The advisory council shall identify and assist in the establishment of mechanisms to support award recipients to complete a qualified program and to gain employment in the job for which training was received. Such mechanisms shall include the provision of college academic and career counseling and employer partnerships for developing mentorship programs and work-based learning experiences.

4. The advisory council shall identify and compile a list of all federal and state programs, including childcare supplements and other aid or services, that may provide additional support to award recipients to complete their postsecondary education, provide a copy to the Louisiana Board of Regents and to the Louisiana Office of Student Financial Assistance, which shall post such listing on its website.

5. The advisory council shall consist of the following members:

a. the chancellor of Louisiana State University at Eunice.

b. the chancellor of Southern University at Shreveport.

c. the president of the Louisiana Community and Technical College System.

d. the commissioner of higher education.

e. the state superintendent of education.

f. the secretary of the Louisiana Department of Economic Development.

g. the secretary of the Louisiana Workforce Commission.

h. the chairman of the Louisiana Workforce Investment Council.

i. the secretary of the Louisiana Department of Revenue.

6. The advisory council shall meet by January 1, 2022, and at least once every three years thereafter to review

the workforce priorities of the state and each of its workforce regions and designate qualified programs of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the the Board of Regents, Office of Student Financial Assistance, LR 50:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG25217NI) until 4:30 p.m., October 10, 2024, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Scholarship/Grant Programs 2024 M.J. Foster Legislation

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

There are no anticipated costs or savings to state or local governmental units as result of the proposed rule change outside the cost associated with the rulemaking process.

The proposed rule change implements Acts 102 and 633 of 2024 Regular Legislative Session. It gradually reduces the minimum age of eligibility for the M.J. Foster Promise Program from 21 to 17. For the 2024-2025 award year, an applicant must be 20 years or older; for 2025-2026, an applicant must be 19 or older; for the 2026-2027 award year, an applicant must be 18 or older; and for the 2027-2028 award year and thereafter, an applicant must be at least 17 years old. It also adds a definition of the term "One Year."

The proposed rule change removes responsibility for the program's Advisory Council from the Board of Regents and transfers it to the Louisiana Workforce Commission. It also directs the Council to convene on an annual basis as opposed to once every three years.

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

The proposed rule change is not anticipated to result in a direct material change in revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Individuals who previously would not have qualified for a M.J. Foster Promise award now could qualify based solely on

lowering the age requirement. These individuals will realize an economic benefit from the proposed rule change. The value of the award amount is \$3,200 per award year or \$1,600 per semester for a student enrolled full time; capped at a maximum of \$6,400 over a three-year period. Students enrolled in high-cost programs may receive the maximum \$6,400 if the program length is less than one year in duration. The proposed changes will not provide or impact economic benefits to small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
2409#046

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Radiation Protection
(LAC 33:XV.430, 455, 493, 763, and 1699 Appendix A)
(RP071)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection regulations, LAC 33:XV.430, 455, 493, 763, and 1699 Appendix A (RP071).

This Rule updates the regulations pertaining to dosimetry and makes miscellaneous corrections to be compatible with changes in the federal regulations. This Rule was promulgated by the Nuclear Regulatory Commission as RATS IDs 2021-1 and 2021-2. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 4. Standards for Protection against Radiation

Subchapter C. Surveys and Monitoring

§430. General

A. - C.2. ...

3. No licensee or registrant shall subtract radiation exposures from official personnel monitoring records without the prior written approval of the department.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 20:653 (June 1994), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1468 (August 2003),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2529 (October 2005), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Division, LR 41:2134 (October 2015), amended by the Office of the Secretary, Legal Affairs Division LR 50:

Subchapter G. Precautionary Procedures

§455. Procedures for Receiving and Opening Packages

A. - D. ...

1. removable radioactive surface contamination exceeds the limits of LAC 33:XV.1516.B.9; or

2. external radiation levels exceed the limits of LAC 33:XV.1516.B.10.

E. - F. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 28:1951 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2103 (October 2008), LR 50:

Subchapter J. Reports

§493. Reports of Transactions Involving Nationally Tracked Sources

A. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:2361 (November 2007), amended LR 34:243 (February 2008), LR 50:

Chapter 7. Use of Radionuclides in the Healing Arts

§763. Training

A. - A.3.b. ...

c. has experience with the radiation safety aspects of the types of use of byproduct material for which the individual is seeking simultaneous approval both as the radiation safety officer and the authorized user on the same new medical use license or new medical use permit issued by a NRC master material licensee. The individual shall also meet the requirements in Paragraph A.4 of this Section.

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

6. Physicians, dentists, or podiatrists not identified as authorized users for the medical use of byproduct material on a license issued by the NRC or agreement state, a permit issued by a NRC master material licensee, a permit issued by a NRC or an agreement state broad scope licensee, or a permit issued in accordance with a NRC master material license of broad scope on or before October 24, 2005, need not comply with the training requirements of this Chapter for those materials and uses that these individuals performed on or before October 24, 2005, as follows:

B.6.a. - K.1. ...

a. have graduated from a pharmacy program accredited by the Accreditation Council for Pharmacy Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;

K.1.b. - M....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1342 (July 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2138 (December 2018), LR 45:1179 (September 2019), LR 47:1860 (December 2021), amended by the Office of the Secretary, Legal Affairs Division, LR 49:62 (January 2023), LR 50:

Chapter 16. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material

Subchapter Z. Appendices

§1699. Appendices

Appendix A—Category 1 and Category 2 Threshold

* * *

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Note: *Calculations Concerning Multiple Sources or Multiple Radionuclides*

The "sum of fractions" methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this Chapter.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this Chapter apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

R1 = total activity for radionuclide 1

R2 = total activity for radionuclide 2

RN = total activity for radionuclide n

AR1 = activity threshold for radionuclide 1

AR2 = activity threshold for radionuclide 2

ARN = activity threshold for radionuclide n

$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \dots + \frac{R_n}{AR_n} \geq 1.0$$

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 41:2338 (November 2015), amended by the Office of the Secretary, Legal Affairs Division, LR 50:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP071. Such comments must be received no later than November 6, 2024, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP071. The proposed regulation is available on the Internet at <https://deq.louisiana.gov/page/monthly-regulation-changes-2024%20>.

Public Hearing

A public hearing will be held at the on October 30, 2024, 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 in person or via Zoom at <https://deqlouisiana.zoom.us/j/93713913864?pwd=gs6n6d3WEoKQznrEfwvWewKI9sFC.1> or by telephone by dialing (646) 255-1997 using the meeting ID 937 1391 3864, passcode 6150003. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below or at (225) 219-1325.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, 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.

Aurelia S. Giacometto
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Radiation Protection

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

There are no anticipated implementation costs or savings to state or local governmental units from the proposed rule change.

This rule change updates the regulations pertaining to dosimetry and makes miscellaneous technical corrections, to update the state regulations to be compatible with changes in the federal regulations.

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

There is no anticipated increase or decrease on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

No persons, small businesses, or nongovernmental groups are anticipated to be directly affected by the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule change will have no impact on competition and employment in the public or private sectors.

Aurelia S. Giacometto
Secretary
2409#042

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Repeal of Affirmative Defense Provisions (LAC 33:III.501, 502, 507, and 535) (AQ398)

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 Air regulations, LAC 33:III.501.B, 502.A, 507.J, and 535.A (AQ398).

This Rule will remove affirmative defense provisions from LAC 33:III.507.J and from Part 70 General Condition N of LAC 33:III.535.A and relocate the definition of “upset” from LAC 33:III.507.J.1 to LAC 33:III.502.A. On July 21, 2023, EPA removed affirmative defense provisions from its Title V Operating Permit Program regulations (i.e., 40 CFR Parts 70 and 71).^{*} These provisions established an affirmative defense that sources could have asserted in enforcement cases brought for noncompliance with technology-based emission limitations in operating permits, provided that the exceedances occurred due to qualifying emergency circumstances. According to EPA, these provisions have never been required elements of state operating permit programs and were removed because they are inconsistent with the agency’s current interpretation of the enforcement structure of the Clean Air Act in light of prior court decisions from the U.S. Court of Appeals for the D.C. Circuit.

State permitting authorities whose Part 70 programs contain impermissible affirmative defense provisions must remove such provisions from their EPA-approved Part 70 programs. EPA expects such states to submit to the agency either a program revision, or a request for an extension of time, by August 21, 2024. The basis and rationale for this Rule are to remove affirmative defense provisions from

Louisiana's air quality regulations to comply with federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.1.c. ...

d. any *upset*, as defined in LAC 33:III. 502.A; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39; or

B.1.e. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1145, 1148 (April 2011), LR 37:1391 (May 2011), LR 37:3221, 3233 (November 2011), repromulgated LR 37:3507 (December 2011), amended by the Office of the Secretary, Legal Division, LR 43:520 (March 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:2149 (November 2017), amended by the Office of the Secretary, Legal Affairs Division LR 50:

§502. Definitions

A. ...

* * *

Upset—any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emissions limitation under the permit due to unavoidable increases in emissions attributable to the situation. An upset shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 36:2553 (November 2010), LR 37:1148 (April 2011), LR 37:1391 (May 2011), amended by the Office of the Secretary, Legal Division, LR 41:2608 (December

2015), LR 42:564 (April 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:749 (April 2018), amended by the Office of the Secretary, Legal Affairs Division, LR 50:

§507. Part 70 Operating Permits Program

A. - I.4.b. ...

J. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:893 (July 2020), LR 47:355 (March 2021), LR 48:488 (March 2022), amended by the Office of the Secretary, Legal Affairs Division, LR 50:

§535. Part 70 General Conditions

A. ...

40 CFR Part 70 General Conditions	
A. - M.	...
N.	Reserved.
O. - W.	...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:658 (April 2009), amended by the Office of the Secretary, Legal Affairs Division, LR 50:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ398. Such comments must be received no later than November 6, 2024, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to

DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ398. The proposed regulation is available on the Internet at <https://deq.louisiana.gov/page/monthly-regulation-changes-2024%20>.

Public Hearing

A public hearing will be held at the on October 30, 2024, 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 in person or via Zoom at <https://deqlouisiana.zoom.us/j/93713913864?pwd=gs6n6d3WEoKQznrEfwvhvWewKI9sFC.1> or by telephone by dialing (646) 255-1997 using the meeting ID 937 1391 3864, passcode 6150003. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below or at (225) 219-1325.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, 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.

Aurelia S. Giacometto
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Repeal of Affirmative Defense Provisions

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The proposed rule change will remove affirmative defense provisions from the Louisiana Administrative Code. On July 21, 2023, the U.S. Environmental Protection Agency (EPA) removed affirmative defense provisions from its Title V Operating Permit Program regulations. According to EPA, these provisions have never been required elements of state operating permit programs and were removed because they are inconsistent with the agency's current interpretation of the enforcement structure of the Clean Air Act in light of prior court decisions from the U.S. Court of Appeals for the D.C. Circuit. State permitting authorities whose Part 70 programs contain impermissible affirmative defense provisions must align their programs with the EPA's updated guidelines.

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

There is no estimated increase or decrease in revenues to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Owners and operators of Part 70 sources will be directly affected by the proposed action, as they will no longer be able

to claim affirmative defense. There is no anticipated increase in costs, workload adjustments or additional paperwork, as a result of the proposed action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Aurelia S. Giacometto
Secretary
2409#041

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Capital Area Groundwater Conservation Commission

Measuring Well Yield (LAC 56:V.709)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted to the Capital Area Groundwater Conservation Commission (R.S. 38:3071-3084) under the authority granted by R.S. 38:3076.A.(7), (8), and R.S. 38:3076.E. that the Capital Area Groundwater Conservation Commission proposes to amend Section 709 of Chapter 7 of Part V of Title 56 to provide how well owners shall provide well yield measurement data to the Commission. This Rule change will amend LAC 56:V.709 by adopting Section 709I.B and Section 709.C.

Title 56

PUBLIC WORKS

Part V. Capital Area Ground Water Conservation Commission

Chapter 7. Rules and Regulations for Metering and/or Recording the Yield of Water Wells

§709. Records

A. The well owner shall be required to keep records of well yield and shall, on request, furnish data concerning such records to the representatives of the Capital Area Groundwater Conservation Commission [R.S. 38:3076A(8)].

B. For the data from well owners with district provided monitoring/auditing equipment, this data is provided automatically through the supervisory control and data acquisition (SCADA) system.

C. Well owners which do not have district-provided monitoring/auditing equipment, shall provide flow measurement data from each well from the month prior by the fifteenth of each month to the district staff utilizing a comma separated value (CSV) format and delivered to the district via secure file transfer protocol (SFTP), which format and delivery method may be modified over time by the commission to accommodate new technologies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079. Amended in accordance with R.S. 38:3076.A.(7), (8), and R.S. 38:3076.E.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 3:307 (July 1977), promulgated LR 33:2647 (December 2007), amended LR 50:

Family Impact Statement

The proposed Rule will have no impact on family formation, stability or autonomy, as described in R.S. 49.972B.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973B.

Small Business Analysis

The proposed Rule will have no impact on small business analysis as described in R.S. 974.5.

Provider Impact Statement

The proposed rules will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments to Gary Beard, Executive Director, Capital Area Groundwater Conservation Commission, 3074 Westfork Dr. Baton Rouge, Louisiana, 70816, either by mail or hand delivery. Comments may also be sent by email to gary.beard@la.gov. All written comments must be received no later than 4 p.m., on October 10, 2024.

Public Hearing

A public hearing will be held at Capital Area Groundwater Conservation Commission, 3074 Westfork Dr. Baton Rouge, Louisiana, 70816, on October 28, 2024 and 10 a.m. Oral comments will be accepted at any public hearing held.

Gary Beard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Measuring Well Yield**

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

The proposed rule change is not anticipated to result in any costs or savings to the state or local governmental units, other than the cost of rulemaking and publishing the proposed rule change in the Louisiana Register, which is approximately \$426.

The proposed rule change clarifies how well owners provide flow measurement data to the Capital Area Groundwater Conservation District (henceforth, District), as follows:

- For well owners with District provided monitoring/auditing equipment, the flow measurement data will be provided automatically through the Supervisory Control and Data Acquisition (SCADA) system.
- For well owners that do not have District provided monitoring/auditing equipment, the flow measurement data shall be provided from each well monthly utilizing a comma separated value (CSV) format and delivered to the District via secure file transfer protocol (SFTP).

The proposed rule changes will allow for more detailed understanding of how well owners must provide flow measurement data to the District.

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

There are no anticipated effects on revenue collections of state or local governmental units by the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons, small business, or non-governmental groups anticipated from the proposed rule change. The proposed rule change clarifies how flow measurement data is provided to the District from well owners who do not have District provided monitoring/auditing equipment and from those that do have District provided monitoring/auditing equipment. Well owners already report flow measurement data. This change in rule will allow them to report in a more efficient manner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Gary J. Beard
Executive Director
2409#064

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**Dependent Spouse of Deceased Retiree Health Coverage
(LAC 32:I.319)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, proposes to amend Chapter 3 of LAC 32:I, Uniform Provisions—Participation in the Office of Group Benefits. The revisions amend the Surviving Dependents/Spouse Subsection to comply with Act 304 of the 2024 Regular Legislative Session and provide the option of health coverage for a certain class of individuals who meet specific criteria.

Title 32

EMPLOYEE BENEFITS

Part I. General Provisions

Chapter 3. Uniform Provisions—Participation in the Office of Group Benefits

§319. Continued Coverage

- A. - B. ...
- C. Surviving Spouse/Dependents
- C.1. - 4. ...

5. Dependent Spouse of Deceased Retiree (Special Spouse).

a. Notwithstanding the above, any person who previously participated in an OGB sponsored health program as a dependent spouse of a deceased retiree immediately prior to enrolling in an OGB sponsored health program as an active employee, shall, upon termination from state service, be eligible to obtain OGB health coverage as a special spouse provided all of the following conditions are met:

- i. The person is enrolled in OGB health coverage as an active employee as of July 1, 2024.
- ii. The person remains enrolled in OGB health coverage continuously until immediately prior to the date of termination.

iii. The person would have had surviving spouse coverage at the time of death of the retiree spouse but for his or her eligibility for coverage in a group health plan other than Medicare.

iv. The person pays the requisite premiums.

b. A special spouse shall be entitled to receive a state contribution to premiums that is the percentage of the total premium as provided for in applicable OGB rules. The employer premium contributions for a special spouse shall be the responsibility of the school board, state agency, or political subdivision from which the deceased retiree spouse originally retired.

c. A special spouse cannot add new dependents to special spouse coverage other than a child of the deceased retiree born after the enrollee's death.

d. A dependent child of a special spouse and the deceased retiree may continue coverage as a dependent child of the special spouse as long as other dependent child rules are met.

e. Participating Employer/Dependent Responsibilities

i. To continue coverage, it is the responsibility of the participating employer and special spouse to notify OGB in writing within 30 days of the termination of employment from state service.

ii. Application for continued coverage shall be made in writing to OGB within 45 days of the termination of employment from state service. Premiums for special spouse coverage shall be paid within 45 days of the coverage application date for the coverage to be effective on the date coverage would have otherwise terminated.

iii. Coverage for the special spouse under this Paragraph will continue until the earliest of the following:

(a). failure to pay the applicable premium timely;

or

(b). eligibility of the special spouse for coverage under a group health plan other than Medicare.

iv. Coverage for a dependent child eligible for coverage under this Paragraph will continue until the earliest of the following events:

(a). failure to pay the applicable premium timely;

(b). eligibility of the special spouse for coverage under a group health plan other than Medicare;

(c). eligibility of the dependent child for coverage under any group health plan other than Medicare; or

(d). the attainment of the termination age for children.

D. - E.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:341 (February 2015), effective March 1, 2015, amended LR 43:2152 (November 2017), effective January 1, 2018, amended LR 50:

Family Impact Statement

The proposed amendments are not anticipated to have an impact on family formation, functioning, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed amendments are not anticipated to have an impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed amendments are not anticipated to have an adverse effect or economic impact on small businesses in accordance with the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amendments are not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments about the proposed Rules to the Office of Group Benefits, Attn.: Margaret A. Collier, P.O. Box 44036, Baton Rouge, LA 70804 or via fax (225) 342-9917. The deadline for receipt of written comments is Thursday, October 10, 2024 by 4:30 PM.

Public Hearing

A public hearing on the proposed amendments may be held on Tuesday, October 29, 2022, beginning at 9 a.m. in the Louisiana Purchase Room (Room 1-100) on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge, LA 70802, if such a hearing is requested by Thursday, October 10, 2024 by 4:30 PM. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing. For assistance in determining if a hearing will be held, please call OGB Customer Service at 225-925-6625, or at 1-800-272-8451.

Heath Williams
Chief Executive Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dependent Spouse of Deceased Retiree Health Coverage

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

The proposed change creates a new class of individuals entitled to health coverage. The change is mandated by Act 304 of the 2024 Regular Legislative Session which amended La. R.S. 42:851 to add Subsection U, permitting a surviving dependent spouse of a deceased retiree to become a surviving spouse after having been enrolled in Office of Group Benefits (OGB) coverage as an active employee as long as certain conditions are met, including that the person must be enrolled in OGB health coverage as an active employee as of July 1, 2024.

It is estimated there are very few existing OGB plan members who previously participated in OGB health coverage programs as a dependent spouse of a deceased retiree immediately prior to enrolling in OGB health coverage as an active employee and who may therefore be entitled to continue participation in the OGB program as a surviving dependent spouse if their employment with the OGB-participating employer terminates. The state share of the premiums will be paid by the deceased spouse's agency from which s/he retired if a surviving dependent spouse elects to continue participation as a surviving dependent spouse under this proposed rule change.

As a result, there may be a minimal, net increase in expenditures to state employers as a result of the rule change. The increase in premiums paid by the employing agency will depend upon the deceased retiree's years of participation in an

OGB health plan, the surviving spouse's choice of health plan, the surviving spouse's coverage level, and the surviving spouse's Medicare status. The participating agency with whom the surviving spouse is employed and enrolled with OGB as an active employee will no longer pay the state share of the surviving spouse's premiums as an active employee. So, while one participating agency may see an increase in premiums paid, another may see a decrease unless the current participating agency is the same as the one from which the deceased spouse retired in which case the amounts may offset within the agency's budget.

There may be minimal one-time costs associated with required programming updates by OGB's vendor. These costs will be performed by a vendor already contracted with OGB at the previously agreed upon rate and are estimated to cost between \$615 and \$1,320.

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

OGB does not expect an increase or decrease in revenues as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will benefit a small number of state employees by making them eligible for surviving spouse health coverage.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not expected to have an effect on competition or employment.

Heath C. Williams
Chief Executive Officer
2409#038

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Office of Group Benefits**

**Primary Plan of Benefits and
Additional Plans and Operations
(LAC 32:III.105, and V.203, 303, and 503)**

Editor's Note: The following Notice of Intent is being repromulgated to add the effective date and to correct technical errors. The original Notice of Intent can be viewed in the July 20, 2024 *Louisiana Register* on pages 1044-1048.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, proposes to amend Chapter 1 of LAC 32:III., Primary Plan of Benefits, and Chapters 2, 3, and 5 of LAC 32:V., Additional Plans and Operations. The revisions amend the Out-of-Pocket Maximums to comply with the federal Inflation Reduction Act (IRA) which limits plan participants with Medicare Part D coverage to a maximum out-of-pocket amount of \$2,000 for prescription drugs. The revisions also amend these rules to create a division between medical and prescription maximum out-of-pocket amounts to comply with the IRA. The effective date of the proposed Rule change is January 1, 2025.

Title 32

EMPLOYEE BENEFITS

Part III. Primary Plan of Benefits

Chapter 1. Operation of Primary Plan

§105. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	\$3,500	No Coverage
Retirees prior to March 1, 2015	\$2,000	No Coverage
Individual, Plus One Dependent:		
Active Employee/Retirees on or after March 1, 2015	\$6,000	No Coverage
Retirees prior to March 1, 2015	\$3,000	No Coverage
Individual, Plus Two or More Dependents:		
Active Employee/Retirees on or after March 1, 2015	\$8,500	No Coverage
Retirees prior to March 1, 2015	\$4,000	No Coverage

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$500 Prescription: \$1,500	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$4,000 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,500 Prescription: \$1,500	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$2,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$6,500 Prescription: \$2,000 per participant	No Coverage

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
Retirees prior to March 1, 2015	Medical: \$2,500 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$4,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Three):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$2,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,500	No Coverage

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary

payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, amended LR 43:2153 (November 2017), effective January 1, 2018, LR 49:1377 (August 2023), LR 50:

Part V. Additional Plans and Operations
Chapter 2. PPO Plan Structure—Magnolia Open Access Plan

§203. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

	Active Employee/Retirees on or after March 1, 2015		Retirees prior to March 1, 2015 Without Medicare	
	Network	Non-Network	Network	Non-Network
Individual Only	\$3,500	\$4,700	\$2,300	\$4,300
Individual Plus One Dependent	\$6,000	\$8,500	\$3,600	\$7,600
Individual Plus Two or More Dependents	\$8,500	\$12,250	\$4,900	\$10,900

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximums ¹ (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)					
	Active Employee/Retirees on or after March 1, 2015		Retirees prior to March 1, 2015 Without Medicare		Retirees prior to March 1, 2015 With Medicare
	Network	Non-Network	Network	Non-Network	Network and Non-Network
Individual Only	Medical: \$1,500 Prescription: \$2,000	\$4,700	See Subsection A	See Subsection A	Medical: \$1,300 Prescription: \$2,000
Individual Plus One Dependent (Medicare Paying Primary for One)	Medical: \$4,000 Prescription: \$2,000	\$8,500	Medical: \$1,600 Prescription: \$2,000	\$7,600	Medical: \$3,600 Prescription: \$2,000
Individual Plus One Dependent (Medicare Paying Primary for Two)	Medical: \$2,000 Prescription: \$2,000 per participant	\$8,500	Not Applicable	Not Applicable	Medical: \$1,600 Prescription: \$2,000 per participant
Individual Plus Two or More Dependents (Medicare Paying Primary for One)	Medical: \$6,500 Prescription: \$2,000	\$12,250	Medical: \$2,900 Prescription: \$2,000	\$10,900	Medical: \$5,900 Prescription: \$2,000
Individual Plus Two or More Dependents (Medicare Paying Primary for Two)	Medical: \$4,500 Prescription: \$2,000 per participant	\$12,250	Medical: \$900 Prescription: \$2,000 per participant	\$10,900	Medical: \$3,900 Prescription: \$2,000 per participant
Individual Plus Two or More Dependents (Medicare Paying Primary for Three)	Medical: \$2,500 Prescription: \$2,000 per participant	\$12,250	Medical: \$0 Prescription: \$2,000 per participant	\$10,900	Medical: \$1,900 Prescription: \$2,000 per participant

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:355 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018, amended LR 50:

Chapter 3. Narrow Network HMO Plan Structure—Magnolia Local Plan (in certain geographical areas)

§303. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	\$2,500	No Coverage
Retirees prior to March 1, 2015	\$1,000	No Coverage
Individual, Plus One Dependent:		
Active Employee/Retirees on or after March 1, 2015	\$5,000	No Coverage
Retirees prior to March 1, 2015	\$2,000	No Coverage
Individual, Plus Two or More Dependents:		
Active Employee/Retirees on or after March 1, 2015	\$7,500	No Coverage
Retirees prior to March 1, 2015	\$3,000	No Coverage

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	Medical: \$500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1000	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$3,000 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,000	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,000 per participant	No Coverage

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual, Plus Two or More Dependents (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$5,500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$2,000 Prescription: \$1,000	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$3,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,000 per participant	No Coverage
Individual, Plus Two or More Dependents (Three with Medicare Paying Primary):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,000 per participant	No Coverage

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:359 (February 2015), effective March 1, 2015, amended LR 50:

Chapter 5. PPO/Consumer-Driven Health Plan Structure—Pelican HRA 1000 Plan

§503. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Deductibles, Coinsurance Amounts and Copayments)		
	Network	Non-Network
Individual	\$5,000	\$10,000
Family	\$10,000	\$20,000

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Deductibles, Coinsurance Amounts and Copayments)		
	Network	Non-Network
Individual	Medical: \$3,000 Prescription: \$2,000	\$10,000

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Primary Plan of Benefits and Additional
Plans and Operations**

Out-of-Pocket Maximum¹ Per Benefit Period (Includes All Eligible Deductibles, Coinsurance Amounts and Copayments)		
	Network	Non-Network
Family (Medicare Paying Primary for One)	Medical: \$8,000 Prescription: \$2,000	\$20,000
Family (Medicare Paying Primary for Two)	Medical: \$6,000 Prescription: \$2,000 per participant	\$20,000
Family (Medicare Paying Primary for Three)	Medical: \$4,000 Prescription: \$2,000 per participant	\$20,000

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:364 (February 2015), effective March 1, 2015, amended LR 50:

Family Impact Statement

The proposed amendments are not anticipated to have an impact on family formation, functioning, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed amendments are not anticipated to have an impact on poverty, as described in R.S. 49:973.

Small Business Analysis

The proposed amendments are not anticipated to have an adverse effect or economic impact on small businesses in accordance with the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amendments are not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments about the proposed Rules to the Office of Group Benefits, Attn.: Margaret A. Collier, P.O. Box 44036, Baton Rouge, LA 70804. The deadline for receipt of written comments is Monday, August 12, 2024 by 4:30 p.m.

Public Hearing

A public hearing on the proposed amendments may be held on Wednesday, August 28, 2024, beginning at 9 a.m., in the Louisiana Purchase Room (Room 1-100) on the first floor of the Claiborne Building, located at 1201 North Third Street, Baton Rouge, LA 70802, if such a hearing is requested by Monday, August 12, 2024 by 4:30 p.m.. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at the hearing. For assistance in determining if a hearing will be held, please call OGB Customer Service at 225-925-6625, or at 1-800-272-8451.

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

The proposed changes modify the out-of-pocket maximums set forth in LAC 32:III.105, LAC 32:V.203, LAC 32:V.303, and LAC 32:V.503. Changes are mandated by the federal Inflation Reduction Act (IRA) which limit the maximum out-of-pocket amount (MOOP) for prescription drugs to \$2,000 for plan participants with Medicare Part D.

The IRA’s mandates are expected to decrease the Office of Group Benefits’ (OGB) expenditures for its self-funded plans by approximately \$6.2M in Fiscal Year Ending (FYE) 2025 and \$6.1M in FYE 2026, but increase expenditures by \$8.3 M in FYE 2027. These values are an estimate of expenditures under the IRA compared to estimated costs without the expected impacts of the IRA, and rely upon values provided by OGB’s Pharmacy Benefit Manager (PBM) and Actuary. Some federal Medicare Part D subsidy amounts for 2025 have still not been released by the Centers for Medicare & Medicaid Services (CMS); any deviations between the Medicare Part D subsidy estimates provided by OGB’s vendors and the subsidy payments OGB actually receives will impact the estimates provided.

The IRA also mandated those providing Medicare Part D coverage make available the Medicare Prescription Payment Plan (M3P). M3P is a program that requires OGB to offer Medicare paying primary plan participants the option to pay out-of-pocket prescription drug costs in the form of capped monthly installment payments instead of all at once at the pharmacy. This program assists Medicare enrollees by allowing them to defer the cost of their prescriptions and pay a monthly amount instead. This means that a plan participant who purchases a prescription drug on January 1st will not have to pay their share of the cost on January 1st if they enroll in the program. Instead, the plan participant can spread their prescription cost across monthly payments for the remainder of the plan year. Despite payments being spread out, the plan participant’s prescription costs will still accrue to meet their MOOP. This federal requirement will cause an increase of \$9 per member per month (PMPM) in 2025 for those members who participate in the program. This administrative fee will be paid by OGB to the prescription drug administrator and covers the cost of administering this program.

The cost estimates presented on the prior page do not include any potential impact of the M3P program, the cost of which will depend on the number of participants who enroll and the period they remain enrolled in the program. If every eligible participant enrolled in this program for 12 months, the annual cost to OGB would be \$4.8M. If OGB were to incur the maximum cost for this program, this increase in administrative cost would reduce the expected decrease in expenditures.

Additionally, there may be minimal one-time costs associated with required programming updates by OGB’s current vendors for medical and pharmacy benefits. Other than

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Polysomnographic Technologists and Technicians
(LAC 46:XLV.3303, 3339, 3343, 6305, and 6311)

Notice is hereby given that pursuant to the authority vested in it by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Medical Examiners (Board) intends to amend its rules governing Polysomnographic Technologists and Technicians.

The proposed Rule changes revise the definition of “direct supervision”, require licensed physicians providing and/or billing for interpretation of home sleep testing to ensure proper follow up, add collaborative practice physicians to the mutual obligations and responsibilities, and correct typographical errors. The proposed amendments are set forth below.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Professions Subpart 2. Licensure and Certification Chapter 33. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions §3303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Direct Supervision—supervision by a physician, polysomnographic technologist, or registered respiratory therapist with SDS who is currently licensed by the board. The supervising entity must be present in the area where the procedure or service is being performed and be available to furnish assistance and direction throughout the procedure or service as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013), amended by Department of Health, Board of Medical Examiners, LR 50:

Subchapter F. Advisory Committee on Polysomnography §3339. Organization and Authority

A. - B.4. ...

5. advise the board on issues affecting the licensing and regulation of polysomnographic technology in this state;

B.6. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013), amended by Department of Health, Board of Medical Examiners, LR 50:

the M3P program, these costs are already provided for in OGB's contracts with the vendors and should not result in additional costs to OGB for programming updates.

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

OGB is funded by premiums which are paid partially by participating employers and partially by the plan participants themselves. A change in OGB's costs is expected to result in a corresponding change in plan participants' premium rates. While OGB does not anticipate an increase in expenditures in the first or second year of IRA compliance, due to the expected increase in expenditures in the third year of IRA compliance, OGB anticipates the expenditure increase will require an increase in the premium rates for OGB's self-funded health plans. OGB strives to offset large premium rate increases by spreading the expected impact to the premium rate increases across several years. As such, OGB expects the impact of the IRA in 2025 to yield an increase in premium revenue receipts of \$0.4M in FYE 2025 from what was expected without the impact of the IRA in 2025. The comparable increases for FYE 2026 and FYE 2027 are \$1.7M and \$3.1M, respectively.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

For OGB plan participants for whom Medicare pays primary, the change implements a \$2,000 per Medicare participant MOOP for prescription drug benefits, except for those retired before March 1, 2015 in the Magnolia Local Plus plan (who will have a \$1,500 per Medicare participant MOOP for prescription drug benefits) or the Magnolia Local plan (who will have a \$1,000 per Medicare participant MOOP for prescription drug benefits). For all plans and tiers, the MOOP for medical and commercial prescription drug benefits was set such that when combined with the Medicare drug MOOPs, the total MOOP is equal to the current plan design to the extent this was possible. These changes affect approximately 44,414 OGB plan participants. These updates are expected to lower prescription drug cost sharing for Medicare participants.

The IRA mandated the M3P program, requiring OGB to offer Medicare paying primary plan participants the option to pay out-of-pocket prescription drug costs in the form of capped monthly installment payments instead of all at once at the pharmacy. This program assists Medicare enrollees by allowing them to defer the cost of their prescriptions and pay a monthly amount instead. This means that a plan participant who purchases a prescription drug on January 1st will not have to pay their share of the cost on January 1st if they enroll in the program. Instead, the plan participant can spread their prescription cost across monthly payments for the remainder of the plan year. Despite payments being spread out, the plan participant's prescription costs will still accrue to meet their MOOP. However, the initial higher out-of-pocket amount can be spread out by the plan participant if they desire to participate in this program. While there is no direct cost for this program to the plan participant, as discussed above, this federal requirement will cause an increase of \$9 PMPM in 2025 for those members who participate in the program. This fee will be paid by OGB to the prescription drug administrator and covers the cost of administering this program. If every eligible participant enrolled in this program for 12 months, the annual cost to OGB would be \$4.8M.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect of the proposed changes on competition and employment is unknown but estimated to be minimal to none.

Heath Williams
Chief Executive Officer
2409#044

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

Subchapter G. Continuing Professional Education

§3343. Continuing Professional Education Requirement

A. Subject to the exceptions and waiver specified in this Subchapter, to be eligible for the renewal of a polysomnographic technologist license an applicant shall, within each year that he or she holds a license, evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of continuing education credits ("CEC") sanctioned by the organizations identified in this Subchapter, or their successors.

B. To be eligible for the reinstatement of a polysomnographic technologist license an applicant shall evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of approved CEC for each year that the license has lapsed or expired.

C. For purposes of this Section, one CEC is the equivalent to one hour of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013), amended by Department of Health, Board of Medical Examiners, LR 50:

Subpart 3. Practice

Chapter 63. Polysomnographic Technologists and Technicians

Subchapter B. Unauthorized Practice, Exemptions, and Designation of License or Permit

§6305. Unauthorized Practice

A. No individual shall engage or attempt to engage in the practice of polysomnographic technology in this state, unless he or she holds a current license or a permit to practice polysomnographic technology issued by the board under Chapter 33 of these rules.

B. An individual who does not hold a current polysomnographic technologist license issued by the board, and or whose license has been suspended or revoked, shall not use in conjunction with his or her name the words "licensed polysomnographic technologist," "LPSGT," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technologist or that the services provided by such individual constitute polysomnographic technology.

C. An individual who does not hold a current polysomnographic technician permit issued by the board, or whose permit has been suspended or revoked, shall not use in conjunction with his or her name the words "polysomnographic technician," "permit technician," or "PSGT-E," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technician or that the services provided by such individual constitute polysomnographic technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013), amended by Department of Health, Board of Medical Examiners, LR 50:

Subchapter C. Mutual Obligations

§6311. Mutual Obligations and Responsibilities

A. A collaborative practice physician, supervising physician, polysomnographic technologist and polysomnographic technician shall bear equal and reciprocal obligations to:

A.1. - B. ...

C. Licensed physicians providing and/or billing for interpretation of home sleep testing should be licensed in the state of Louisiana and have a mechanism in place to ensure that patient receive the results of the testing with appropriate counseling regarding treatment options and follow-up within a reasonable timeframe from the completion of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013), amended by Department of Health, Board of Medical Examiners, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on the family has been considered. It is not anticipated that the proposed Rule will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed Rule will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Analysis

It is not anticipated that the proposed Rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed Rule on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed Rule will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed Rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule to Jacintha Duthu, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 28, 2024.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board

within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 28, 2024, 9 a.m., at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Polysomnographic Technologists and
Technicians**

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

Other than the cost of rulemaking, which is approximately \$1,500 in FY 25 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. The cost of rulemaking will be paid from self-generated funds.

The proposed amendments revise the definition of “direct supervision,” require licensed physicians providing and/or billing for interpretation of home sleep testing to ensure proper follow up, add collaborative practice physicians to the section outlining mutual obligations and responsibilities, and correct typographical errors.

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

The proposed rule changes will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes may benefit patients and healthcare professionals by expanding the types of healthcare professionals who are allowed to supervise polysomnographic technicians, increasing access to polysomnography.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The revised definition of “direct supervision” expands the types of physicians who can engage in direct supervision of a polysomnographic technician, which may lead to increased competition among providers of polysomnography.

Vincent A. Culotta, Jr. M.D.
Executive Director
2409#033

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

**Continuing Full Approval for Nursing Education
Degree Programs (LAC 46:XLVII.3535)**

Editor's Note: This Notice of Intent is being reprinted because of errors upon submission. The original Notice of Intent can be viewed in its entirety on pages 858-859 of the June 20, 2024 Louisiana Register.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Board of Nursing (LSBN) is proposing rule changes to Chapter 35, §3535, Subsection B, under Title 46, Professional and Occupational Standards, Part XLVII. The proposed change will remove the requirement to place undergraduate nursing degree programs on probation if they do not maintain an 80 percent or greater pass rate achieved by all candidates taking the licensure examination for the first time in any one January to December calendar year.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses
and Registered Nurses**

Subpart 2. Registered Nurses

**Chapter 35. Undergraduate and Graduate Nursing
Education Degree Programs**

**§3535. Continuing Full Approval for Nursing
Education Degree Programs**

A. ...

B. The undergraduate nursing education degree program shall have a pass rate of 80 percent or greater achieved by the candidates taking the licensure examination for the first time in any one January to December calendar year.

1. An undergraduate nursing education degree program that does not meet the 80 percent first-time pass rate in any January to December calendar year will receive a letter of warning from the LSBN board.

2. After two consecutive years of not meeting the 80 percent NCLEX-RN first-time pass rate standard or two years out of the last 3 years of not meeting the 80 percent NCLEX-RN first time pass rate standard, the undergraduate nursing education degree program will be placed on probation (See §3509.C.1 and 2 of this Chapter).

C. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1027 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1149 (September 1993), LR 24:1293 (July 1998), LR 42:887 (June 2016), LR 50:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have any significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Dr. Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before October 10, 2024.

Karen C. Lyon, PhD, MBA, APRN-CNS, NEA
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Continuing Full Approval for Nursing Education Degree Programs

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

Other than the cost of rulemaking, which is approximately \$250 in FY 24 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. This cost will be paid from self-generated funds.

Current regulations require undergraduate nursing education degree programs to have an 80% or greater pass rate achieved by all candidates taking the licensure examination for the first time in any one January-to-December calendar year, or the program shall be placed on probation.

The proposed rule change will allow an undergraduate nursing education degree program that does not meet the 80% first-time pass rate in any January to December calendar year to receive a letter of warning from the LSBN Board. After two consecutive years, or two out of any three calendar years, of not meeting the 80% NCLEX-RN first time pass rate, the school would be placed on probation.

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

Since probation may eventually lead to termination of the program, the proposed rule change may help public universities avoid revenue losses resulting from the termination of their nursing programs. However, no nursing program has been involuntarily terminated since 2015; therefore, this impact will likely be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Since probation may eventually lead to termination of the program, the proposed rule change may result in an increased number of programs available to prospective nursing students. However, no nursing program has been involuntarily terminated since 2015; therefore, this impact will likely be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any effect on competition or employment.

Karen C. Lyon
Executive Director
2409#011

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Nursing

Employment of Student Nurses and Unsuccessful Candidates on the State Board Licensure Examination (NCLEX-RN) (LAC 46:XLVII.4303)

Editor's Note: This Notice of Intent is being reprinted because of errors upon submission. The original Notice of Intent can be viewed in its entirety on pages 859-861 of the June 20, 2024 Louisiana Register.

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, that the Board of Nursing (LSBN) is proposing rule changes to Chapter 43, §4303, Subsections A and B, under Title 46, Professional and Occupational Standards, Part XLVII. The proposed revision will allow an undergraduate nursing student currently enrolled in a professional pre-licensure education degree program or a graduate nurse who has been unsuccessful on the NCLEX-RN examination to be employed in a nursing setting and to perform procedures and tasks for which they have been educated and certified as competent by their educational institution and/or by graduation from an LSBN-approved prelicensure nursing education program.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses: Practical Nurses
and Registered Nurses

Subpart 2. Registered Nurses

Chapter 43. Employment of Unlicensed Persons

§4303. Employment of Student Nurses and
Unsuccessful Candidates on the State Board
Licensing Examination (NCLEX-RN)

A. Students in nursing and unsuccessful candidates on the NCLEX-RN licensing examination employed in nursing settings may be employed as unlicensed persons and perform procedures and or tasks for which they have been educated and cleared by their educational institution and/or by graduation from an LSBN approved prelicensure nursing education program.

B. To assist these individuals to be employed in an acceptable position whereby they contribute to patient care and yet do not jeopardize the welfare of the patient nor legally implicate themselves or their employing institution, the board has adopted the following policies for delegation of nursing activities to currently enrolled nursing students and pre-licensure nursing graduates who have been unsuccessful on the NCLEX-RN examination but who have not passed the NCLEX-RN examination within 12 months of their first attempt taking the NCLEX.

1. The employer shall:

a. document the unlicensed status of these individuals as currently enrolled nursing students or pre-licensure nursing graduates who have not passed the NCLEX-RN examination within 12 months of their first attempt taking the NCLEX;

b. develop and review the written job description with the employee;

c. provide proper orientation to and training for the position; and

d. provide supervision of these unlicensed personnel by an RN or APRN;

e. inform all nursing personnel that the student of nursing and the unsuccessful candidate may perform procedures and or tasks enumerated in the job description.

2. Employers shall not jeopardize the potential for licensure of the student in nursing or the unsuccessful candidate for licensure in order to augment their staffing. It is understood that these unlicensed personnel may not perform the nursing tasks and procedures enumerated in their specific job description independently without the requisite supervision of the RN and/or APRN.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:421 (October 1977), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 50:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49.972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have any significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Dr. Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before October 10, 2024.

Karen C. Lyon, PhD, MBA, APRN-CNS, NEA
Executive Director/CEO

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: Employment of Student Nurses
and Unsuccessful Candidates on the State Board
Licensing Examination

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

Other than the cost of rulemaking, which is approximately \$250 in FY 24 and FY 25 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. This cost will be paid from self-generated funds.

Currently, students in nursing and unsuccessful candidates on the National Council Licensure Examination for Registered Nurses (NCLEX-RN) may only be employed as unlicensed persons and cannot legally perform, nor be assigned nursing duties other than those allowable to other unlicensed nursing personnel.

The proposed rule changes will allow an undergraduate nursing student currently enrolled in a professional pre-licensure education degree program or a graduate nurse who has not passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN) examination within 12 months of their first attempt to be employed in a nursing setting and to perform procedures and tasks for which they have been educated and certified as competent by their educational institution and/or by graduation from a Louisiana State Board of Nursing (LSBN)-approved prelicensure nursing education program.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit nursing students and nursing graduates who have not passed the NCLEX-RN examination by allowing them to perform nursing procedures for which they have been certified as competent by their educational institution. For informational purposes, in 2022, there were 6,672 students enrolled in clinical nursing courses and 328 nursing graduates who did not pass the NCLEX-RN on their first attempt and thus may have benefitted from the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may increase employment and competition in the nursing field by allowing employment of nursing students and graduate nurses who have not yet passed the NCLEX-RN examination to the full extent of their knowledge and training. This increase in nursing staff may provide adjunct support to RNs and Advanced Practice Registered Nurses (APRN) in providing care to patients during the ongoing state and national nursing shortage.

Karen C. Lyon
Executive Director
2406#047

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Home and Community-Based Services Waivers
Residential Options Waiver
(LAC 50:XXI.Chapters 161, 163, 165, 167, and 169)**

The Department of Health, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Subpart 13 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 40:950 et seq.

The Department of Health, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities (OCDD) propose to amend the provisions governing Residential Options Waiver (ROW) services to clarify the tiered waiver approach in OCDD waivers and add new services including technology supports with remote features, incontinence supplies, the Person Emergency Response System, Community Life Engagement, and self-directed services as well as dismissal from self-direction.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers**

Subpart 13. Residential Options Waiver

Chapter 161. General Provisions

§16101. Introduction

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to assist beneficiaries in leading healthy, independent and productive lives to the fullest extent possible and promote the full exercise of their rights as citizens of the state of Louisiana. Services are provided with the goal of promoting independence through strengthening the participant's capacity for self-care and self-sufficiency. The ROW is person-centered incorporating the beneficiary's support needs and preferences with a goal of integrating the beneficiary into their community. The ROW provides opportunities for eligible individuals with developmental disabilities to receive HCBS services that allow them to transition to and/or remain in the community. These individuals would otherwise require an intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care.

B. ...

C. This program is not intended to provide continuous 24 hours a day, one-to-one supports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:1507 (October 2021), LR 48:1558 (June 2022), LR 50:

§16103. Program Description

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community and are designed to allow an individual experience that mirrors the experiences of individuals without disabilities. These services are not to be restrictive, but liberating, by empowering individuals to experience life in the most fulfilling manner as defined by the individual while still assuring health and safety. In keeping with the principles of self-determination, ROW includes a self-direction option, which allows for greater flexibility in hiring, training, and general service delivery issues. ROW services are meant to enhance, not replace, existing informal networks.

B. - B.3. ...

C. ROW services are accessed through a single point of entry in the human services district or authority, referred to as local governing entities (LGE). All waiver beneficiaries choose their support coordination and direct service provider agencies through the freedom of choice process.

C.1. - E.3. ...

4. If it is determined that the ROW can no longer meet the beneficiary's health and safety needs and/or support the beneficiary, the support coordination agency will conduct person-centered discovery activities.

E.5. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2154 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1764 (December 2019), LR 47:1507 (October 2021), LR 48:1559 (June 2022), LR 50:

§16106. Money Follows the Person Rebalancing Demonstration

A. - B. ...

1. Individuals with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital, or ICF/IID bed for at least 60 days; and

1.b. - 2....

C. Individuals in the demonstration are not required to have a protected date on the intellectual/developmental disabilities request for services registry (RFSR).

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1508 (October 2021), LR 48:1559 (June 2022), LR 50:

§16107. Programmatic Allocation of Waiver Opportunities

A. The intellectual/developmental disabilities request for services registry, hereafter referred to as "the registry," shall be used to identify individuals with intellectual and/or developmental disabilities who are waiting for an OCDD waiver opportunity. Individuals who are found eligible for developmental disabilities services using standardized tools, and who request waiver services will be added to the registry. The registry is arranged by urgency of need and date of application for developmentally disabled (DD) waiver services.

B. OCDD operates on a tiered waiver approach for services delivery. If an individual's needs cannot be met with the initial waiver, they may request to be moved up to the next waiver in the tiers. The Residential Options Waiver (ROW) is the second tier within the OCDD tiered waiver process. ROW opportunities shall be offered based on the following groups.

1. Individuals living at publicly operated ICF/IID or who lived at a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a cooperative endeavor agreement (CEA) facility, or their alternates. Alternates are defined as individuals living in a private ICF/IID who will give up the private ICF/IID bed to an individual living at a publicly operated ICF/IID or to an individual who was living in a publicly operated ICF/IID when it was transitioned to a private ICF/IID through a CEA facility.

2. Individuals requesting to transition from a publicly operated ICF/IID are awarded a slot when one is requested, and their health and safety can be assured in an OCDD waiver. This also applies to individuals who were residing in a publicly operated facility at the time the facility was privatized and became a CEA facility.

3. Individuals on the registry who have a current unmet need as defined by a screening of urgency need (SUN) score of urgent (3) or emergent (4) and the earliest registry date, shall be notified in writing when a funded OCDD waiver opportunity is available and a waiver offer is available.

4. Individuals transitioning from ICF/IID facilities utilizing ROW conversion.

5. Transition of eligible individuals with a statement of eligibility (SOA) for intellectual developmental disability services in either the Office of Aging and Adult Services (OAAS) Community Choices Waiver (CCW) or OAAS Adult Day Health Care (ADHC) Waiver to enter the OCDD tiered waiver process for ROW services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2155 (October 2015), LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1764 (December 2019), LR 47:1508 (October 2021), LR 50:

§16109. Admission, Denial or Discharge Criteria

A. Admission to the ROW shall be denied if one of the following criteria is met:

1. the individual does not meet the requirements for an ICF/IID level of care;

2. Repealed.

3. the individual does not meet developmental disability system eligibility;

4. the individual is incarcerated or under the jurisdiction of penal authorities, courts, or state juvenile authorities;

5. the individual resides in another state;

6. the health and welfare of the individual cannot be assured through the provision of ROW services;

7. the individual fails to cooperate in the eligibility determination process or in the development of the plan of care (POC); or

A.8. - B. ...

1. loss of Medicaid financial eligibility as determined by the Medicaid program;

2. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1509 (October 2021), LR 48:1560 (June 2022), LR 50:

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

A. - A.1.e. ...

2. This service also includes medically necessary durable and non-durable equipment not available under the Medicaid State Plan and repairs to such items, and equipment necessary to increase/maintain the independence and well-being of the beneficiary.

a. All equipment, accessories and supplies must meet all applicable manufacture, design, and installation requirements.

b. The services under the ROW are limited to additional services not otherwise covered under the Medicaid State Plan.

3. ...

4. This service includes necessary medical supplies not available under the Medicaid State Plan.

5. Prior to the beneficiary receiving any assistive technology device, a rehabilitation professional (including, but not limited to, an occupational therapist, speech therapist, and/or a physical therapist) must complete an evaluation. The therapist must assess the need and the type of device necessary to address the beneficiary's identified needs, and will make a recommendation for the specific assistive technology device. Assistive technology/specialized medical equipment must be included in the beneficiary's POC.

B. Assistive technology/specialized medical equipment (AT/SME) services provided through the ROW include the following:

1. the evaluation of assistive technology needs of a beneficiary, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the beneficiary in the customary environment of the beneficiary;

2. - 4. ...

5. training or technical assistance, on the use for the beneficiary, or where appropriate, family members, guardians, advocates, responsible representatives of the beneficiary, professionals, or others;

6. - 7. ...

a. separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective;

8. services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for beneficiaries;

9. technology supports with remote features that may include, but are not limited to, mobile emergency response

system, medication reminder system, monitoring device, the purchase of emergency response system and other equipment used to support someone remotely; and

a. remote technology service delivery covers monthly response center/remote support monitoring fee and technology upkeep (no internet cost coverage).

b. remote technology consultation is the evaluation of technology support needs for an individual identified in the POC if necessary;

10. incontinence briefs and supplies are available for a beneficiary, 21 years or older, who has a physician's order and requires the use of incontinence briefs and supplies.

a. Service Restrictions

i. This service is for those who are 21 years of age or older.

ii. This service requires a physician's order.

b. Service Limitations

i. The cost cannot exceed \$2,500 in a single POC year.

C. - D. ...

E. Service Exclusions and Limitations

1. - 2. ...

3. For adults over the age of 20 years, specialized wheelchairs, whether mobile or travel, are covered under the State Plan durable medical equipment (DME) benefit, at any age, and are, therefore, not covered under the ROW.

4. Incontinence supplies annual maximum cost is \$2,500 per POC year, without exception.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. ...

2. provide documentation on manufacturer's letterhead that the agency listed on the Louisiana Medicaid Enrollment Form and Addendum (PE-50) is:

a. ...

b. has training and experience with the application, use, fitting, and repair of the equipment or devices they propose to sell or repair; and

3. upon completion of the work and prior to payment, the provider shall give the beneficiary a certificate of warranty for all labor and installation and all warranty certificates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2156 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1509 (October 2021), LR 48:1560 (June 2022), LR 50:

§16303. Community Living Supports

A. - C. ...

1. Services are not allowed to be provided in the direct service worker's place of residence.

D. Community living supports may be shared by up to three beneficiaries who may or may not live together, and who have a common direct service provider agency. In order for CLS services to be shared, the following conditions must be met:

1. an agreement must be reached among all of the involved beneficiaries, or their legal guardians, regarding the provisions of shared CLS services. If the person has a legal guardian, their approval must also be obtained. In addition, CLS direct support staff may be shared across the Children's Choice or New Opportunities Waiver at the same time;

2. the health and welfare must be assured for each beneficiary;

3. each beneficiary's plan of care must reflect shared services and include the shared rate for the service indicated;

4. a shared rate must be billed; and

5. ...

E. Service Exclusions

1. - 4.c....

5. Community living supports may not be billed at the same time on the same day as:

a. - b. ...

c. respite care services—out of home;

d. transportation—community access;

e. monitored in-home caregiving (MIHC); or

f. adult day health care.

g. Repealed.

6. Community living supports is not intended to provide continuous 24 hours a day one-to-one supports.

F. ...

1. Family members who provide CLS services must meet the same standards as providers who are unrelated to the beneficiary. Service hours shall be capped at 40 hours per week/per staff member, Sunday to Saturday, for services delivered by family members living in the home.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2157 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1510 (October 2021), LR 48:1561 (June 2022), LR 50:

§16305. Companion Care

A. - E.1. ...

F. Service Exclusions

1. - 2. ...

3. Legally responsible individuals and legal guardians may provide companion care services for a beneficiary provided that the care is extraordinary in comparison to that of a beneficiary of the same age without a disability and the care is in the best interest of the beneficiary.

F.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1511 (October 2021), LR 48:1561 (June 2022), LR 50:

§16307. Day Habilitation Services

A. Day habilitation services assist the beneficiary to gain desired community living experience, including the acquisition, retention, or improvement in self-help, socialization, and adaptive skills, and/or to provide the beneficiary an opportunity to contribute to his or her community. These services shall be coordinated with any physical, occupational, or speech therapies identified in the individualized plan of care (POC). Day habilitation services may include assistance with personal care or with activities of daily living, but such assistance should not be the primary activity. Day habilitation services may serve to reinforce skills or lessons taught in other settings. Volunteer activities may be a part of this service and should follow the state guidelines for volunteering.

B.1. Day habilitation is the overarching service and may be delivered in a combination with these two service types:

a. onsite day habilitation; and

b. community life engagement.

2. Day habilitation services may be delivered virtually and be included in the plan of care.

C. ...

1. Transportation is a separate billable service and may be billed on the day that an in-person day habilitation service is provided.

2. Transportation is not a part of the service for virtual day habilitation.

D. Beneficiaries receiving day habilitation provider services may receive other services on the same day, but these services cannot be provided during the same time period, with the exception of community life engagement development and MIHC.

1. - 2. Repealed.

E. Service Exclusions

1. Time spent in transportation between the beneficiary's residence/location and the day habilitation site is not to be included in the total number of day habilitation service hours per day, except when the transportation is for the purpose of travel training.

a. Travel training for the purpose of teaching the beneficiary to use transportation services may be included in determining the total number of service hours provided per day. Travel training must be included in the beneficiary's POC.

2. Transportation-community access will not be used to transport ROW beneficiaries to any day habilitation services.

3. Day habilitation services cannot be billed for at the same time on the same day as:

a. community-living supports;

b. professional services, except when there are direct contacts needed in the development of a support plan;

c. respite—out of home;

d. adult day health care;

e. monitored in-home caregiving (MIHC);

f. prevocational services; or

g. supported employment.

4. Day habilitation services shall be furnished on a regularly scheduled basis for up to eight hours per day, one or more days per week.

a. Services are based on a 15 minute unit of service on time spent at the service site by the beneficiary. Any time

less than 15 minutes of service is not billable or payable. No rounding up of units is allowed.

b. Services are based on the person-centered plan and the beneficiary's ROW budget.

5. All virtual day habilitation services must be approved on the plan of care.

6. Day habilitation may not provide for the payment of services that are vocational in nature. For example, the primary purpose of producing goods or performing services.

F. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for adult day care in LAC 48:I.Chapter 50.

F.1. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2158 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1512 (October 2021), LR 48:1562 (June 2022), LR 50:

§16309. Dental Services

A. Dental services are available to adult beneficiaries over the age of 21 as a component of the ROW. Covered dental services include:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2159 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1512 (October 2021), LR 48:1563 (June 2022), LR 50:

§16311. Environmental Accessibility Adaptations

A. - C.2. ...

D. Modifications may be applied to rental or leased property only with the written approval from the landlord and approval from OCDD.

E. All environmental accessibility adaptations to a home or to a vehicle must meet all applicable standards of manufacture, design, and installation.

F. Service Exclusions for Home Adaptations

1. - 3.a. ...

4. Home modifications may not include modifications to the home which are of general utility and not of direct medical or remedial benefit to the beneficiary including, but not limited to:

F.4.a. - G. ...

1. Such adaptations to the vehicle may include a lift, or other adaptations, to make the vehicle accessible to the beneficiary or for the beneficiary to drive.

2. ...

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services; or

b. purchase or lease a vehicle.

2. - 5. ...

I. Provider Responsibilities

1. ...

2. A written itemized, detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

I.3. - J. ...

1. Home Adaptations. Providers of environmental accessibility adaptations for the home must:

a. - a.iii. ...

b. be a current Louisiana Medicaid provider of durable medical equipment and have documentation from the manufacturing company (on the manufacturing company's letterhead) that confirms that the provider is an authorized distributor of a specific product that attaches to a building. The letter must specify the product and state that in which the provider has been trained on its installation.

2. - 3.

4. All environmental adaptation providers, as well as the person performing the service (i.e., building contractors, plumbers, electricians, engineers, etc.), must meet any state or local requirements for licensure or certification. When state and local building or housing code standards are applicable, modifications to the home shall meet such standards, and all services shall be provided in accordance with applicable state or local requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2159 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1513 (October 2021), LR 48:1563 (June 2022), LR 50:

§16313. Host Home

A. - E.2. ...

3. A host home family can provide compensated supports for up to two beneficiaries, regardless of the funding source.

F. - I.7. ...

J. Provider Qualifications

1. - 1.d.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency under the Specialized Provider Licensing Act 286 of 1985, LAC 48:I.Chapter 41.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2160 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1765 (December 2019), LR 47:1514 (October 2021), LR 48:1564 (June 2022), LR 50:

§16319. One Time Transitional Services

- A. ...
- B. One-time transitional services may be accessed for the following:
 - 1. - 2. ...
 - 3. essential furnishings to establish basic living arrangements, including:
 - a. - c. ...
 - d. window blinds;
- B.3.e. - D.3. ...
- E. The Office for Citizens with Developmental Disabilities shall be the entity responsible for coordinating the delivery of one-time transitional services. Providers must have a BHSF (Medicaid) provider enrollment agreement as a transition support provider as verified by the Louisiana Department of Health (LDH) Health Standards Section (HSS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:1516 (October 2021), LR 48:1565 (June 2022), LR 50:

§16321. Personal Emergency Response System (PERS)

- A. - B.2. ...
- C. Coverage of the PERS is limited to the rental of the electronic device. PERS services shall include the cost of maintenance and training the beneficiary to use the equipment.
 - 1. Reimbursement will be made for an installation fee for the PERS unit.
 - 2. Monthly Monitoring Fee
 - a. Enhance Services. Mobile emergency response system (MERS) is an on-the go mobile medical alert system, used in and outside the home. This system will have cellular/GPS technology, two-way speakers and no base station will be required.
- D. Service Exclusions
 - 1. - 2. ...
 - 3. Cell phone service is not included and is not a covered waiver service.
 - a. In addition to the current system that plugs into a landline, a system that uses cellular service may be used and the landline is not required. This system will have a fall detection pendant.

E. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1516 (October 2021), LR 48:1565 (June 2022), LR 50:

§16323. Prevocational Services

A. Prevocational services are individualized, person-centered services that assist beneficiaries in establishing their path to obtain individualized community employment. This service is time limited and targeted for people who have an interest in becoming employed in individual jobs in the community but who may need additional skills, information, and experiences to determine their employment goal and to become successfully employed. Beneficiaries receiving prevocational services may choose to leave this service at any time or pursue employment opportunities at any time.

B. Prevocational services are the overarching services and may be delivered in a combination of these two service types:

- 1. onsite prevocational services also referred to as onsite community career planning (CP);and
- 2. CP in a small group
 - a. prevocational services may be delivered virtually.
- 3. Repealed.

C. - D. ...

E. The prevocational provider is responsible for all transportation between prevocational sites. Transportation may be provided between the beneficiary’s residence, or other location, as agreed upon by the beneficiary or authorized representative, and the prevocational site. The beneficiary’s transportation needs shall be documented in the plan of care.

F. Service Limitations

1. Service limits shall be based on the person-centered plan and the beneficiary’s ROW budget. Services are delivered in a 15-minute unit of service for up to eight hours per day, one or more days per week. The 15-minute unit of service must be spent at the service site by the beneficiary.

- 1.a. - 2....
- 3. Prevocational services cannot be billed for at the same time on the same day as the following ROW services, except for community life engagement development or MIHC:

- a. - d. ...
- e. day habilitation services; or
- f. supported employment.
- g. Repealed.
- 4. ...
- 5. Transportation may be provided on the day that a prevocational service is provided. Transportation is not allowable for virtual delivery of prevocational services.

- a. - c. ...
- d. Transportation is billed as a separate service that is billed at a daily rate.

G. Restrictions

1. Beneficiaries receiving prevocational services may also receive day habilitation and/or individualized supported employment services, but these services cannot be provided during the same time period.

2. Repealed.

H. Provider Qualifications. Providers must be licensed by the Department of Health as a home and community-based services provider and meet the module requirements for adult day care or supported employment in LAC 48:I.Chapter 50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2162 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1766 (December 2019), LR 47:1516 (October 2021), LR 48:1565 (June 2022) LR 50:

§16325. Professional Services

A. - B.6. ...

C. Professional services can include:

1. - 2. ...

3. intervening in a crisis situation with the goal of stabilizing and addressing issues related to the cause(s) of the crisis. Activities may include development of support plan(s), training, documentation strategies, counseling, on-call supports, back-up crisis supports, on-going monitoring, and intervention;

4. - 8. ...

9. assistance in increasing independence, participation, and productivity in the beneficiary's home, work, and/or community environments.

* * *

D. - E. ...

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. - b. ...

c. in addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. - 4.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2163 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:1518 (October 2021), LR 48:1566 (June 2022), LR 50:

§16327. Respite Care Services—Out of Home

A. ...

1. A licensed respite care facility shall ensure that community activities are available to the beneficiary in accordance with his approved POC, including transportation to and from these activities.

A.2. - B.3.

C. Service Exclusions

1. ...

2. Respite care services-out of home is not a billable waiver service to a beneficiary receiving the following services:

a. community living supports (may not be provided at the same time on the same day);

b. ...

c. host home; or

d. shared living.

e. Repealed.

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:1519 (October 2021), LR 48:1566 (June 2022), LR 50:

§16329. Shared Living Services

A. - A.5. ...

a. Each beneficiary's essential personal rights of privacy, dignity and respect, and freedom from coercion are protected.

6. ...

a. Each beneficiary has the ability to determine whether or with whom he or she shares a room.

b. Each beneficiary has the freedom of choice regarding daily living experiences, which include meals, visitors, and activities.

c. Each beneficiary is not limited in opportunities to pursue community activities.

7. - 8. ...

a. If the person has a legal guardian, the legal guardian's approval must also be obtained.

b. Each beneficiary's plan of care must reflect the shared living services and include the shared rate for the service indicated.

A.9. - B.1. ...

2. ICF/IID residents who choose to transition to a shared living waiver home must also agree to conversion of their residence.

3. - 8. ...

9. In a provider-owned or controlled residential setting, the following additional conditions must be met and any modifications of the conditions must be supported by a specific assessed need and documented in the plan of care.

a. - e. ...

C. Shared Living Options

1. - 4. ...

5. ICF/IID providers who elect to convert to a shared living home via the shared living conversion process shall submit a licensing application for an HCBS provider license, shared living module.

D. Service Exclusions and Limitations

1. - 6.g....

7. Shared living services are not available to beneficiaries who are 17 years of age and under.

D.8. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2164 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767

(December 2019), LR 47:1519 (October 2021), LR 48:1567 (June 2022), LR 50:

§16333. Support Coordination

A. - A.2. ...

3. Support coordination services include on-going support and assistance to the beneficiary.

B. When beneficiaries choose to self-direct their waiver services, the support coordinator shall provide information, assistance, and management of the service being self-directed.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2165 (October 2015), by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 47:1521 (October 2021), LR 48:1568 (June 2022), LR 50:

§16335. Supported Employment

A. - D. ...

1. Transportation is payable only when a supported employment service is provided on the same day or when the provider is transporting to/from the job in follow along services.

D.2. - G. ...

1. Individual supported employment services shall be billed in quarter hour (15 minute) units. One-on-one services shall be billed in quarter hour units and shall be based on the person-centered plan and the beneficiary's ROW budget.

2. Services that assist a beneficiary to develop and operate a micro-enterprise shall be billed in quarter hour (15 minute) units. One-on-one services shall be billed in quarter hour units and shall be based on the person-centered plan and the beneficiary's ROW budget.

3. Group employment services shall be billed in quarter hour (15 minute) units of service up to eight hours per day and shall be based on the person-centered plan and the beneficiary's ROW budget.

G.4. - H. ...

1. Payment will only be made for the adaptations, supervision, and training required by individuals receiving waiver services, and will not include payment for the supervisory activities rendered as a normal part of the business setting.

2. Supported employment cannot be billed for at the same time as any other ROW services, except community life engagement development and MIHC.

3. Any time less than the minimum quarter hour (15 minute) unit of service provided for any model is not billable or payable. No rounding up of service units is allowed.

4. Time spent in transportation to and from the program shall not be included in the total number of service hours provided per day.

a. Travel training for the purpose of teaching the beneficiary how to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

b. Transportation is payable only when a supported employment service is provided on the same day and during follow along when the provider is providing the transportation to/from the job.

H.5. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1767 (December 2019), LR 47:1521 (October 2021), LR 48:1569 (June 2022), LR 50:

§16337. Transportation-Community Access

A. Transportation-community access services are provided to assist the beneficiary in becoming involved in his or her community. The service encourages and fosters the development of meaningful relationships in the community, which reflects the beneficiary's choice and values. This service provides the beneficiary with a means of access to community activities and resources. The goal is to increase the beneficiary's independence, productivity, and community inclusion and to support self-directed employee benefits as outlined in the beneficiary's POC.

A.1. - C.4. ...

D. Provider Qualifications. Friends and family members who furnish transportation/community access services to waiver beneficiaries, must be enrolled as a Medicaid non-emergency medical transportation (NEMT) family and friends provider with the Louisiana Department of Health, Bureau of Health Services Financing.

1. In order to receive reimbursement for transporting Medicaid beneficiaries to waiver services, family and friends must maintain compliance with the following:

1.a. - 2....

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment with the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

D.3.a. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2166 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:1523 (October 2021), LR 48:1570 (June 2022), LR 50:

§16343. Adult Day Health Care Services

A. - D. ...

E. ADHC services shall be provided no more than 10 hours per day and no more than 50 hours per week.

F. Provider Qualifications:

1. ADHC providers must be licensed according to the adult day health care provider licensing requirements contained in the Revised Statutes (R.S. 40:2120.41-40:2120.47).

2. ADHC providers must be enrolled as a Medicaid ADHC provider.

3. ADHC providers must comply with LDH rules and regulations.

4. Qualifications for ADHC center staff are set forth in the *Louisiana Administrative Code*.

G. - G.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:62 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December 2019), LR 47:1524 (October 2021), LR 48:1571 (June 2022), LR 50:

§16345. Monitored In-Home Caregiving Services

A. - A.1. ...

2. This goal is achieved by promoting a cooperative relationship between a beneficiary, a principal caregiver, the professional staff of a monitored in-home caregiving agency provider, and the beneficiary’s support coordinator.

B. The principal caregiver is responsible for supporting the beneficiary to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. - 4. ...

5. supervision or assistance while escorting or accompanying the beneficiary outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and

6. ...

C. Service Exclusions and Restrictions

1. Beneficiaries electing monitored in-home caregiving, are not eligible to receive the following ROW services during the period of time that the beneficiaries are receiving monitored in-home caregiving services:

- a. - b. ...
- c. host home; and
- d. shared living supports.
- e. Repealed.

D. Monitored in-home caregiving providers must be agency providers who employ professional nursing staff, including a registered nurse and a care manager, and other professionals to train and support principal caregivers to perform the direct care activities in the home.

D.1. - F. ...

G. Provider Qualifications

1. MIHC providers must be licensed according to the HCBS provider licensing requirements contained in the R.S. 40:2120.2-2121.9.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 45:1768 (December

2019), amended LR 47:1525 (October 2021), LR 48:1571 (June 2022), LR 50:

§16347. Community Life Engagement Development

A. Community life engagement development (CLED) should be used for the development of opportunities to assist beneficiaries in becoming involved in their community and to help develop a meaningful day for each beneficiary.

B. The purpose is to encourage and foster the development of meaningful relationships and memberships in the community, reflecting the beneficiary’s choices and values.

1. This service will be person-centered with an outcome of increased community activities and involvement in areas of interest as expressed by the beneficiary.

2. This should include church involvement, civic involvement, volunteering opportunities, as well as recreational activities.

3. The activities should be integrated with the community and not segregated groups.

C. The role of CLED should be to develop individual activities, memberships and volunteer positions within the beneficiary’s community, based off of each beneficiary’s community, based on each beneficiary’s person-centered plan and expressed interests and desires.

D. Transportation cost is included in the rate paid to the provider.

E. To use this service, the beneficiary may, or may not, be present.

F. Service limitations:

1. this service can be billed at the same time the beneficiary is receiving a day or employment service;

2. 15-minute unit increments;

3. 240 units per POC year (60 hours) which includes the combination of shared and non-shared CLE;

4. services shall not exceed the number of units as defined in the beneficiary’s POC and must have a prior authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LAC 50:

§16349. Financial Management Services

A. Financial Management Services (FMS) assist the beneficiary to live independently in the community while controlling his or her services by choosing the staff who work with them.

B. FMS are provided to beneficiaries who have chosen and are capable of self-directing their ROW services.

C. FMS are provided by a Medicaid enrolled Fiscal Employer Agent (F/EA) and the F/EA’s responsibilities and standards for participation are identified in LAC 50:XXI.Chapter 11, Subchapters A-C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LAC 50:

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. ...

1. Beneficiaries are informed of all available services and service delivery options, including self-direction, at the

time of the initial assessment, annually, or as requested by beneficiaries or their authorized representative. Beneficiaries who are interested in self-direction need only notify their support coordinator who will facilitate the enrollment process.

2. A fiscal/employer agent is responsible for processing the beneficiary's employer-related payroll, withholding and depositing the required employment-related taxes, and sending payroll reports to the beneficiary or his/her authorized representative.

3. Support coordinators assist beneficiaries by providing the following activities:

a. - d. ...

e. back-up service and emergency preparedness planning;

A.3.f. - B.3. ...

C. Beneficiary Responsibilities. Responsibilities of the waiver beneficiary or his or her authorized representative include the following:

1. - 1.b....

2. Waiver beneficiary's participation in the development and management of the approved personal purchasing plan.

a. This annual budget is determined by the recommended service hours listed in the beneficiary's POC to meet his or her needs.

b. - 3. ...

4. Prior to enrolling in self-direction, the beneficiary or his or her authorized representative is trained by the support coordinator on the process for completing the following duties:

a. - k. ...

1. back-up service planning.

5. - 7. ...

D. Termination of Self-Direction Service Option. Termination from this option may be either voluntary or involuntary and the support coordinator will assist with the transition. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. ...

a. Proper arrangements will be made by the support coordinator to ensure that there is no lapse in services.

b. Should the request for voluntary withdrawal occur, the beneficiary will receive counseling and assistance from his or her support coordinator immediately upon identification of issues or concerns in any of the above situations.

c. Beneficiaries may choose, at any time, to voluntarily return to a traditional direct service provider (DSP). Beneficiaries who return to a traditional DSP must remain with this DSP for at least 90 calendar days (three months) before opting to return to the self-direction option, if they are eligible to do so.

2. Involuntary Termination. The department may terminate the self-direction service option for a beneficiary and require him or her to receive provider-managed services under the following circumstances:

a. - b. ...

c. the beneficiary is no longer able to direct his or her own care and there is no responsible representative to direct the care;

d. ...

e. over three payment cycles in the period of a year, the beneficiary or authorized representative:

i. permits employees to work over the hours approved in the beneficiary's plan of care or allowed by the beneficiary's program;

e.ii - f. ...

g. a beneficiary may be removed from Self-Direction and required to return to traditional DSP if there are any violations of the ROW or Self-Direction program rules.

3. When action is taken to terminate a beneficiary from self-direction involuntarily, the support coordinator immediately assists the beneficiary in accessing needed and appropriate services through the ROW and other available programs, ensuring that no lapse in necessary services occurs for which the beneficiary is eligible. There is no denial of services, only the transition to a different payment option. The beneficiary and support coordinator are provided with a written notice explaining the reason for the action and citing the policy reference.

E. Employees of beneficiaries in the self-direction service option are not employees of the fiscal agent or the department.

1. Employee Qualifications. All employees under the self-direction option must meet the qualifications for furnishing personal care services as set forth in LAC 48:I.Chapter 92.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2167 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1525 (October 2021), LR 48:1572 (June 2022), LR 49:1727 (October 2023), LR 50:

Chapter 167. Provider Participation

§16701. General Provisions

A. - C. ...

1. Exception. The following services may be provided when the beneficiary is not present:

a. ...

b. personal emergency response systems;

c. one-time transitional services; and

d. community life engagement development.

2. All services must be documented in service notes which describe the services rendered and progress towards the beneficiary's personal outcomes and his or her POC.

D. - E. ...

F. Some ROW services may be provided by a member of the beneficiary's family, provided that the family member meets all requirements of a non-family direct support worker and provision of care by a family member is in the best interest of the beneficiary.

1. Payment for services rendered are approved by prior and post authorization as outlined in the POC.

2. Payments to legally responsible individuals, legal guardians, and family members living in the home shall be audited on a semi-annual basis to ensure payment for services rendered.

G. - G.3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), LR 42:63 (January 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1527 (October 2021), LR 48:1573 (June 2022), LR 50:

§16703. Staffing Restrictions and Requirements

A. ...

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the beneficiary.

1. - 1.c.ii. ...

2. Family members who may provide services include:

a. parents/guardians of minor children and adult children;

b. - c. ...

d. aunts and uncles;

e. cousins; and

f. in-laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2168 (October 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:1527 (October 2021), LR 48:1573 (June 2022), LR 50:

Chapter 169. Reimbursement

§16901. Unit of Reimbursement

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver beneficiary. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

1. - 4.b. ...

5. professional services furnished by a/an:

a. - d. ...

e. social worker; or

5.f. - 9. ...

EXCEPTION: Repealed.

B. The following services shall be reimbursed at the authorized rate or approved amount of the assessment, installation/fitting, maintenance, repairs, adaptation, device, equipment, or supply item and when the service has been prior authorized by the POC:

1. environmental accessibility adaptations:

a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the beneficiary a certificate of warranty for all labor and installation work and supply the beneficiary with all manufacturers' warranty certificates;

2. assistive technology/specialized medical equipment and supplies;

3. personal emergency response system (PERS) installation; and

4. monitored in-home caregiving (MIHC) assessment.

C. - C.4.a. ...

D. The following services shall be reimbursed at an established monthly rate:

1. support coordination:

a. the reimbursement for support coordination shall be in accordance with the terms of the established contract;

2. monthly service fee for PERS; and

3. financial management services.

EXCEPTION: The reimbursement for support coordination shall be at a fixed monthly rate and in accordance with the terms of the established contract.

E. The reimbursement for transportation services is a flat fee based on a capitated rate.

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. Transition expenses from an ICF/IID or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

H. Dental Services. Dental services are reimbursed according to the LA Dental Benefit Program.

I. Reimbursement Exclusion. No payment will be made for room and board under this waiver program.

J. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2170 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2530 (December 2017), LR 45:1769 (December 2019), LR 47:1527 (October 2021), LR 48:1573 (June 2022), LR 50:

§16903. Direct Service Worker Wages and Bonus Payments

A. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

1. ...

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

A.3. - C.5.b. ...

D. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

1. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- a. Direct Service Worker Wage Floor;
 - i. - iii. ...
- b. Direct Service Worker Workforce Bonus Payments;
 - b.i. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities LR 48:42R (January 2022), LR 49:1071 (June 2023), LR 50:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may help ease the financial burden on the family budget by providing coverage for new services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973, as it may help ease the financial burden on the family budget by providing coverage for new services.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses, since it provides reimbursement for new services added to the Residential Options Waiver.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct or indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides reimbursement for new services added to the Residential Options Waiver.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 31, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Residential Options Waiver

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$458,509 for FY 24-25, \$522,493 for FY 25-26, and \$600,461 for FY 26-27. It is anticipated that \$6,480 (\$3,186 SGF and \$3,186 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing Residential Options Waiver services in order to clarify the tiered waiver approach in Office for Citizens with Developmental Disabilities waivers and add new services including technology supports with remote features, incontinence supplies, the Person Emergency Response System, Community Life Engagement, and self-directed services as well as dismissal from self-direction.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$996,552 for FY 24-25, \$1,139,910 for FY 25-26, and \$1,310,010 for FY 26-27. It is anticipated that \$3,186 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing Residential Options Waiver services in order to clarify the tiered waiver approach in Office for Citizens with Developmental Disabilities waivers and add new services including technology supports with remote features,

incontinence supplies, the Person Emergency Response System, Community Life Engagement, and self-directed services as well as dismissal from self-direction. Implementation of this proposed rule may ease the financial burden on Residential Options Waiver beneficiaries and their families by providing Medicaid coverage for these services. Providers and small businesses will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid payments for Residential Options Waiver services by approximately \$1,448,689 for FY 24-25, \$1,662,403 for FY 25-26, and \$1,910,472 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2409#065

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers Support Coordination Standards for Participation (LAC 50:XXI.Chapter 5)

The Department of Health, Bureau of Health Services Financing and Office of Aging and Adult Services propose to amend LAC 50:XXI.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend the provisions governing Support Coordination Standards for Participation to align the administrative Rule with current policy and procedures under the Home and Community-Based Services (HCBS) Waivers relative to general provisions, administration and organization, provider responsibilities, and to establish cost reporting requirements for support coordination agencies providing waiver services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 1. General Provisions

Chapter 5. Support Coordination Standards for Participation for Office of Aging and Adult Services Waiver Programs

Subchapter A. General Provisions

§501. Introduction

A. The Louisiana Department of Health (LDH) establishes these minimum standards for participation which provides the core requirements for support coordination services provided under home and community-based services waiver programs administered by the Office of

Aging and Adult Services (OAAS). OAAS must determine the adequacy of quality and protection of waiver participants in accordance with the provisions of these standards.

B. - D.1. ...

E. If a support coordination agency fails to comply and/or is unable to comply with their requirements as a certified support coordination agency, OAAS may temporarily perform the mandatory duties of the support coordination agency to ensure the continuity of the participants' services and the participants' health and welfare. The support coordination agency shall not be reimbursed for support coordination duties performed by OAAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3086 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 47:886 (July 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§503. Certification Requirements

A. All agencies that provide support coordination to OAAS administered home and community-based services (HCBS) waivers must be certified by LDH. It shall be unlawful to operate as a support coordination agency for OAAS administered HCBS waiver programs without being certified by the department.

B. In order to provide support coordination services for OAAS administered HCBS waiver programs, the agency must:

1. - 3. ...

4. enroll as a Medicaid support coordination agency in all regions in which it intends to provide services for OAAS administered HCBS waiver programs; and

5. comply with all LDH and OAAS policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3087 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§505. Certification Issuance

A. A certification shall:

1. - 2. ...

3. enable the support coordination agency to provide support coordination for OAAS administered HCBS waivers within the specified LDH region; and

4. ...

B. Provisional certification may be granted when the agency has deficiencies which are not a danger to the health and welfare of participants. Provisional certification shall be issued for a period not to exceed 90 calendar days.

C. Initial certification shall be issued by OAAS based on the survey report of LDH, or its designee.

D. Unless granted a waiver by OAAS, a support coordination agency shall provide such services only to waiver participants residing in the agency's designated LDH region(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3087 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Subchapter B. Administration and Organization

§515. Business Location and Operations

A. Each support coordination agency shall have a business location which shall not be in an occupied personal residence. The business location shall be in the LDH region for which the certification is issued and shall be where the agency:

A.1. - B.6. ...

C. Records and other confidential information shall be secure and protected from unauthorized access.

D. Each support coordination agency must utilize business issued email accounts that are private, secure, and HIPAA compliant, and must not use publicly available email addresses.

E. All email that involves PHI must be sent utilizing a secure email process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3088 (November 2013), amended LR 40:1936 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§519. Policy and Procedures

A. The support coordination agency shall have written policies and procedures approved by the owner or governing body which must be implemented and followed that address at a minimum the following:

1. - 4. ...

5. statewide criminal history background checks;
6. database checks upon hire and monthly thereafter;
7. participant rights;
8. grievance procedures;
9. emergency preparedness;
10. abuse and neglect reporting;
11. critical incident reporting;
12. worker safety;
13. documentation; and
14. admission and discharge procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3088 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§521. Organizational Communication

A. - C. ...

D. The support coordination agency shall be responsible for:

1. obtaining written approval of the brochure from OAAS prior to distributing to applicants/participants of OAAS-administered HCBS waiver programs;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3089 (November 2013), amended LR 40:1936 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

Subchapter C. Provider Responsibilities

§525. General Provisions

A. Any entity wishing to provide support coordination services for any OAAS administered HCBS waiver program shall meet all of the standards for participation contained in this Rule, unless otherwise specifically noted within these provisions.

B. The support coordination agency shall also abide by and adhere to any federal, state law, Rule, policy, procedure, performance agreement, manual or memorandum pertaining to the provision of support coordination services for OAAS administered HCBS waiver programs.

C. Failure to comply with the requirements of these standards for participation may result in sanctions including, but not limited to:

1. monetary sanctions;
2. suspension of payments;
3. recoupments;
4. cessation of linkages
5. citation of deficient practice and plan of correction submission;
6. removal from the freedom of choice list;
7. decertification as a support coordination agency for OAAS administered HCBS waiver services; and/or
8. termination of support coordination performance agreement.

D. ...

E. Designated representatives of the department, in the performance of their mandated duties, shall be allowed by a support coordination agency to:

1. inspect all aspects of a support coordination agency's operations which directly or indirectly impact participants; and

E.2. - G. ...

H. Support coordination agencies shall, at a minimum:

1. maintain and/or have access to a comprehensive resource directory containing all of the current inventory of existing formal and informal resources that identifies services within the geographic area which shall address the unique needs of participants of OAAS administered HCBS waiver programs;

2. ...

3. demonstrate knowledge of the eligibility requirements and application procedures for federal, state and local government assistance programs, which are applicable to participants of OAAS administered HCBS waiver programs;

4. - 5. ...

6. ensure that all agency staff are employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations (subcontracting of individual support coordinators and/or supervisors is prohibited);

7. have appropriate agency staff attend trainings, as mandated by LDH and OAAS;

8. - 9. ...

10. ensure each participant has freedom of choice in the selection of available qualified providers and the right to change providers in accordance with program guidelines; and

11. ensure that the agency and support coordinators will not provide both support coordination and Medicaid-reimbursed direct services to the same participant(s).

I. Abuse and Neglect. Support coordination agencies shall establish policies and procedures relative to the reporting of abuse and neglect of participants, pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. Providers shall ensure that staff complies with these regulations.

J. Ensure that statewide criminal history background checks are performed on all unlicensed persons working for the support coordination agency (SCA) in accordance with R.S. 40:1203.1 et seq. and/or other applicable state law upon hire;

1. ensure that the SCA does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law;

a. the SCA shall maintain documentation on the final disposition of all charges that bars employment pursuant to applicable state law.

K. Ensure that all employees, including contractors, are not excluded from participation in the Medicaid programs by checking the databases upon hire and then monthly thereafter.

1. the SCA shall maintain documentation of the results of these database checks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3089 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§527. Support Coordination Services

A. Support coordination is a mandatory service in the OAAS waiver programs that assists participants in gaining access to needed waiver and other state plan services, as well as needed medical, social, educational, housing and other services, regardless of the funding source for these services. Support coordination agencies shall be required to perform the following core elements of support coordination services:

1. intake;
2. assessment and re-assessment;
3. plan of care development and revision;
4. follow-up/monitoring;
5. critical incident management; and
6. transition discharge and closure.

7. - 9. Repealed

B. The support coordination agency shall also be responsible for completing the following functions:

1. linkage to direct services and other resources;
2. assessing, addressing and documenting delivery of services, including remediation of difficulties encountered by participants in receiving direct services;
3. coordination of multiple services among multiple providers;

4. ongoing assessment and mitigation of health, behavioral and personal safety risk; and

5. responding to participant crisis.

C. A support coordination agency shall not refuse to serve, or refuse to continue to serve, any individual who chooses/has chosen its agency unless there is documentation to support an inability to meet the individual's health and welfare needs, or all previous efforts to provide services and supports have failed and there is no option but to refuse services.

C.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3090 (November 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§529. Transfers and Discharges

A. All participants of OAAS administered waiver programs must receive support coordination services. However, a participant has the right to choose a support coordination agency. This right includes the right to be discharged from his/her current support coordination agency and/or be transferred to another support coordination agency.

B. ...

C. The support coordination agency shall also have the responsibility of planning for a participant's transfer when the support coordination agency ceases to operate or when the participant moves from the geographical region serviced by the support coordination agency.

1. If a support coordination agency ceases to operate, the agency must give OAAS at least 60 calendar days written notice of its intent to close. Where transfer of participants is necessary due to the support coordination agency closing, the written discharge summary for all participants served by the agency shall be completed within 10 working days of the notice to OAAS of the agency's intent to close.

D. - D.3 ...

E. The written discharge summary, along with the current plan of care, shall be completed and provided to the receiving support coordination (if applicable) agency and OAAS regional office, within five working days of any of the following:

1. - 2. ...

3. notice by the participant or authorized representative that the participant will be transferring to a LDH geographic region not serviced by his/her current support coordination agency; or

E.4. - F. ...

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3090 (November 2013), amended LR 40:1936 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§531. Staffing Requirements

A. Agencies must maintain sufficient staff to comply with OAAS staffing, timelines, workload, and performance

requirements. This includes, but is not limited to, including sufficient support coordinators and support coordination supervisors that have passed all of the OAAS training and certification requirements. At all times, an agency must have at least one certified support coordination supervisor and at least one certified support coordinator, both employed full time. Agencies may employ staff who are not certified to perform services or requirements other than assessment and care planning.

B. - B.2. ...

C. Agencies shall employ or contract a licensed registered nurse to serve as a consultant. The nurse consultant shall work a minimum of 16 hours per month.

D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3091 (November 2013), amended LR 40:1937 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§533. Personnel Standards

A. Support coordinators must meet one of the following requirements:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education; or

2. a diploma, associate's, bachelor's or master's degree in nursing (RN) currently licensed in Louisiana; or

3. a bachelor's or master's degree in a human service related field which includes:

a. - i. ...

j. substance abuse;

k. gerontology; or

l. vocational rehabilitation; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields in §533.A.3.a-1 of this Section; or

5. a bachelor's or master's degree in a field other than those listed in §533.A.1.- 4, if approved by OAAS.

B. Support coordination supervisors must meet the following requirements:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education; or

2. a bachelor's or master's degree in nursing (RN), currently licensed in Louisiana; or

3. a bachelor's or master's degree in a human service related field which includes: psychology, education, counseling, social services, sociology, philosophy, family and participant sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the following fields: psychology, education, counseling, social services, sociology, philosophy, family and participant sciences, criminal justice, rehab services, child development, substance abuse, gerontology, or vocational rehabilitation; or

5. a bachelor's or master's degree in a field other than those listed in §533.B.1.- 4, if approved by OAAS; and

6. have two years of paid post degree experience in providing support coordination services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3091 (November 2013), amended LR 40:1937 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§537. Orientation and Training

A. - B. ...

C. Orientation and training of at least 32 hours shall be provided by the agency to all newly hired support coordinators and support coordination supervisors within five working days of employment. The topics shall be agency/OAAS specific and shall include, at a minimum:

1. - 16. ...

D. Upon completion of the agency-provided training requirements set forth above, newly hired support coordinators and support coordination supervisors must successfully complete all OAAS assessment and care planning training (if applicable).

E. ...

F. All support coordinators and support coordination supervisors must complete a minimum of 16 hours of training per year. The 32 hours of orientation and initial training for support coordinators and support coordination supervisors required in the first 90 calendar days of employment may be counted toward the 16 hour minimum annual training requirement. Routine supervision shall not be considered training.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3092 (November 2013), amended LR 40:1937 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§543. Critical Incident Reporting

A. Support coordination agencies shall report critical incidents according to established OAAS policy including timely entries into the designated LDH critical incident database.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3093 (November 2013), amended LR 40:1938 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§545. Participant Records

A. Participant records shall be maintained in the support coordinator's office. The support coordinator shall have a current record for each participant.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3093 (November 2013),

amended LR 40:1938 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§547. Emergency Preparedness

A. Support coordination agencies shall ensure that each participant has an individual plan for dealing with emergencies and disasters and shall assist participants in identifying the specific resources available through family, friends, the neighborhood, and the community. The support coordination agency shall assess monthly whether the emergency plan information is current and effective and shall make changes accordingly.

B. - C. ...

D. The support coordination agency shall cooperate with the department and with the local or parish Office of Homeland Security and Emergency Preparedness in the event of an emergency or disaster and shall provide information as requested.

E. The support coordination agency shall monitor weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3094 (November 2013), amended LR 40:1938 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§551. Support Coordination Agency Monitoring

A. Support coordination agencies shall be monitored as outlined in the OAAS policies and procedures and the support coordination performance agreement.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:3095 (November 2013), amended LR 40:1939 (October 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§553. Workforce Retention Bonus Payments

A. - A.2. ...

B. Audit Procedures for Support Coordination Workforce Bonus Payments

B.1. - 5.b. ...

C. Sanctions for Support Coordination Workforce Bonus Payments

C.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 49:685 (April 2023), LR 50:

§555. Cost Reporting Requirements

A. Support coordination agencies (SCAs) must submit annual cost reports with a fiscal year from July 1st through June 30th to the department to verify expenditures and to support rate setting for the services rendered to waiver participants.

B. Each SCA must complete the LDH approved cost report and submit the cost report(s) to the department no

later than November 30th, which is five months after the state's fiscal year end date (June 30th).

C. When the SCA fails to submit the cost report by November 30th, which is five months after the state's fiscal year end date (June 30th), a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the SCA's payment for each month that the cost report is due, not extended and not received. If no claims are submitted for payment during the time of the penalty implementation, the penalty will be imposed when the provider commences submitting claims for payment. The late filing penalty is non-refundable and not subject to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 31, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Support Coordination Standards for Participation

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$2,916 (\$1,458 SGF and \$1,458 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing Support Coordination Standards for Participation to align the administrative rule with current policy and procedures under the home and community-based (HBCS) waivers relative to general provisions, administration and organization, provider responsibilities, and to establish cost reporting requirements for support coordination agencies providing waiver services.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 24-25. It is anticipated that \$1,458 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing Support Coordination Standards for Participation to align the administrative rule with current policy and procedures under the Home and Community-Based Services (HCBS) Waivers relative to general provisions, administration and organization, provider responsibilities, and to establish cost reporting requirements for support coordination agencies providing waiver services. Implementation of this proposed rule will not result in costs to providers and small businesses in FY 24-25, FY 25-26, and FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2409#066

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Supports Waiver
(LAC 50:XXI.Chapters 57 and 59)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.Chapters 57 and 59 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities propose to amend the provisions governing the supports waiver services to add assistive technology with remote features to specialized medical equipment, place service limits on assistive technology with remote features and incontinence supplies, include additional requirements for day habilitation and prevocational services providers and require that community life engagement providers must possess a valid adult day care license and provide day habilitation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services

Waivers

Subpart 5. Supports Waiver

Chapter 57. Covered Services

§5701. Supported Employment Services

A. - C. ...

D. Transportation is a separate billable component for supported employment services, both individual and group. Transportation may be billed on the same day as a supported employment service is delivered or if follow-along supports are on the plan of care (POC).

E. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017), LR 48:1575 (June 2022), LR 50:212 (February 2024), LR 50:

§5725. Specialized Medical Equipment and Supplies

A. Specialized Medical Equipment and Supplies

1. Incontinence briefs and supplies are available for a beneficiary, 21 years or older, who has a physician's order and requires the use of incontinence briefs and supplies.

2. Assistive technology (AT), which may include remote features, is a service intended to increase the individual's ability to perform activities more independently in their home, at their job, traveling around their community and/or communicating with others. The service may include equipment and applications that are used to support an individual remotely and increase their safety, independence and control. This service includes a consultation and, if needed, a monthly subscription fee.

B. Service Restrictions

1. Incontinence supplies are for those who are 21 years of age or older.

2. Assistive technology with remote features is for anyone 18 years or older.

3. Incontinence supplies require a physician's order.

4. An AT consultation is available if needed.

C. Service Limitations

1. Incontinence supplies' cost cannot exceed \$2,500 in a single plan of care year.

2. Assistive technology with remote features services shall not exceed the number of units of service as outlined in the plan of care, and must have a prior authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 50:214 (February 2024), LR 50:

Chapter 59. Provider Participation

§5901. General Provisions

A. - B. ...

C. In addition to meeting the requirements cited in §5901.A and B, providers must meet the following requirements for the provision of designated services:

1. Day Habilitation and Prevocational Services. The provider must possess a current, valid license as an adult day care center in order to provide these services and for the community career planning service (prevocational), the provider may possess a valid certificate as a community rehabilitation provider (CRP) from an approved program or the certification and training as required per OCDD.

2. - 7. ...

8. Specialized Medical Equipment and Supplies. Providers of this service must be enrolled to participate in the Medicaid Program as a provider of assistive technology, specialized medical equipment, and supplies.

9. Community Life Engagement Development. Providers of this service must possess a valid adult day care license and provide day habilitation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental

Disabilities, LR 43:2532 (December 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 43:2532 (December 2017), LR 48:1579 (June 2022), LR 50:215 (February 2024), LR 50:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 ensuring that waiver participants have access to coverage for increased services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 that could ease the financial burden on the family by ensuring access to coverage for additional waiver services.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have a positive impact on small businesses since it is anticipated to provide reimbursements for additional Supports Waiver services.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170, that is anticipated to provided reimbursements for additional Supports Waiver Services.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 31, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge,

LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services
Waivers—Supports Waiver**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$41,778.66 for FY 24-25, \$45,761.30 for FY 25-26, and \$49,078.29 for FY 26-27. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing the supports waiver services to add assistive technology with remove features to specialized medical equipment, place service limits on assistive technology with remote features and incontinence supplies, include additional requirements for day habilitation and prevocational services providers and require that community life engagement providers must possess a valid adult day care license and provide day habilitation services.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$90,636.00 for FY 24-25, for \$97,064.24 for FY 25-26, and \$105,987.40 for FY 26-27. It is anticipated that \$432 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule amends the provisions governing the supports waiver services to add assistive technology with remove features to specialized medical equipment, place service limits on assistive technology with remote features and incontinence supplies, include additional requirements for day habilitation and prevocational services providers and require that community life engagement providers must possess a valid adult day care license and provide day habilitation services. Providers and small businesses will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid payments for Supports Waiver services by approximately \$131,551.57 for FY 24-25, \$142,825.54 for FY 25-26, and \$155,065.69 for FY 26-27.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2409#067

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Long Term Personal Care Services
(LAC 50:XV.Chapter 129)

The Department of Health, Bureau of Health Services Financing and Office of Aging and Adult Services propose to amend LAC 50:XV.Chapter 129 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing, and the Office of Aging and Adult Services propose to amend the provisions governing long term personal care services (LT-PCS) to update language pertaining to rights and responsibilities, cost reporting requirements, and add new language for a rate methodology to align current policies and procedures under the home and community based services waivers with the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12907. Recipient Rights and Responsibilities

A. Recipients who receive services under the Long-Term Personal Care Services Program have the right to actively participate in the development of their plan of care and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. - 4. ...

5. signing off /approving time entries and other documentation to verify staff work hours and to authorize payment;

A.6. - B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013), LR 42:903 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§12909. Standards for Participation

A. - A.2. ...

B. In addition, a Medicaid enrolled agency must:

1. ...
2. ensure that all agency staff are employed in accordance with Internal Revenue Service (IRS) and U.S. Department of Labor regulations.
3. ensure that statewide criminal history background checks are performed on all unlicensed persons working for the provider in accordance with R.S. 40:1203.1 et. seq. and/or other applicable state law upon hire;
 - a. ensure that the provider does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law;
 - i. the provider shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law;
4. ensure that all employees, including contractors, have not been excluded from participation in the Medicaid programs by checking the databases upon hire and monthly thereafter;
 - a. the provider shall maintain documentation of the results of these database checks.

C. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1980 (October 2017), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§12917. Rate Methodology

A. A rate validation process will occur every two years, at a minimum, to determine the sufficiency of reimbursement rates. The rate validation process will involve the comparison of current provider reimbursement rates to reimbursement rates established using the department's reimbursement methodology.

1. The department's reimbursement methodology will establish an estimated reimbursement through the summation of the following two rate component totals:
 - a. adjusted staff cost rate component; and
 - b. other operational cost rate component.
2. The adjusted staff cost rate component will be determined in the following manner.
 - a. Direct service worker wage expense, contract labor expense, and hours worked for reimbursable assistance services will be collected from provider cost reports.
 - i. Collected wage and contract labor expense will be divided by collected hours worked, on an individual cost report basis, to determine a per hour labor rate for direct service workers.
 - ii. The individual cost report hourly labor rates will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide labor rate will be determined.

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

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

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

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

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

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

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

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

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

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

i. The department will determine estimates for the amount of time a direct service worker spends performing required non-billable activities during an eight hour period. Examples of non-billable time include, but are not limited to: meetings, substitute staff, training, wait-time, supervising, etc.

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

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

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

a. Capital expense, transportation expense, other direct non-labor expense, and other overhead expense

allocated to reimbursable assistance services will be collected from provider cost reports.

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021), LR 49:697 (April 2023), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

§12919. Reimbursement

A. Reimbursement for long term personal care services shall be a prospective flat rate for each approved unit of service that is provided to the participant. One quarter hour (15 minutes) is the standard unit of service for LT-PCS. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service. Additional reimbursement shall not be available for transportation furnished during the course of providing LT-PCS.

B. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1052 (April 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021), amended LR 50:

§12921. Cost Reporting Requirements

[Formerly §12919]

A. LT-PCS providers must submit annual cost reports with a fiscal year from July 1 through June 30 to the department to verify expenditures and to support rate setting for the services rendered to HCBS LT-PCS participants.

1. - 5. Repealed.

B. Each LT-PCS provider must complete the LDH approved cost report and submit the cost report(s) to the department no later than November 30, five months after the state's June 30 fiscal year end date.

1. - 2. Repealed.

C. When the LT-PCS provider fails to submit a cost report by November 30, five months after the state's June 30 fiscal year end date, a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the provider's payment for each month that the cost report is due, not extended and not received. If no claims are submitted for payment during the time of the penalty implementation, the penalty will be imposed when the provider commences submitting claims for payment. The late filing penalty is non-refundable and not subject to an administrative appeal.

C.1. - D.1.d. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1052 (April 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021), amended , LR 50:

§12923. Direct Service Worker Wages, Other Benefits, and Workforce Bonus Payments

[Formerly §12921]

A. Establishment of Direct Service Worker Wage Floor and Other Benefits

1. Long term-personal care services (LT-PCS) providers that were providing LT-PCS on or after October 1, 2021 and employing direct service workers (DSWs) will receive the equivalent of a \$4.50 per hour rate increase.

2. This increase, or its equivalent, will be applied to all service units provided by DSWs with an effective date of service for the LT-PCS provided on or after October 1, 2021.

3. All LT-PCS providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the DSW in various forms. These forms include a minimum wage floor of \$9 per hour and wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected DSWs of any working status, whether full-time or part-time.

4. The Louisiana Department of Health (LDH) reserves the right to adjust the DSW wage floor and/or wage and non-wage benefits as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Establishment of Direct Service Worker Workforce Bonus Payments

1. LT-PCS providers who provided services from April 1, 2021 to October 31, 2022, shall receive bonus

payments of \$300 per month for each DSW that worked with participants for those months.

2. The DSW who provided services from April 1, 2021 to October 31, 2022 to participants must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all affected DSWs of any working status, whether full-time or part-time.

C. Audit Procedures for Direct Service Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to LT-PCS providers shall be subject to audit by LDH.

2. LT-PCS providers shall provide LDH or its representative all requested documentation to verify that they are in compliance with the DSW wage floor, wage and non-wage benefits and/or bonus payments.

3. This documentation may include, but is not limited to: payroll records, wage and salary sheets, check stubs, etc.

4. LT-PCS providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the wage enhancement, wage and non-wage benefits and/or bonus payments were paid directly to DSWs may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid program.

D. Sanctions for Direct Service Worker Wage Floor, Other Benefits, and Workforce Bonus Payments

1. The LT-PCS provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pass 70 percent of the LT-PCS provider rate increases directly to the DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

b. the number of employees identified that the LT-PCS provider has not passed 70 percent of the LT-PCS provider rate increases directly to the DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the LT-PCS provider rate increases directly to the LT-PCS DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$250 monthly bonus payments; or

d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2509 (September 2013), amended by the

Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 50:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 31, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Long Term Personal Care Services**

NOTICE OF INTENT

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

Pharmacy Benefits Management Program
Pharmacy Copayment
(LAC 50.XXIX.111)

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$1,944 (\$972 SGF and \$972 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule. There is an anticipated cost related to the rate validation process. To the extent the periodic validation process results in base rate increase, any funding will be subject to legislative appropriation.

This proposed rule amends the provisions governing long-term personal care services (LT-PCS) to update language pertaining to rights and responsibilities, cost reporting requirements, add new language for a rate methodology to align current policies and procedures under the home and community based services waivers with the Louisiana Administrative Code.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 24-25. It is anticipated that \$972 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing long-term personal care services (LT-PCS) to update language pertaining to rights and responsibilities, cost reporting requirements, add new language for a rate methodology to align current policies and procedures under the home and community based services waivers with the Louisiana Administrative Code. Implementation of this proposed rule may result in a rate increase in the future for LT-PCS providers and small businesses in FY 24-25, FY 25-26, and FY 26-27, and will be beneficial by aligning the administrative rule with the federal regulations governing the long term-personal care services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2409#068

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

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

The Department of Health, Bureau of Health Services Financing, proposes to amend the provisions governing the Pharmacy Benefits Management Program to update copay tier payment schedule to align with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services recommended guidelines.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXIX. Pharmacy**

Chapter 1. General Provisions

§111. Copayment

A. Payment Schedule

1. A copayment requirement in the Pharmacy Program is based on the following payment schedule.

Calculated State Payment	Copayment
\$5.00 or less	\$0.00
\$5.01 to \$10.00	\$0.50
\$10.01 to \$25.00	\$1.00
\$25.01 to \$50.00	\$2.00
\$50.01 or more	\$3.00

A.2. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 46:34 (January 2020), LR 48:2975 (December 2022), LR 50:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that

this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by easing the financial burden on the family and ensuring that beneficiaries have access to affordable prescription medicine.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of services as described in HCR 170.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 30, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary Attn: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on, October 10, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on October 31, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefits Management Program—Pharmacy Copayment

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

It is anticipated that implementation of this proposed rule will result in decreased state costs of approximately \$54,493 for FY 24-25, \$54,120 for FY 25-26, and \$54,120 for FY 26-27. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will decrease federal revenue collections by approximately \$400,542 for FY 24-25, \$400,483 for FY 25-26, and \$400,483 for FY 26-27. It is anticipated that \$216 will be collected in FY 24-25 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the Pharmacy Benefits Management Program to update copay tier payment schedule to align with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services recommended guidelines. Implementation of this proposed rule is anticipated to result in decreased Medicaid payments to pharmacy providers of approximately \$454,603 for FY 24-25, \$454,603 for FY 25-26, and \$454,603 for FY 26-27. Pharmacy providers will be responsible for collecting all co-pay amounts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2409#069

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Licensed Professional Counselors Board of Examiners

Continuing Education for PLMFTs and LMFTs
(LAC 46:LX.3315, 3501, and 3503)

In accordance with the applicable provisions of the Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners proposes to clarify and amend the continuing education requirements for PLMFT and LMFT renewal applicants.

The Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to propose changes to Chapter 33 Section 3315, Chapter 35 Section 3501 and Section 3503 for publication in the September 20, 2024, edition of the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists

Chapter 33. Requirements for Licensure and Provisional Licensure

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

A. - E. ...

1. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics specific to marriage and family therapy and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the most recent *Diagnostic and Statistical Manual of Mental Disorders*, as published by the American Psychiatric Association. The required training in diagnosis, assessment, and treatment under the most recent *Diagnostic and Statistical Manual of Mental Disorders* may be specific to a particular condition and/or may be general training in diagnosis, assessment, and treatment. A generic ethics course is not acceptable.

E.1.a. ...

b. Accrual of continuing education begins after the date the license was issued for initial licensure and only during the renewal period for renewal applicants. The renewal period is November 1 to October 31.

c. CEHs accrued beyond the required 20 hours may not be applied toward the next renewal period.

E.1.d. ...

e. At the time of renewal, 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met.

E.1.f. - E.2. ...

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

i. The advisory committee will accept workshops and presentations approved by the Louisiana Counseling Association (LCA), the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers. Graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in §3315.E.4.

E.2.b.ii. - E.2.c.i.(b). ...

ii. Original presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in §3315.E.4 may count for up to 10 hours maximum at a rate of three clock hours per one-hour

presentation. Presenters must meet the qualifications stated in §3315.E.2.b.iii.(c). The presentation must be to the professional community, not to the lay public or a classroom presentation.

iii. Peer Consultation (10 hours maximum per renewal period). One may receive one clock hour of continuing education per hour of participation in peer consultation activities. Per consultation content must meet the guidelines indicated in 3503.C.3. All peer consultation sessions must include at least one LMFT.

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

4. Completed peer supervision form

5. For authoring, editing, or reviewing professional manuscripts or presentations in the area of marriage and family therapy:

i. copy of article plus the table of contents of the journal it appears in

ii. copy of chapter plus table of contents for chapter authored for books

iii. title page and table of contents for authoring or editing books

iv. letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:1204 (September 2019), LR 47:1529 (October 2021), LR 50:

Chapter 35. Renewal of License for Licensed Marriage and Family Therapists

§3501. General Provisions

A. Licenses shall be renewed every two years. The licensee shall submit an application form and payment of the renewal fee. Upon approval by the advisory committee, the board shall issue a document renewing the license for two years.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1122.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), amended LR 29:2789 (December 2003). LR 50:

§3503. Continuing Education Requirements

A. - A.2. ...

3. Accrual of continuing education begins after the date the license was issued for initial licensure and only during the renewal period for renewal applicants. The renewal period is January 1 to December 31.

4. Continuing education hours accrued beyond the required 40 clock hours may not be applied toward the next renewal period.

5. ...

6. At the time of renewal 10 percent of the licensees will be audited to ensure that the continuing education requirement is being met. Licensees audited will be notified as specified in §3503.B of their continuing education hours.

7. - 8. ...

9. A licensee must accrue six clock hours of training in diagnosis every renewal period that specifically addresses the assessment, diagnosis, and treatment of clinical conditions under the most recent *Diagnostic and Statistical Manual of Mental Disorders*, as published by the American Psychiatric Association. This required training may be specific to the diagnosis, assessment, and treatment of a particular condition and/or may be general training in diagnosis, assessment, and treatment under the most recent *Diagnostic and Statistical Manual of Mental Disorders*.

A.10. - B.3. ...

4. Completed peer consultation form

5. For authoring, editing, or reviewing professional manuscripts or presentations in the area of marriage and family therapy:

- i. copy of article plus the table of contents of the journal it appears in
- ii. copy of chapter plus table of contents for chapter authored for books
- iii. title page and table of contents for authoring or editing books
- iv. letter from conference coordinator or journal editor for reviewing refereed workshop presentations or journal articles.

C. ...

1. An LMFT may obtain the 40 clock hours of continuing education through the options listed. Effective January 1, 2017, a maximum of 20 CEHs may be obtained through an online format, with the exception of coursework obtained through a regionally accredited institution of higher education. All continuing education hours may be obtained through Subparagraph a or 20 of the 40 hours may be obtained through Subparagraph b:

C.2.a. ...

i. The advisory committee will accept workshops and presentations approved by, the Louisiana Counseling Association (LCA), the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions including the Louisiana Association for Marriage and Family Therapy (LAMFT). Contact them directly to find out which organizations, groups, or individuals are approved providers. Graduate coursework either taken for credit or audit must be from a regionally accredited college or university and in the areas of marriage and family therapy described in Paragraph C.3.

C.2.a.ii. - C.2.b.i.(b). ...

ii. Original presentations at workshops, seminars, symposia, and meetings in an area of marriage and family therapy as described in Paragraph C.3 may count for up to 10 hours maximum at a rate of three clock hours per one-hour presentation. Presenters must meet the qualifications stated in Subparagraph 2.a. The presentation must be to the professional community, not to the lay public or a classroom presentation.

iii. Peer Consultation (10 hours maximum per renewal period). One may receive one clock hour of continuing education per hour of participation in peer consultation activities. Per consultation content must meet the guidelines indicated in 3503.C.3. All peer consultation sessions must include at least one LMFT.

C.3. - C.3.g. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), repromulgated LR 29:581 (April 2003), amended LR 29:2789 (December 2003), LR 41:752 (April 2015), LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by October 10, 2024, at 5 p.m.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education for PLMFTs and LMFTs

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

Other than the cost of rulemaking, which is approximately \$900 in FY 25 related to publishing the proposed rule and final

rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. The cost of rulemaking will be paid from self-generated funds.

Existing rules provide that preapproved continuing education for Licensed Marriage and Family Therapists (LMFT) may be provided by the American Association for Marriage and Family Therapy (AAMFT) and its regional or state divisions. The proposed changes would allow additional preapproval of continuing education hours by the Louisiana Counseling Association (LCA). Secondly, the proposed changes add peer consultation as a mode of accruing continuing education hours for LMFTs, as it is currently permitted for Licensed Professional Counselors (LPC). Thirdly, the continuing education hours for original presentations would count as three continuing education hours per one hour presentation for LMFTs. Currently, the ratio is two continuing education hours per one hour presentation. For informational purposes, rules for LPCs currently allow five continuing education hours per one hour presentation. The proposed changes also include technical revisions that were made to provide clarity on the definition of continuing education and the requirement that information be submitted to the board online rather than via mail.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Applicants for license renewal may benefit from the additional modes of obtaining continuing education provided under the proposed changes. Peer consultation does not require preapproved coursework, and a licensee can obtain up to ten hours via this mode. The proposed changes will allow licensees to accrue more continuing education hours via presentations. The addition of the LCA as a preapproved continuing education provider for LMFTs may also benefit renewal applicants as they can obtain preapproval of continuing education for both the LPC and LMFT licenses at one annual conference.

The proposed rule changes may result in decreased income to accredited providers of continuing education coursework or professional associations, as licensees will be able to obtain continuing education hours from additional sources under the proposed changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may result in increased competition among continuing education providers as there will be more options for preapproved coursework and additional methods for accruing hours. The proposed rule changes are not expected to affect employment.

Jamie S. Doming
Executive Director
2409#053

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Licensed Professional Counselors Board of Examiners

Endorsement
(LAC 46: LX.1101 and 3701)

In accordance with the applicable provisions of the Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners proposes to amend the requirement for endorsement applicants.

The Licensed Professional Counselors Board of Examiners hereby gives notice of intent to propose changes to Chapter 11 Section 1101 and Chapter 37 Section 3701 for publication in the September 20, 2024, edition of the *Louisiana Register*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors Chapter 11. Endorsement and Expedited Processing §1101. Endorsement

A. Upon recommendation of the board, the board shall issue a license to any person who has been licensed as a licensed professional counselor and has actively practiced mental health counseling for at least one year in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also provide proof of having passed the National Counselor Examination (NCE) or the National Clinical Mental Health Counseling Examination (NCMHCE) or successfully complete an oral exam administered by the board. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 7, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice mental health counseling in the state of Louisiana at the time the act was committed.

B. Upon recommendation of the board, the board shall issue a license to any person licensed as a licensed as a licensed professional counselor for less than one year in another jurisdiction whose requirements for the license are substantially equivalent to or exceed the requirements of the state of Louisiana. The applicant must submit an application

on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also provide proof of having passed the National Counselor Examination (NCE) or the National Clinical Mental Health Counseling Examination (NCMHCE). An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice mental health counseling in the state of Louisiana at the time the act was committed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 22:103 (February 1996), LR 29:137 (February 2003), LR 39:1790 (July 2013), amended LR 41:723 (April 2015), LR 50:

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists
Chapter 37. Endorsement and Expedited Processing
§3701. Endorsement

A. Upon recommendation of the board and Marriage and Family Therapy Advisory Committee, the board shall issue a license to any person who has been licensed as a marriage and family therapist and has actively practiced marriage and family therapy for at least one year in another jurisdiction. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. An applicant must submit documentation of at least 40 CEHs, in accordance with the requirements listed in Chapter 35, within two years of the date of application for licensure endorsement in Louisiana. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

B. Upon recommendation of the board and marriage and family therapy advisory committee, the board shall issue a license to any person licensed as a licensed as a marriage and family therapist for less than one year in another jurisdiction whose requirements for the license are substantially equivalent to or exceed the requirements of the state of Louisiana. The applicant must submit an application on forms prescribed by the board in the prescribed manner and pay the required licensure fee. Applicants must also provide proof of having passed the Association of Marital and Family Therapy Regulatory Board's examination in marital and family therapy or an examination that would be substantially equivalent, as determined by the Marriage and Family Therapy Advisory Committee. An applicant must also be in good standing in all jurisdictions in which they are licensed and must not have been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice marriage and family therapy in the state of Louisiana at the time the act was committed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:162 (February 2003), amended LR 39:1806 (July 2013), LR 41:752 (April 2015), LR 46:1686 (December 2020), LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by October 10, 2024, at 5 p.m.

Jamie Doming
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Endorsement**

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

Other than the cost of rulemaking, which is approximately \$400 in FY 25 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are

not anticipated to result in implementation costs or savings to state or local governmental units. The cost of rulemaking will be paid from self-generated funds.

Current rules state that the LA Licensed Professional Counselors Board (LPC Board) shall issue a license to any person who has been licensed and actively practicing in another jurisdiction for at least five years (the board may issue the license to someone with fewer than five years' experience if the jurisdiction's licensing requirements are similar or exceed those of Louisiana). The proposed rule changes allow for endorsement licensure at one year rather than five years for Licensed Marriage and Family Therapists (LMFT) and Licensed Professional Counselors (LPC) to align with Act 253 of the 2024 Legislative Session.

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

To the extent more persons from other states seek licensure by endorsement in Louisiana pursuant to the new regulation, there will be a commensurate increase in licensure fee revenues to the LPC Board. However, the amount of such an increase, if any, is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes lower the minimum standard of five years of full licensure to one year of full licensure to be endorsed by the state of Louisiana as an LPC or an LMFT. This may benefit LPCs and LMFTs by making it easier for them to practice in Louisiana if they were originally licensed in another jurisdiction. This may also benefit prospective clients by increasing their access to LPCs and LMFTs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may affect employment to the extent more persons from other states seek licensure by endorsement in Louisiana pursuant to the new regulation. However, the aggregate effect on competition and employment of the amended timelines cannot be determined because it is unknown if any additional persons will seek licensure as a result of the proposed rule changes.

Jamie S. Doming
Executive Director
2409#049

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

Social and Cultural Foundations
Continuing Education Requirement
(LAC 46:LX.611, 707, 3315, and 3503)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Licensed Professional Counselors Board of Examiners proposes to amend the continuing education requirements for renewal applicants.

The Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to propose changes to Chapter 6 Section 611, Chapter 7 Section 707, Chapter 33 Section 3315, and Chapter 35 Section 3503 for publication in the September 20, 2024, edition of the *Louisiana Register* with the effective date of April 1, 2027.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

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

Subpart 1. Licensed Professional Counselors

**Chapter 6. Application, Practice, and Renewal
Requirements for Provisional Licensed
Professional Counselors**

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

A. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics, one and a half hours must be accrued in social and cultural foundations, and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the Diagnostic and Statistical Manual of Mental Disorders 5, as published by the American Psychiatric Association).

A.1. - D.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 41:717 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 50:

**Chapter 7. Application and Renewal Requirements
for Licensed Professional Counselors**

**§707. Renewal Requirements for Licensed
Professional Counselors and Board-Approved
Supervisors**

A. ...

1. A licensee must accrue 40 clock hours of continuing education by every renewal period every two years. Of the 40 clock hours of continuing education, 3 clock hours must be accrued in ethics, 3 hours must be accrued in social and cultural foundations, and 6 clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders 5*, as published by the American Psychiatric Association). A board-approved supervisor must accrue 3 clock hours (of the required 40 clock hours of continuing education) in supervision.

A.2. - D.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 50:

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists
Chapter 33. Requirements for Licensure and Provisional Licensure

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

A. - E. ...

1. A provisional licensee must accrue 20 clock hours of continuing education by every renewal period every two years. Of the 20 clock hours of continuing education, one and a half clock hours must be accrued in ethics specific to marriage and family therapy, one and a half clock hours must be accrued in social and cultural foundations, and one and a half clock hours must be accrued in diagnosis (assessment, diagnosis, and treatment under the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5) as published by the American Psychiatric Association on May 18, 2013). The required training in diagnosis, assessment, and treatment under the most DSM-5 may be specific to a particular condition and/or may be general training in diagnosis, assessment, and treatment. A generic ethics course is not acceptable.

E.1.a. - E.2.c.ii. ...

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following eight areas.

E.3.a. - E.3.g. ...

h. Social and Cultural Foundations of Marriage and Family Therapy. Continuing education in this area shall include studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

F. - F.1.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:1204 (September 2019), LR 47:1529 (October 2021), LR 50:

Chapter 35. Renewal of License for Licensed Marriage and Family Therapists

§3503. Continuing Education Requirements

A. - A.9. ...

10. A licensee must accrue three clock hours of training in the subject area of social and cultural foundations as defined in Subparagraph C.3.h every renewal period.

11. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEH requirements. Of the 40 CEHs submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three clock hours of ethics specific to marriage and family therapy and six clock hours specific to diagnosis.

12. The approval of and requirements for continuing education are specified in Subsection C.

B. - C.2.b.ii. ...

3. Continuing education hours must be relevant to the practice of marriage and family therapy and generally evolve from the following eight areas.

C.3.a. - C.3.g. ...

h. Social and Cultural Foundations of Marriage and Family Therapy. Continuing education in this area shall include studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), repromulgated LR 29:581 (April 2003), amended LR 29:2789 (December 2003), LR 41:752 (April 2015), LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of these rules on family has been considered. This proposal to create licensee statuses has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security;
2. The effect on early childhood development and preschool through postsecondary education development;
3. The effect on employment and workforce development;
4. The effect on taxes and tax credits;
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed change should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service;
2. The total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jamie S. Doming, Licensed Professional Counselors Board of Examiners, 11410 Lake Sherwood Avenue North Suite A, Baton Rouge, LA 70816 by October 10, 2024, at 5 p.m.

Jamie S. Doming
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Social and Cultural Foundations
Continuing Education Requirement**

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

Other than the cost of rulemaking, which is approximately \$700 in FY 25 related to publishing the proposed rule and final rule in the Louisiana Register, the proposed rule changes are not anticipated to result in implementation costs or savings to state or local governmental units. The cost of rulemaking will be paid from self-generated funds.

The proposed rule will change the categorical requirements for continuing education standards for all licensees governed by the Licensed Professional Counselors Board (LPC Board). The proposed rule change requires one and a half clock hours to be accrued in social and cultural foundations for provisional licensees and three clock hours for Licensed Professional Counselors and Licensed Marriage and Family Therapists. These hours will count toward the current requirement of twenty clock hours for provisional licensees and forty clock hours for Licensed Professional Counselors and Licensed Marriage and Family Therapists every two years.

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

The proposed rule changes will not affect revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed changes would require a specific type of training but would not increase the number of hours that are currently required to renew a license. The coursework that would be required is currently available from existing continuing education providers. The fees for social and multicultural foundations coursework are comparable with those for general continuing education hours.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule changes are not anticipated to affect competition or employment.

Jamie S. Doming
Executive Director
2409#006

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 14—Limiting Exclusions in Industrial Policies,
Restricting Payment for Death Caused in Specified Manner
(LAC 37:XIII.Chapter 57)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 14—Limiting Exclusions in Industrial Policies,

Restricting Payment for Death Caused in Specified Manner. The Department of Insurance is repealing Regulation 14 as existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 57. Regulation 14—Limiting Exclusions in
Industrial Policies, Restricting Payment
for Death Caused in Specified**

§5701. Payment of Death or Funeral Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, July 9, 1962, repealed LR 50:

§5703. Rider or Endorsement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, July 9, 1962, repealed LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and

preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered, and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Evelyn Danielle Linkford, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-7821, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 14—Limiting Exclusions in Industrial Policies, Restricting Payment for Death Caused in Specified Manner

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

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule regarding payment of death or funeral benefits is being repealed as existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary.

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

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not have an impact on costs or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule does not affect competition and employment in the state.

Chris Cerniauskas
Chief of Staff
2408#024

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 90—Payment of Pharmacy and
Pharmacist Claims
(LAC 37:XIII.Chapter 115)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 90.

The purpose of the amendment to Regulation 90 is to add regulatory language to incorporate and clarify audit and claim review requirements and to require the filing of policies and procedures to bring Pharmacy Benefit Management processes into compliance.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 115. Regulation Number 90—Payment of Pharmacy and Pharmacist Claims

§11501. Purpose

A. The purpose of Regulation 90 is to implement R.S. 22:1851-1862 relative to the making of the prompt and

correct payment for prescription drugs, other products and supplies, and pharmacist services covered under insurance or other contracts that provide for pharmacy benefits, and for the review and auditing of claims or records pertaining to such services.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1662 (August 2007), amended LR 50:

§11503. Scope and Applicability

A. Except as otherwise specifically provided, the requirements of Regulation 90 apply to all health insurance issuers including health maintenance organizations that offer coverage in their insurance contracts for pharmacy services in accordance with the statutory requirements Subpart C of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes of 1950, R.S. 22:1851 et seq. Additionally, Regulation 90 applies to all contracts between a pharmacist and/or, pharmacy and/or a health insurance issuer, its agent, or any other party responsible for reimbursement for prescription drugs, other products and supplies, and pharmacist services. Any and all contracts entered into after July 1, 2005 shall be required to be in compliance with R.S. 22:1851 et seq. Additionally, Regulation 90 shall apply to all contracts in existence prior to July 1, 2005. Regulation 90 shall include but not be limited to those contracts that contain any automatic renewal provisions, renewal provisions that renew if not otherwise notified by a party, any provision that allows a party the opportunity to opt out of the contract, evergreen contracts, or rollover contracts and therefore these contracts shall be required to come into compliance. Regulation 90 shall apply to all contracts as enumerated above as of the first renewal date, first opt out date, first rollover date or first annual anniversary on or after July 1, 2005.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007), amended LR 50:

§11505. Definitions

Pharmacy—includes a pharmacy, pharmacy owner, pharmacy employee, or an agent thereof.

Prohibited Billing Activities—those activities outlined in R.S. 22:1871 et seq.

Uniform Claim Forms--are forms prescribed by the department and shall include the National Uniform Bill-04 (UB-04) or its successor for appropriate hospital services, and the current Health Care Financing Administration Form 1500 or its successor for physical and other appropriate professional services. If, after consultation with insurers, providers, and consumer groups, the commissioner determines that the state assignable portions of either form should be revised, he shall make a revision request to the State Uniform Bill Implementation Committee and if approved, prescribe the use of the revised form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1663 (August 2007), amended LR 50:

§11507. Claim Handling Procedures for Non-Electronic Claims

A. Pursuant to R.S. 22:1853.B, health insurance issuers or health maintenance organizations are required to submit to the Department, for approval, a "Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of non-electronic claims and procedures in place to ensure compliance with R.S. 22:1851 et seq. and R.S. 22:1871 et seq. The Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims shall include, but not be limited to, the following:

1. a process for documenting the date of actual receipt of non-electronic claims;

2. a process for reviewing non-electronic claims for accuracy and acceptability;

3. a set of policies and procedures governing the performance of pharmacy record audits, whether by the health insurance issuer or its agent. Such material shall:

a. specify the selection criteria or algorithm used to select pharmacies for auditing;

b. specify the potential purpose and scope of the audit function, including all potential recoupment, remedial, and punitive rights reserved to the health insurance issuer or its agent by contract or other agreement with the pharmacy;

c. expressly demonstrate compliance with all substantive elements of R.S. 22:1856.1 and this Regulation;

4. a set of policies and procedures governing the performance of claim reviews and quality assurance reviews, whether by the health insurance issuer or its agent. Such material shall:

a. specify any distinctions between claim reviews and quality assurance reviews under the policies and procedures to be used by the company. Any alternative term for a review of a claim, whether paid or unpaid, except for annual audits and fraud- or willful-misrepresentation-related audits, reviews, or investigation, shall be added to the policies and procedures filed with the department as a term for either a claim review or a quality assurance review prior to use in communication with any pharmacy;

b. specify the selection criteria or algorithm used in determining when a claim review is to be performed. This shall include safeguards to ensure the scope of the review is not unduly burdensome or overly broad. Such safeguards shall include limits on the number of reviews a pharmacy may be subject to in any 30-calendar-day period and limits on the type and quantity of material produced by the pharmacy in complying with the review;

c. specify the selection criteria or algorithm used in determining when a quality assurance review is to be performed. This shall include safeguards to ensure the scope of the review is not unduly burdensome or overly broad. Such safeguards shall include limits on the number of reviews a pharmacy may be subject to in any 30-calendar-day period and limits on the type and quantity of material produced by the pharmacy in complying with the review;

d. specify the potential purpose and scope of its claim review function, including all potential recoupment, remedial, and punitive rights reserved to the health insurance

issuer or its agent by contract or other agreement with the pharmacy;

e. specify the potential purpose and scope of its quality assurance review function, including all potential recoupment, remedial, and punitive rights reserved to the health insurance issuer or its agent by contract or other agreement with the pharmacy; and

5. a set of policies and procedures governing the performance of fraud or willful misrepresentation audits, whether by the health insurance issuer or its agent. Such material shall:

a. describe any triggers or criteria which may give rise to a fraud or willful misrepresentation audit; such triggers or criteria shall be clearly defined and easily distinguishable from the selection criteria or algorithms used by the company for pharmacy record audits, claim reviews, and quality assurance reviews;

b. implement a function sufficiently narrow in purpose, scope, and invoking criteria to prevent the use of fraud or willful misrepresentation audits in place of pharmacy record audits, claim reviews, and quality assurance reviews.

B. The filing of the Prompt Payment Procedures Plan for Non-Electronic Pharmacy Claims document shall indicate compliance by a health insurance issuer or health maintenance organization with the filing requirements of R.S. 22:1853. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to be not in compliance with the substantive requirements of R.S. 22:1853 or 1856.1.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007), amended LR 50:

§11509. Claim Handling Procedures for Electronic Claims

A. Pursuant to R.S. 22:1851, health insurance issuers and health maintenance organizations are required to submit to the department, for approval, a "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" detailing statutory compliance for the receipt, acceptance, processing, payment of electronic claims and procedures in place to ensure compliance with R.S. 22:1851 et seq. The "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" shall include, but not be limited to, the following:

1. a process for electronically dating the time and date of actual receipt of electronic claims;

2. a process for reporting all claims rejected during electronic transmission and the reason for the rejection;

3. a set of policies and procedures governing the performance of pharmacy record audits, whether by the health insurance issuer or its agent. Such material shall:

a. specify the selection criteria or algorithm used to select pharmacies for auditing;

b. specify the potential purpose and scope of the audit function, including all potential recoupment, remedial, and punitive rights reserved to the health insurance issuer or its agent by contract or other agreement with the pharmacy;

c. expressly demonstrate compliance with all substantive elements of R.S. 22:1856.1 and this Regulation;

4. a set of policies and procedures governing the performance of claim reviews and quality assurance reviews, whether by the health insurance issuer or its agent. Such material shall:

a. specify any distinctions between claim reviews and quality assurance reviews under the policies and procedures to be used by the company. Any alternative term for a review of a claim, whether paid or unpaid, except for annual audits and fraud- or willful-misrepresentation-related audits, reviews, or investigation, shall be added to the policies and procedures filed with the department as a term for either a claim review or a quality assurance review prior to use in communication with any pharmacy;

b. specify the selection criteria or algorithm used in determining when a claim review is to be performed. This shall include safeguards to ensure the scope of the review is not unduly burdensome or overly broad. Such safeguards shall include limits on the number of reviews a pharmacy may be subject to in any 30-calendar-day period and limits on the type and quantity of material produced by the pharmacy in complying with the review;

c. specify the selection criteria or algorithm used in determining when a quality assurance review is to be performed. This shall include safeguards to ensure the scope of the review is not unduly burdensome or overly broad. Such safeguards shall include limits on the number of reviews a pharmacy may be subject to in any 30-calendar-day period and limits on the type and quantity of material produced by the pharmacy in complying with the review;

d. specify the potential purpose and scope of its claim review function, including all potential recoupment, remedial, and punitive rights;

e. specify the potential purpose and scope of its quality assurance review function, including all potential recoupment, remedial, and punitive rights reserved to the health insurance issuer or its agent by contract or other agreement with the pharmacy; and

5. a set of policies and procedures governing the performance of fraud or willful misrepresentation audits, whether by the health insurance issuer or its agent. Such material shall:

a. describe any triggers or criteria which may give rise to a fraud or willful misrepresentation audit; such triggers or criteria shall be clearly defined and easily distinguishable from the selection criteria or algorithms used by the company for pharmacy record audits, claim reviews, and quality assurance reviews;

b. implement a function sufficiently narrow in purpose, scope, and invoking criteria to prevent the use of fraud or willful misrepresentation audits in place of pharmacy record audits, claim reviews, and quality assurance reviews.

B. ...

C. The filing of the "Prompt Payment Procedures Plan for Electronic Pharmacy Claims" document shall indicate compliance by a health insurance issuer and health maintenance organization with the filing requirements of R.S. 22:1854. However, such documentation shall still be subject to review and disapproval at any time such documentation is deemed to not be in compliance with the substantive requirements of R.S. 22:1854 or 1856.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007), amended LR 50:

§11511. Pharmacy Record Audits, Claim Reviews, and Quality Assurance Reviews

A. Pharmacy record audits shall be the sole mechanism a health insurance issuer or its agent may require a pharmacy to participate in for the purpose of systematic review of the pharmacy's compliance with contract terms and conditions, filing guidelines, and the provider manual. Use of any other mechanism, including claims reviews and quality assurance reviews or inappropriate use of fraud or willful misrepresentation audits to perform such a review shall cause such use to be deemed a pharmacy record audit and therefore subject to the requirements of and limitations on such audits.

B. Claim reviews shall be limited to a determination of whether a claim is payable or has been paid correctly. Inappropriate aggregation of claim reviews, excessive application of claim reviews upon a single pharmacy, and similar activities serve to convert a claim review into a pharmacy record audit and therefore subject to the requirements of and limitations on such audits.

C. Quality assurance reviews shall be limited to reviews of pharmacy compliance with contractual and claim filing requirements and shall only be performed prior to reimbursement. The purpose of a quality assurance review must be to test and maintain compliance with contract terms or agreed-upon claim filing requirements, and the health insurance issuer shall design and implement such reviews to be remedial in nature, rather than to deny, recover, or otherwise non-pay claims based on correctable or harmless errors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§11513. State of Emergency

A. Pursuant to any Executive Order issued by the governor transferring authority to the department on matters pertaining to insurance, and pursuant to the plenary authority vested in the commissioner under Title 22, the department shall be authorized to issue emergency regulations during a state of emergency that suspends and/or interrupts any of the provisions found in Title 22 or take any or all such action that the commissioner deems necessary in reference to provisions in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007), amended LR 50:

§11515. Severability Clause

A. If any Section or provision of Regulation 90 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions that can be given effect without the invalid sections or provisions or application, and for these purposes, the Sections or provisions of this regulation and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007), amended LR 50:

§11517. Effective Date

A. Regulation 90 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:250.61

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 33:1664 (August 2007), amended LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Evelyn Danielle Linkford, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-7821, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 90—Payment of Pharmacy and Pharmacist Claims

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

The proposed rule change is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule change is being

implemented to add regulatory language to incorporate and clarify audit and claim review requirements and to require the filing of policies and procedures to bring Pharmacy Benefit Management processes into compliance.

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

The proposed rule change will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will benefit directly affected persons by providing clarity for the audit and claim review requirements and require the filing of policy and procedures to bring Pharmacy Benefit Management processes into compliance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change does not affect competition and employment in this state.

Chris Cerniauskas
Chief of Staff
2409#043

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 128—Louisiana Agriculture Transportation
Group Self-Insurance Fund
(LAC 37:XIII.19303, 19305, 19309)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 128.

The purpose of the amendment to Regulation 128 is to require that certain financial documents be submitted and to provide the name change of the fund due to legislative changes from Act No. 191 of the 2023 Regular Legislative Session related to audited financial statements.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 193. Regulation Number 128—Louisiana Agriculture Transportation Group Self- Insurance Fund

§19303. Excess Insurance and Reinsurance

A. ...

B. The maximum retention allowed for the fund's specific excess policy shall be approved by the department.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 49.1411 (August 2023), amended LR 50:

§19305. Financial and Actuarial Reports

A. - B. ...

C. In lieu of an audited financial statement, the department may require that the fund submit necessary financial documents in a form and manner approved by the

department to verify the combined net worth of those members or principals.

D. Actual reviews shall be made by a qualified actuary. Actuarial reports shall be due and filed at the same time as the fund's annual financial statement, except as otherwise provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 49.1411 (August 2023), amended LR:

§19309. Cease and Desist Orders and Other Penalties

A.1. - A.2. ...

B. Upon the determination that the fund failed to comply with any provision of R.S. 3.4351 et seq., any rule or regulation promulgated by the department, or orders or directed issued by the commissioner, the department may levy a fine of up to \$2,000 for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3.4351.3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 49.1411 (August 2023), amended LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

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3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Danielle Linkford, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-7821, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2024.

Timothy J. Temple
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 128—Louisiana Agriculture
Transportation Group Self-Insurance Fund**

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

The proposed rule change is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being amended to require certain financial documents to be submitted and to provide the name change of the Louisiana Agriculture Transportation Group Self-Insurance Fund. These changes are in accordance with Act 191 of the 2023 Regular Legislative Session related to audited financial statements.

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

The proposed rule change will have no impact on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will not have an impact on costs or economic benefits to directly affected persons, small businesses, or non-governmental groups. The proposed regulation change is to keep in accordance with the passage of Act 191 of the 2023 Regular Legislative Session.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule change does not affect competition and employment in the state.

Chris Cerniauskas
Chief of Staff
2409#025

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 131—Plan for Nonrenewal or Cancellation of
Homeowners Policies in Effect and Renewed for
More Than Three Years
(LAC 37:XIII.Chapter 202)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 131—Plan for Nonrenewal or Cancellation of Homeowners Policies in Effect and Renewed for More Than Three Years.

The Department of Insurance is promulgating Regulation 131 to implement the provisions of Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, which allows an insurer to notify the commissioner of its plan to nonrenew or cancel up to five percent of its insureds' homeowners policies in a calendar year that have been in effect for at least three years on or before August 1, 2024, for any reason and to request the commissioner's approval of a plan to

nonrenew or cancel more than five percent of its insureds' homeowners policies in a calendar year that have been in effect for three years or more on or before August 1, 2024.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 202. Regulation Number 131—Plan for
Nonrenewal or Cancellation of
Homeowners Policies in Effect and
Renewed for More Than Three Years**

§20201. Authority

A. Regulation 131 is issued pursuant to the authority vested in the commissioner pursuant to the provisions of Act 2024, No. 9 of the Regular Session of the Louisiana Legislature and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 22:11, and 22:1265(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20203. Purpose

A. The purpose of Regulation 131 is to implement the provisions of Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, which allows an insurer to notify the commissioner of its plan to nonrenew or cancel up to five percent of its insureds' homeowners policies in a calendar year that have been in effect for at least three years on or before August 1, 2024, for any reason and to request the commissioner's approval of a plan to nonrenew or cancel more than five percent of its insureds' homeowners policies in a calendar year that have been in effect for three years or more on or before August 1, 2024.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20205. Scope and Applicability

A. Regulation 131 requires insurers providing property, casualty, or liability insurance to submit a plan for nonrenewal or cancellation of certain homeowners' policies pursuant to R.S. 22:1265(L) to the Louisiana Department of Insurance.

B. Regulation 131 only applies to insurers seeking to comply with the provisions of R.S. 22:1265(L).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20207. Definitions

A. As used in Regulation 131, these terms shall have the following meaning ascribed herein unless the context clearly indicates otherwise.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Homeowners Insurance—a policy of insurance on a

one- or two-family owner-occupied premises, which combines fire and allied lines with any one or more perils of casualty, liability, or other types of insurance within one policy form at a single premium, where the insurer's liability for damage to the premises under said policy is determined with reference to the replacement value of the premises, but does not include insurance policies written to cover manufactured homes or mobile homes.

Homeowners Policies—shall mean for purposes of this regulation, policies of homeowners insurance that have been in effect for more than three years on or before August 1, 2024.

Insured—customers owning homeowners policies as provided for in R.S. 22:1265.

Insurer—any insurer that provides property, casualty, and liability insurance in the state of Louisiana.

Nonrenewal or Cancellation Date—the termination date of an insured's policy of homeowners insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20209. Plan for Nonrenewal or Cancellation

A. Any insurer that makes a filing pursuant to R.S. 22:1265(L) for the nonrenewal or cancellation of up to five percent or for more than five percent of its insureds' homeowners policies in Louisiana in a calendar year shall file with the commissioner a Plan for Nonrenewal or Cancellation setting forth the insurer's plan in the state of Louisiana. A Plan for Nonrenewal or Cancellation shall not include a nonrenewal or cancellation of more than 5 percent of the insurer's homeowners' policies in force in any one parish that is subject to the "3-year rule", unless authorized by the commissioner under Paragraph C of this section. The commissioner shall have the discretion to disapprove any Plan for Nonrenewal or Cancellation up to five percent if deemed to not be in the public interest. Approval by the commissioner is required for a Plan for Nonrenewal or Cancellation requesting more than 5 percent of its insureds' homeowners' policies in any one parish in Louisiana in a calendar year. An insurer shall only send a notice of nonrenewal or cancellation to an insured on or after January 1, 2025. The commissioner shall provide written approval to the insurer. The Plan for Nonrenewal or Cancellation shall include, but not be limited to the following:

1. a listing of the physical addresses, types of policies, zip code and parishes for the properties that will be the subject of the requested nonrenewal or cancellation process;
2. a statewide graphic map by parish representing each proposed parish and zip code affected by the nonrenewal or cancellation, along with the deductible amount. The map shall pinpoint all proposed homeowners policies to be nonrenewed or cancelled and demonstrate compliance with the requirement that no more than 5 percent of the insurer's homeowners policies in force in any one parish that is subject to the "3-year rule" and a listing of those homeowners policies that may be nonrenewed or cancelled;
3. a policy count of all active homeowners policies meeting the eligibility criteria under the current "3-year rule" concept, including policy inception date and

nonrenewal or cancellation date. The policy count and a percentage of the amount of homeowners policies being nonrenewed or cancelled shall be presented on a statewide basis, as well as a per parish basis and zip code basis;

4. the coverage A limits or residential coverage limit for each property risk that will be the subject of the requested nonrenewal or cancellation;

5. a listing of homeowners policies inception date, nonrenewal or cancellation dates for all homeowners policies, premium amount, that will be subject to the non-renewal or cancellation;

6. a mathematical breakdown that illustrates compliance with the requirement that no more than 5 percent of the insurer's homeowners policies in force in any one parish that is subject to the "3-year rule" and a listing of homeowners' policies that may be nonrenewed or cancelled;

7. the insurer's total homeowners policies in force in the particular zip code and parish;

8. the insurer's total homeowners policies in force in the state;

9. the insurer's premium by state and by parish as a percentage of the insurer's total written premium in the state; and

10. any other factors that the commissioner determines are applicable, relevant, and appropriate.

B. Any business plan, documentation or information filed pursuant to Regulation 131 shall be considered proprietary or trade secret pursuant to the provisions of R.S. 44:3.2.

C. Subject to the review and approval of the commissioner, an insurer may submit a request to non-renew more than 5 percent in any parish. In determining whether to grant the request, the commissioner will consider the impact of the request on the insurer's risk and financial profile, the ability of the insurer to maintain or expand its operations, the cost of reinsurance and such other factors as the insurer shall submit or the commissioner shall deem necessary for the evaluation of the request to determine its overall impact on the insurance market. The commissioner will approve or reject any request within thirty days of submission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20211. Rescission

A. The commissioner may rescind his approval of any Plan for Nonrenewal or Cancellation filing made pursuant to this Regulation if it is subsequently determined that the insurer made any material misrepresentation in its submission, or if the insurer violates the statutory prohibitions against discrimination contained in provisions of R.S. 22:34, R.S. 22:35(A), R.S. 22:1964, or if the insurer violates any provision of Title 22 through the implementation of its approved plan.

B. The commissioner shall set forth the date when such rescission shall be effective and such other terms as are necessary to effectuate a rescission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20213. Enforcement

A. The commissioner may take any and all administrative action provided in Title 22 whenever an insurer is found to be in violation of R.S. 22:34, R.S. 22:35(A), R.S. 22:1964, or any provision of law pursuant to Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20215. Effective Date

A. Regulation 131 shall become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

§20217. Severability

A. If any section or provision of Regulation 131 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 131 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the Sections and provisions of Regulation 131 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, 22:1265, Act 2024, No. 9 of the Regular Session of the Louisiana Legislature, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, there is no less intrusive or less costly alternative method of achieving the purpose of the proposed regulation.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Claire Lemoine, Attorney Supervisor, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m. October 11, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 131—Plan for Nonrenewal or Cancellation of Homeowners Policies in Effect and Renewed for More Than Three Years

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

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to implement the provisions of Act 9 of the 2024 Regular Session, which allows an insurer to notify the commissioner of its plan to nonrenew or cancel up to five percent of its insureds' homeowners policies.

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

The proposed rule will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule allows insurers to nonrenew or cancel up to five percent of their policies each year. Insurers will be able to more effectively manage their risk by allowing them to nonrenew up to five percent of the homeowner policies each year. Insured homeowners that are canceled will have to obtain new policies with a different insurer. It is indeterminable if new policies obtained by homeowners will have higher or lower premiums.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to help create a stable and predictable market in the state that will attract new insurers, which increases availability and fosters competition. The proposed rule has no effect on employment in the state.

Chris Cerniauskas
Chief of Staff
2409#047

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Juvenile Justice

Juvenile Detention Facilities
(LAC 67:V.Chapter 75)

The Office of Juvenile Justice proposes to adopt LAC 67.V. Chapter 75 as authorized by R.S. 15:1110. The proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Office of Juvenile Justice amended the provisions governing the licensing of juvenile detention facilities to assume the authority for the licensing and regulating of all juvenile detention facilities owned or operated by any governmental entity for profit, nonprofit, private, or public agency. The department now proposes to eliminate references to the Department of Children and Family Services having licensing and regulating authority of these facilities. The amendments provide for the Office of Juvenile Justice to extend time for criminal record searches for facility licensure, require new background clearances for lapses in employment of support staff, and utilize additional restraint mechanisms to foster the health, safety, or welfare of youth, support staff, and the general public.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 75. Juvenile Detention Facilities

§7503. Authority

A. - B.2. ...

C. Waiver Request

1. In specific instances, the deputy secretary of OJJ may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or youth are not imperiled.

a. ...

b. An application for a waiver shall be submitted by a provider using the request for waiver from licensing standards form. The form shall be submitted to the OJJ Licensing Section. A request for a waiver shall provide the following information: a statement of the provisions for which the waiver is being requested, an explanation of the reasons why the provisions cannot be met, including information demonstrating that the economic impact is sufficiently great to make compliance impractical, and a description of alternative methods proposed for meeting the intent of the regulation sought to be waived.

c. All requests for a waiver will be responded to in writing by the OJJ deputy secretary or designee. A copy of the waiver decision shall be kept on file at the facility and presented to licensing staff during all licensing inspections.

d. A waiver is issued at the discretion of the deputy secretary and continues in effect at his/her pleasure. The waiver may be revoked by the deputy secretary at any time, either upon violation of any condition attached to it at issuance, or upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child in care is imperiled), or upon his/her determination that continuance of the waiver is no longer in the best interest of OJJ.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, repromulgated LR 39:1264 (May 2013), amended by the Department of Children and Family Services, Licensing Section, LR 47:230 (February 2021), effective March 1, 2021, amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7505. Definitions

* * *

Chemical Agent—any product which is dispensed by means of an aerosol spray to control an individual’s combative and/or resistive behavior.

* * *

Department (OJJ)—Office of Juvenile Justice.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1559 (July 2012), amended LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7507. Licensing Requirements

A. - A.1.b. ...

2. Effective July 1, 2013, it is mandatory to obtain a license from the department prior to beginning operation. Effective July 1, 2024, all juvenile detention facilities, including facilities owned or operated by any governmental, for profit, nonprofit, private or public agency, shall be licensed and regulated by the Office of Juvenile Justice.

3. - 4. ...

5. The provider shall allow representatives of OJJ access to the facility, the youth, and all files and records at any time during hours of operation and/or anytime youth are present. OJJ staff shall be allowed to interview any staff member or youth. OJJ staff shall be admitted immediately and without delay, and shall be given access to all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility’s owner, OJJ representatives shall be permitted to verify that no youth is present in that portion and that the private areas are inaccessible to youth.

6. - 11. ...

12. OJJ is authorized to determine the period during which the license shall be effective. A license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

13. Once a license has been issued, OJJ shall conduct licensing inspections at intervals (not to exceed one year) deemed necessary by OJJ to determine compliance with licensing standards, as well as other required statutes, laws, ordinances, rules, and regulations. These inspections shall be unannounced.

14. Whenever OJJ is advised or has reason to believe that any person, agency, or organization that holds a license or has applied for a license is operating in violation of the JDF regulations or laws, OJJ shall conduct an investigation to ascertain the facts.

15. ...

a. When an individual is listed on the licensing application submitted and/or registered as an officer of the board with the Louisiana Secretary of State and does not have access to children/youth in care or children/youth who receive services from the provider and/or who is not present, unless directly supervised by a paid employee of the facility, a OJJ approved attestation form signed and dated by the individual is acceptable in lieu of the state central registry clearance and a satisfactory fingerprint based CBC from LSP. The attestation form shall be accepted for a period of one year from the date individual signed attestation form.

B. Initial Licensing Application Process

1. An initial application for licensing as a JDF shall be obtained from OJJ. A completed initial license application packet along with a fee as required by law shall be submitted to and approved by OJJ prior to an applicant providing JDF services. The completed initial licensing packet shall include:

B.1.a. - 2. ...

C. Initial Licensing Inspection

1. In accordance with R.S. 15:1110(E), prior to the initial license being issued to the JDF, an initial licensing inspection shall be conducted on-site at the JDF to assure compliance with all licensing standards. No youth shall be provided services by the JDF until the initial licensing inspection has been performed and OJJ has issued a license. The licensing inspection shall not be completed if the provider is found in operation prior to the issuance of a license and the application shall be denied.

2. In the event the initial licensing inspection finds the JDF is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, OJJ may issue a license to the JDF. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. ...

D. Fees

1. An annual fee as established by R.S. 15:1110(F), shall be payable to OJJ prior to the date of expiration of the current license by certified check, or money order. Non-payment of fee prior to the date of expiration of the current license shall result in the nonrenewal of the license. The licensee is responsible for ensuring receipt of the annual fee by the Licensing Section.

* * *

D.2. - F.2. ...

3. When a facility changes ownership, the current license is not transferable. A change of ownership occurs when the license and/or facility is transferred from one

natural or juridical person to another, or when an officer, director, member, or shareholder not listed on the initial application exercises or asserts authority or control on behalf of the entity. The addition or removal of members of a board of directors shall not be considered a change of ownership where such addition or removal does not substantially affect the entity's operation and shall require only notice be given to the OJJ of such addition or removal.

a. - a.viii. ...

ix. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 60 days before the application has been received by the Licensing Section. The prior owner's documentation of satisfactory criminal background checks is not transferrable; and

a.x. - e. ...

4. The JDF shall provide written notification to the department within 30 calendar days of changes in the administrator. A statement with supporting documentation of qualifications for the new administrator shall be submitted to OJJ.

G. - G.1.j. ...

k. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by OJJ;

l. - o. ...

H. Disqualification of Facility and/or Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes or licensing rules or surrendered to avoid adverse action, OJJ may elect not accept a subsequent application from the provider for that facility, or any new facility, up to but not exceeding a period of 24 months after the effective date of revocation, non-renewal due to adverse action, or surrender to avoid adverse action, or for a period up to but not exceeding 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). The effective date of a revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed. Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and may be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or designee prior to a decision being made to grant a license. OJJ reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. - 3. ...

4. If the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, OJJ may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

5. ...

6. If a facility's license was revoked due solely to the disapproval from any agency whose approval is required for licensure or due solely to the facility being closed and there

are no plans for immediate re-opening within 30 calendar days and no means of verifying compliance with minimum standards for licensure, the disqualification rule (or period) may not apply. OJJ may accept a subsequent application for a license that shall be reviewed by the secretary or designee prior to a decision being made to grant a license. OJJ reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

7. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, or administrator of such licensee may be prohibited from owning, managing, or operating another licensed facility for a period of not less than 24 months from the date of the final disposition of the revocation or denial action. The lapse of 24 months shall not automatically restore a person disqualified under this provision eligibility for employment. OJJ, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

I. Appeal Process

1. The OJJ Licensing Section, shall advise the administrator or owner in writing of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the administrator or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Office of Juvenile Justice, Licensing Section, P.O. Box 66458, Audubon Station, Baton Rouge, LA 70806.

2. - 4. ...

5. The OJJ Legal Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of OJJ is affirmed or the appeal dismissed, the provider shall terminate operation of the JDF immediately. If the provider continues to operate without a license, the OJJ may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of OJJ is reversed, the license will be re-instated and the appellant may continue to operate.

J. Corrective Action Plan (CAP)

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by OJJ. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the juvenile detention facility. The CAP shall include a description of how the deficiency will be

corrected, the date by which correction(s) will be completed, and outline the steps the juvenile detention facility provider plans to take in order to prevent further deficiencies from being cited in these areas and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days.

2. ...

3. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If information within the deficiency was cited in error or the cited deficiency is revised by the OJJ Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 49:848 (May 2023), effective June 1, 2023, amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7508. State Central Registry

A. ...

B. Current Owners as of November 1, 2018

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, provider shall submit a state central registry request, or applicable attestation form, for each owner/operator including board members who meet the definition of an owner to DCFS child welfare to conduct a check of the state central registry. The request shall be submitted to child welfare no later than November 16, 2018. For owners/operators including board members who meet the definition of an owner who have resided in another state within the proceeding five years, provider shall submit a request to that state's child abuse and neglect registry no later than November 16, 2018. Documentation of request shall be available for review.

1.a. - 2....

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators who meet the definition of an owner and at any time upon the request of OJJ when reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry

request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

B.4. - C.2. ...

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all owners/operators including board members who meet the definition of an owner and at any time upon the request of OJJ if reasonable suspicion exists that an individual may be listed on the state central registry. If an owner resides in another state and is licensed to operate a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years from the issue date noted on the previous year's registry clearance form.

C.4. - D.2. ...

3. Provider shall submit a state central registry request to child welfare every five years from the issue date noted on the state central registry clearance form for all staff and at any time upon the request of OJJ if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry check form.

D.3.a. - E. ...

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all staff (paid, non-paid and volunteers) shall be conducted prior to employment being offered to a potential hire or volunteer services provided. For staff persons who have resided in another state within the preceding five years, provider shall request a state central from that state's child abuse and neglect registry prior to hire. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 60 days prior to the staff being present on the premises or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to staff being present on the premises or having access to children/youth in the facility.

1.a. - 2....

3. Provider shall submit a state central registry request to child welfare every five years for staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ if reasonable suspicion exists that a staff may be listed on the state central registry. If a person resides in another state and is employed at a juvenile detention facility in the state of Louisiana, provider shall

submit a state central registry request to that state's child abuse and neglect registry every five years for this staff from the issue date noted on the previous year's registry clearance form.

E.3.a. - F.2. ...

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ when reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state and provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for this contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

F.3.a. - G.

1. Effective November 1, 2018, and in accordance with R.S. 15:1110.2, an inquiry of the state central registry for all contractors and LDE staff shall be conducted prior to providing contracted services or having access to children/youth. For contractors and LDE staff who have resided in another state within the preceding five years, provider shall request a state central registry check from that state's child abuse and neglect registry prior to the individual providing services or having access to children/youth. While awaiting the results of the out of state central registry results, the individual shall be directly supervised by a paid staff (employee) of the juvenile detention facility at any and all times when he/she is on the premises and/or in the presence of a child/youth. The employee responsible for supervising the individual shall not also be awaiting the results of an out of state central registry clearance. Under no circumstances shall the individual awaiting out of state central registry results be left alone and unsupervised with a child/youth pending the official determination from that state that the individual is or is not listed on the state central registry. Louisiana state central registry clearances shall be dated no earlier than 60 days prior to the individual providing services or having access to children/youth. Out-of-state state central registry clearances shall be dated no earlier than 120 days prior to contractors and LDE staff being present on the premises or having access to children/youth in the facility.

a. If the provider requests an out-of-state state central registry check and that state advises that they are unable to process the request due to statutory limitations, documentation of such shall be kept on file.

2. ...

3. Provider shall submit a state central registry request to child welfare every five years for contractors and LDE staff from the issue date noted on the state central registry clearance form and at any time upon the request of OJJ if reasonable suspicion exists that an individual may be listed on the state central registry. If a contractor or LDE staff resides in another state but provides services in a juvenile detention facility in the state of Louisiana, provider shall submit a state central registry request to that state's child abuse and neglect registry every five years for the contractor or LDE staff from the issue date noted on the previous year's registry clearance form.

4. ...

5. The state central registry clearance form shall be dated no earlier than 60 days of the individual being present on the juvenile detention facility premises or having access to children/youth.

G.6. - H.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.2.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:653 (May 2019), effective June 1, 2019, amended LR 47:1850 (December 2021), amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7509. Administration

A. - B.1. ...

2. The administrator, or designee, shall be accessible to OJJ 24 hours per day, seven days per week.

C. - E.5.c. ...

d. If a case is referred to a law enforcement agency for possible investigation and/or prosecution, efforts shall be made as soon as possible to notify or attempt to notify the parent/guardian of the incident and referral.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1564 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7511. Facility Responsibilities

A. - A.3.e. ...

B. Background Clearances

1. No staff of the facility shall be hired until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 60 days prior to the date of hire. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be hired. No staff shall be present on the JDF premises until such a clearance is received.

2. ...

3. A criminal record check shall be conducted on all volunteers that interact with the youth. No volunteer of the facility shall be allowed to work with youth until such person has submitted his/her fingerprints to the Louisiana Bureau of Criminal Identification and Information so that it may be determined whether or not such person has a criminal conviction, or a plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, or any offense involving a juvenile victim. CBC shall be dated no earlier than 60 days prior to the volunteer being present on the JDF premises. If it is determined that such a person has a conviction or has entered a plea of guilty or nolo contendere to a crime listed in R.S. 15:587.1(C) or any offense involving a juvenile victim, that person shall not be allowed to volunteer with youth at the JDF. No volunteer shall be present on the JDF premises until such a clearance is received.

4. - 5.a. ...

b. For the first school year that a LDE staff person or local school district staff person provides services to a child, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7511.B.5 or shall provide the original, completed, signed, notarized, OJJ -approved affidavit to the provider prior to being present and working with a child or children at the facility. If the LDE Staff person has a break of employment for more than one year, a new CBC or affidavit shall be completed.

i. - iii. Repealed

B.5.c. - F.3.a.ii.(j). ...

b. All support (non-direct care) staff shall receive an additional 14 hours of training during their first year of employment. The training shall include, at a minimum, the following:

i. detecting and reporting suspected abuse and neglect (mandatory reporting guidelines);

ii. sexual misconduct including but not limited to the following:

(a). youth's rights to be free from sexual misconduct, and from the retaliation for reporting sexual misconduct;

(b). dynamics of sexual misconduct in confinement;

(c). common reactions of sexual misconduct victims; and

(d). agency policy for prevention and response to sexual misconduct;

iii. first aid/ CPR; and

iv. basic safety and security practices.

F.4. - I.1.b.ii. ...

iii. OJJ Licensing Section management staff; and

iv. judge of record.

I.1.c. - L.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1565 (July 2012), amended LR 39:1007 (April 2013), effective July 1, 2013, amended LR 42:396 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:657 (May 2019), effective June 1, 2019, LR 49:849 (May 2023), effective June 1, 2023, amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7515. Youth Protections

A. - E.5.b. ...

F. Staff Intervention/Restraints

1. The provider shall have written policies and procedures and practices regarding the progressive response for a youth who poses a danger to themselves, others, or property. Approved physical escort techniques, physical restraints and mechanical restraint devices are the only types of interventions that may be used in the facility. Physical, chemical agents, and mechanical restraints shall only be used in instances where the youth's behavior threatens imminent harm to the youth or others, or serious property destruction, and shall only be used as a last resort. Plastic cuffs shall only be used in emergency situations. Use of any percussive or electrical shocking devices or chemical restraints is prohibited.

2. Chemical Agent Usage

a. Facility director may authorize the use of chemical agents when the situation is such that the youth:

i. is armed /and/or barricaded; or

ii. can be approached without danger of bodily harm to self or others; and it is determined that a delay in bringing the situation under control would constitute a serious hazard to the youth or others, or would result in a major disturbance or serious property damage.

b. Chemical agents must not be used upon youth for purely punitive or malicious purposes – use must be justified upon circumstances that meet the standards

c. Chemical agents shall be stored in a secured locker with inventory and Safety Data Sheets nearby.

i. After an incident involving the use of chemical agents, all chemical agent containers shall be weighed and the weight recorded. If an inventory check reveals more than a .1 gram in weight difference in the amount of chemical agent stored in a container from the last inventory check, additional documentation is needed to explain the difference in weight. Internal investigation shall be completed to determine justification of dispensed chemical agent.

d. Qualified health personnel shall be consulted prior to staff using chemical agents unless the circumstance require an immediate response. If possible, the youth's medical file must be reviewed by qualified health personnel to determine whether the youth has any diseases or conditions which would be dangerously affected if chemical agents are used. This includes, but is not limited to: asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy or congestive heart failure.

e. For staff to be able to use chemical agents, they must be fully trained and current in certification for Defensive Tactics and chemical agents.

f. The highest ranking officer on duty shall be the person to administer the chemical agent.

g. During an event involving the use of chemical agents, the following procedures shall be followed.

i. Staff shall try to first de-escalate the situation. When possible, staff shall seek assistance of mental health and/or qualified health personnel at the onset of violent behavior to assist staff with attempts to de-escalate.

ii. If staff is not able to de-escalate the situation, staff shall seek authorization for use of chemical agents. Authorization must be obtained from the facility administrator.

iii. All attempts to receive authorization shall be logged as well as from whom the authorization was received, including date and time.

iv. Video recording is required during an event that involves the use of chemical agents.

v. Upon gaining physical control, staff shall seek the assistance of qualified health personnel who shall examine the youth and treat any injuries. If any staff involved in a use of chemical agents event reports an injury, qualified health personnel should provide an immediate examination and initial emergency treatment as required.

vi. After an event involving the use of chemical agents, the cell, room, or common area cannot again be used until the area has been cleaned and disinfected and the agent or agents neutralized.

3. Restraints shall not be used for punishment, discipline, retaliation, harassment, intimidation or as a substitute for room restriction or confinement.

4. When a youth exhibits any behavior that may require staff intervention, the following protocol shall be adhered to when implementing the intervention unless the circumstances do not permit a progressive response:

a. Staff shall begin with verbal calming or de-escalation techniques.

b. Staff shall use an approved physical escort technique when it is necessary to direct the youth's movement from one place to another.

c. Staff shall use the least restrictive physical or mechanical restraint necessary to control the behavior.

d. If physical force is required, the use of force shall be reasonable under the circumstances existing at the moment the force is used and only the amount of force and type of restraint necessary to control the situation shall be used.

e. Staff may proceed to a mechanical restraint only when other interventions are inadequate to deal with the situation.

f. Staff shall stop using the intervention as soon as the youth regains self-control.

5. During the period of time a restraint is being used:

a. the youth shall be checked by a staff member at least every 15 minutes. Documentation of these checks shall be recorded and maintained in the youth's file. If the use of the restraint exceeds 60 minutes, a health professional must authorize the continued use of the restraint. However, restraints cannot be used for longer than four hours;

b. there shall be a means for the youth to communicate with staff at all times;

c. staff shall not withhold food while a youth is in a mechanical restraint;

d. the youth shall have access to bathroom facilities, including a toilet and washbasin.

6. In all situations in which a restraint or chemical agent is used, staff involved shall record an incident report with the shift supervisor by the end of the shift. The report shall outline in detail the presenting circumstances and a copy shall be kept in a central incident report file. At a minimum, the incident report shall contain the following:

a. the name of the youth;

b. the date, time, and location the intervention was used;

c. the type of intervention used;

d. the name of the staff member requesting use of the intervention;

e. the name of the supervisor authorizing use of the intervention;

f. a brief description of the incident and the reason for the use of the intervention;

g. the efforts made to de-escalate the situation and alternatives to the use of intervention that were attempted;

h. any other youth and/or staff involved in the incident;

i. any injury that occurred during the intervention restraint and immediate treatment provided if any;

j. the date and time the youth was released from the intervention;

k. the name and title of the health professional authorizing continued use of a restraint if necessary beyond 60 minutes;

l. signature of the staff completing report; and

m. any follow-up required.

7. The youth shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the youth in the youth's file.

8. Facility staff shall not use physical restraints or mechanical restraints unless they have been trained in the use of such restraints. Training shall include methods of monitoring and assessing a restrained youth for injuries and loss of circulation as a result of the use of mechanical restraint.

9. After any incident of use of a restraint, medical follow-up shall occur as soon as a qualified medical professional is available at the facility, or sooner if medically necessary as determined by the facility administrator.

G. Prohibited Practices When Using Restraints

1. The provider shall have a written list of prohibited practices by staff members when using a restraint. This following are prohibited:

a. restraints that are solely intended to inflict pain;

b. restraints that put a youth face down with sustained or excessive pressure on the back, chest cavity, neck or head;

c. restraints that obstruct the airway or impair the breathing of the youth;

d. restraints that restrict the youth's ability to communicate;

e. restraints that obstruct a view of the youth's face;

f. any technique that does not allow monitoring of the youth's respiration and other signs of physical distress during the restraint;

g. any use of four or five-point restraints, straightjackets, or restraint chairs;

h. mechanical restraint devices that are so tight they interfere with circulation or that are so loose they cause chafing of the skin;

i. use of a waistband restraint on a pregnant youth;

j. use of a mechanical restraint that secures a youth in a position with his/her arms and/or hands behind the youth's back (hog-tied) or front, with arms or hands secured to the youth's legs; and/ or

k. use of a mechanical restraint that affixes the youth to any fixed object, such as room furnishings or fixtures.

2. A youth in mechanical restraints shall not participate in any physical activity, other than walking for purposes of transportation.

3. A list of these prohibitions shall be posted in the facility.

4. The youth shall receive a list of the prohibitions when using a restraint. There shall be documentation of acknowledgement of receipt of the list of prohibitions in the youth's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1572 (July 2012), amended LR 42:399 (March

2016), amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7517. Facility Services

A. - A.2. ...

3. Prior to the end of the first official school day following admission, the youth shall receive a brief educational history screening with respect to their school status, special education status, and grade level. Staff shall use this information to determine initial placement in the facility educational program.

4. ...

5. Within three school days of the youth's arrival at the facility, the provider shall request educational records from the youth's previous school.

6. The youth shall attend the facility school at the earliest possible time but within three school days of admission to the facility.

7. The provider shall ensure youth have access to vocational training, GED programs, and other alternative educational programming if available from the local school district.

8. Youth in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

9. When youth are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

10. Behavior intervention plans shall be developed for a youth whose behavior interferes with their school attendance and progress.

11. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of confined youth.

12. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each youth.

13. The provider shall ensure that youth are available for the minimum minutes in a school day required by law.

14. The administrator shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff.

B. - D.1.d. ...

e. Each provider shall provide an appropriate room or rooms for examinations.

2. Medical Care

a. - f. ...

g. Medical staff shall obtain informed consent from a youth and/or parent/legal guardian as required by law, and shall honor refusals of treatment.

h. When medical and/or mental health staff believe that involuntary treatment is necessary, the treatment shall be conducted in a hospital and not at the facility after compliance with legal requirements.

i. Staff shall document the youth and/or parent/legal guardian's consent or refusal, including counseling with respect to treatment, in the youth's medical file.

j. Pregnant youth shall be provided prenatal care. Any refusal for prenatal care by the pregnant youth shall be documented in their file.

k. Youth who are victims of sexual assault shall receive immediate medical treatment, counseling, and other services.

1. Files of all medical examinations, follow-ups and services, together with copies of all notices to a parent/legal guardian shall be kept in the youth's medical file.

m. Youth placed in medical isolation shall participate in programming as determined by the facility's qualified medical professional.

D.3. - E.3.

4. The provider shall provide functioning recreational equipment and supplies for physical education activities.

5. Youth shall be provided free time. There shall be an adequate supply of games, cards, writing, and art materials for use during recreation time.

E.6. - F.5. ...

6. Youth shall not be permitted to drive facility vehicles, unless part of a certified driver's education program and under the supervision of a certified instructor through the state of Louisiana.

7. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1575 (July 2012), amended LR 42:398 (March 2016), amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7523. Safety Program

A. - B.1. ...

2. Staff shall accompany private contractors, who have not received the appropriate background checks, and CANS check, when in the presence of youth.

3. The provider shall ensure that a properly equipped first aid kit is located near each living unit.

C. - C.2.a.ii.

iii. staff shall conduct a periodic head count;

iv. instruction shall be provided for staff escorting youth within and outside the facility;

v. prohibition of the supervision of youth by youth; and

vi. shift assignments, including the use, location, and scope of assignment.

3. - 5.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1581 (July 2012), amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

§7525. Data

A. - A.1.c.iii.

d. - d.ii. Repealed.

B. - B.1.c. ...

C. Detention Screening Data

1. The provider shall maintain accurate records on all risk assessment instrument (RAI) on new admissions conducted, to include the following data fields:

a. - d.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1582 (July 2012), amended by the Department of Public Safety and Corrections, Office of Juvenile Justice, LR 50:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has a positive impact on the family structure as efforts are made to redirect the lives of juveniles in a safe and secure environment.

Poverty Impact Statement

There is no known or foreseeable impact of this Rule on any child, individual, or family as defined by R.S. 49:973.B. More particularly, there is no known or foreseeable effect on household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or dependent care, housing, healthcare nutrition, transportation, and utility assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small business. Therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

There is no known or foreseeable impact of this Rule on providers as defined by HCR 170 of the 2014 Regular Legislative Session. There should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service, the total direct and indirect effect on the cost to the providers to provide the same level of service, or the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments by writing to Jennifer Van Metre, Deputy General, P.O. Box 66458, Audubon Station, Baton Rouge, LA 70896, or electronically at OJJ_Regulations@la.gov pertaining to this proposed Rule. Comments will be accepted through the close of business, 4:30 p.m., October 10, 2024.

Kenneth A. Loftin
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Juvenile Detention Facilities

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

The proposed rule change will not impact costs or savings to state or local governmental units.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950) and Louisiana Revised Statute 15:1110, the Department of Public Safety and Corrections,

Youth Services (Office of Juvenile Justice), proposes to amend LAC Title 67: Social Services, Chapter 75. Juvenile Detention Facilities, in compliance with Act 445 of the 2023 Regular Session of the Louisiana Legislature. Specifically, the rule, as amended, transfers the licensing authority from the Department of Children and Family Services to the Department of Public Safety & Corrections, Youth Services (Office of Juvenile Justice), effective July 1, 2024.

In Act 447 of the 2023 Regular Legislative Session, the Office of Juvenile Justice received funding and positions in its FY 24 budget to begin licensing juvenile facilities. Therefore, the proposed rule change will not result in any additional implementation costs or savings.

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

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change, because the Office of Juvenile Justice has assumed licensing authority pursuant to Act 445 of the 2023 Regular Session since July 1, 2024. The fees that are collected for licensing of juvenile facilities have not changed since the Office of Juvenile Justice has assumed licensing authority.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Jason Starnes
Undersecretary
2409#054

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Digital Transaction Providers
(LAC 55:III.Chapter 14)

In compliance with Act 152 of the 2024 Regular Session of the Louisiana Legislature, (“Act”), the Department of Public Safety and Corrections, Office of Motor Vehicles (“OMV”) is authorized to contract with digital transaction providers, who may be private persons or public or private agencies, for the purpose of carrying out the provisions authorized in R.S. 39:17.2 and R.S. 39:17.5. Digital transaction providers may collect the registration license taxes and fees associated with the renewal of vehicle registration, driver's license, or identification cards or for reinstatement of driving and motor vehicle registration privileges. Digital transaction providers are authorized to collect a convenience charge not to exceed ninety percent of the amount authorized by R.S. 47:532.1(C), provided that the charges are disclosed immediately to the consumer prior to the initiation of the transaction. These rule are proposed to implement Act152. OMV intends that the permanent Rule become effective on December 20, 2024.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 14. Digital Transaction Providers

§1401. Definitions

Digital Transaction Provider (DTP)—a private person or public or private agency who enters into contract with the Office of Motor Vehicles which, by contract, provides a digitized credential, engages in the collection of registration license tax and fees associated with the renewal or issuance of duplicate registrations, fees associated with driver's licenses and identification cards, fees associated to the reinstatement of driving and motor vehicle registration privileges or performs other transactions authorized by the Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1403. Convenience Fee

A. Digital transaction providers may collect a convenience in addition to any other fee or tax collected when processing a transaction for the department. The convenience fee shall not exceed 90 percent of the amount authorized in R.S. 47:532.1(C) and shall be retained by the digital transaction provider.

B. The convenience fee must be disclosed to the customer in a conspicuous manner prior to initiation of the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1405. Cyber Liability Insurance Requirement

A. Digital transaction providers shall obtain a cyber-liability insurance policy with a company qualified to do business in Louisiana in the amount of one million dollars, which names the state of Louisiana, the department, the department's employees, and the Office of Technology Services and its employees as additional insureds.

B. Digital transaction provider shall provide the department with complete information regarding the cyber-liability insurance policy including a copy of any declaration page prior to be authorized to process any transaction.

C. Digital transaction provider shall include all subcontractors as insureds under its cyber liability insurance policy or shall be responsible for verifying and maintaining the certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The department reserves the right to request copies of subcontractor's certificates at any time.

D. Digital transaction provider must maintain cyber-liability insurance for the duration of its contract with the department

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1407. Surety Bond Requirements

A. Each digital transaction provider shall execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in a sum of not less than \$100,000 which bond shall name the Department of

Public Safety and Corrections, Office of Motor Vehicles as obligee and shall be subject to the condition that, if such digital transaction provider shall, throughout the entire term of the bond, timely file with the office of motor vehicles all applications delivered to such digital transaction provider for filing, and all fees and taxes collected by such digital transaction provider, the obligation shall be void. If the company does not do so, the obligation of the surety shall remain in full force and effect.

B. Digital transaction provider must maintain the bond for the duration of its contract with the department.

C. Digital transaction provider must include all subcontractors under the required surety bond or require each subcontractor to obtain its own surety bond as required by R.S. 47:532.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1409. Qualifications for Digital Transaction Provider Owners, Employees and Agents

A. Qualifications for a Digital Transaction Provider. To contract with the department as a digital transaction provider, the owner/applicant shall:

1. be a citizen of the United States or be lawfully present in the United States;
2. maintain the primary physical location of its operations within the continental United States of America;
3. provide proof of registration with the secretary of state to do business in the state of Louisiana;
4. possess any required business license.

B. The department may deny an application and refuse to grant the applicant authority to act as a digital transaction provider or suspend, revoke or impose other restrictions on its contract with the digital transaction provider as a result of any of the following actions by the applicant, by any of the applicant's employees, by officers, directors, managers, representatives, or owners of the digital transaction provider, or agents of the digital transaction provider:

1. operating as a DTP without an executed contract or written authorization for each transaction performed by the DTP, with an expired contract, or without a valid surety bond on file with the department;
2. failure to remit taxes and fees collected from applicants on any transaction performed by the digital transaction provider in the manner specified by the department and in the timeframe specified by the department;
3. operating from an unapproved website or web address;
4. operating from a location outside of the continental United States of America;
5. effecting a change in the ownership of the DTP and the DTP:
 - a. fails to report the change in writing to the department; and
 - b. does not submit to and pass the standard background check prior to the effective date of such change;
6. changing the officers or directors of the DTP and the DTP:
 - a. fails to report the change in writing to the department; and

b. the officers or directors do not submit to and pass the standard background check prior to the effective date of such change;

7. use of a subcontractor without department approval;

8. being a principal or accessory to the alteration of any information or data relevant to any transaction or process that results in a material injury to the public records or a shortfall in the collection of taxes or fees owed;

9. the forwarding to the office of motor vehicles by a DTP of information or data relevant to a to any transaction that results in a material injury to the public records, or a shortfall in the collection of fees or taxes owed when the DTP had knowledge of facts causing such injury or shortfall, and failed to disclose same to the office of motor vehicles;

10. failure to report any arrests of any officer or authorized employee for any criminal charge an element of which is fraud, theft, conversation, or unauthorized use, or for any offense that is considered a sex offense which requires registration as a sex offender in the state of Louisiana or is offense in any other jurisdiction which is substantially similar to a sex offense which would require registration as a sex offender in the state of Louisiana if the offense occurred in the state of Louisiana;

11. conviction of, or entry of a plea of guilty or nolo contendere to, any felony or conviction of, or entry of a plea of guilty or nolo contendere to, any criminal charge an element of which is fraud, theft, conversation, or unauthorized use, or for any offense that is considered a sex offense which requires registration as a sex offender in the state of Louisiana or is offense in any other jurisdiction which is substantially similar to a sex offense which would require registration as a sex offender in the state of Louisiana;

12. fraud, deceit, or perjury in obtaining any contract perfected pursuant to R.S. 47:532.4;

13. failure to maintain at all times during the term of the contract all qualifications required by R.S. 47:532.4 the by rule adopted by the department;

14. failure to notify the department of any security breaches of the network or system of the DTP, or any of its contractors or subcontractors, whether or not it can be determined that data or information on the department's system was accessed, altered, or copied;

15. failure to comply with the Office of Technology Services' current Information Security Policy, including all additional appendices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1411. Background Check Requirements

A. Every owner, employee, officer, director, manager, representative, agent or agent employee who will have access to information or data regulated by the Driver Privacy Protection Act shall have a background check performed by Louisiana State Police.

B. The digital transaction provider shall not permit any employee, owner, officer, director, manager, representative, agent or agent employee to have access to information or data regulated by the Driver Privacy Protection Act until the receipt of written approval from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1413. Office Location

A. The digital transaction provider must maintain a primary physical location of its operations within the continental United States of America.

B. Any and all activities involving the processing of transactions, or any other use or storage of any identifying information or payment information of persons using the DTP's application that occur outside the continental United States of America are strictly prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1415. Confidentiality

A. The digital transaction provider, its employees, representatives, and agents shall maintain the confidentiality of all records and information received or processed in connection with any function performed pursuant to a contract with the department.

B. The digital transaction provider shall forward all request for information commonly referred to as public records request to the department for a response.

C. The digital transaction provider shall be responsible for the disclosure of any information in connection with the processing of any transaction on behalf of the department. The digital transaction provider shall comply with all applicable federal and state laws regarding the disclosure of information, including but not limited to 18 U.S.C. §2721 et seq., and 42 U.S.C. §405(c)(2)(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1417. Information Security

A. The digital transaction provider shall comply with the Office of Technology Services' current Information Security Policy, Version 1.03 dated 10/24/2022, which includes all additional appendices and can be found at <https://www.doa.la.gov/doa/ots/aboutus/infosec/>. In the event this policy is amended or updated, the department will notify the digital transaction provider of the update and the digital transaction provider shall immediately comply with the amended or updated policy.

B. The failure of the digital transaction provider to comply with the Office of Technology Services' current Information Security Policy, which includes all additional appendices shall be ground for the department to immediately suspend the digital transaction provider's access to the department's network. Access to the department's network will be restored only after the digital transaction provider demonstrates it has come into compliance with the Office of Technology Services' current Information Security Policy, which includes all additional appendices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

§1419. Required Specifications to Access Department’s Network

A. All specification required to access the department’s network shall be contained in the contract, or in an attachment to the contract, executed by the digital transaction provider and the department. The specifications shall be based upon the transaction that the digital transaction provider has been authorized to process by the department as itemized in the contract or its attachments.

B. The failure of the digital transaction provider to comply with the specifications contained in the contract, or in an attachment to the contract, shall be ground for the department to immediately suspend the digital transaction provider’s access to the department’s network. Access to the department’s network will be restored only after the digital transaction provider demonstrates it has come into compliance with the specifications contained in the contract, or in an attachment to the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 50:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through October 21, 2024, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at Mailing Address: P. O. Box 64886, Baton Rouge, LA 70896, Physical Address: 7979 Independence Blvd., Ste. 301 Baton Rouge, LA 70806, or faxed to (225)925-6303.

Public Hearing

A public hearing on the proposed Rule will be held on October 30, 2024, at the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Suite 301, Baton Rouge, La. 70806, (225) 925-6281, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the above number at least seven

working days in advance of the hearing. For assistance, call (225) 925-6281 (voice and TDD). Any interested person should call before coming to the public hearing as the hearing will be cancelled if the requisite number of comments, as provided in R.S.49:961(B), are not received.

Daniel Casey
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Digital Transaction Providers**

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

The proposed rule is not anticipated to result in any costs or savings for the Office of Motor Vehicles (OMV). OMV currently has a contract with a third-party application developer to deliver an electronic credential for driver’s licenses and official identification cards. Any further costs required to develop an interface for a prospective third-party to come online will be considered part of the ongoing IT modernization project. OTS reports that most of the functionality currently exists in the legacy application.

In compliance with Act 152 of the 2024 RS, the OMV proposed to adopt Section 1401 through 1419 of Part III, Chapter 14 (Digital Transaction Providers), Title 55 (Public Safety) of the Louisiana Administrative Code. Specifically, this proposed rule:

- Allows the commissioner to enter into an agreement with public or private persons or agencies be digital transaction providers.
- Allows for digital transaction providers to provide and renew digital credentials.
- Allows for the denial of contracts if the person or organization has violated any rule or regulation of the OMV.
- Allows for the collection of registration license taxes and fees and the collection of a convenience charge as provided in present law.
- Requires digital transaction providers to execute a surety bond of \$100,000.
- Requires digital transaction providers to acquire a cyber liability insurance police for \$1 M.

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

There is no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

To the extent a Digital Transaction Provider enters into a contract with OMV, the Digital Transaction Provider will be required to obtain Cyber Liability Insurance in the amount of \$1 M. Additionally, Digital Transaction Providers will be required to execute a good and sufficient surety bond in a sum not less than \$100,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not anticipated to have an effect on competition and employment.

Daniel Casey
Commissioner
2409#061

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Public Safety Services Office of Management and Finance

Constables and Justices of the Peace Supplemental Pay (LAC 55:XIII.Chapter 1, 3, 5, 7)

In accordance with the provisions of R.S. 13:2591 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance (department) hereby proposes to amend warrant and payroll procedures for Constable and Justices of the Peace Supplemental Pay, authorized and administered pursuant to R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3, 2022 regular session of the legislature. Prior to enactment of R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3, the law required the mayor of the respective municipality to forward all approved and certified supplemental pay warrants to the secretary of the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, on the basis of such warrants, the secretary of the department had to prepare, sign, and issue individual checks representing the amount to be paid out of state funds to each recipient. Each such check showed the legislative appropriation from which payment was made and noted that it represents additional compensation paid by the state. Checks were required to be delivered by mail to the individual recipients in whose favor it was drawn. Many instances were recorded where recipients of supplemental pay were either underpaid or overpaid. These cases primarily arose from miscommunication in the trilateral relationship between the department, employer, and recipient. Where underpayments occurred, the remediation process was protracted, unduly burdensome and, in some cases, significantly adversely affected the financial health, safety or wellbeing of the recipient. Where overpayments occurred, the claw-back period of collecting funds was likewise protracted thereby affecting the department's budget and funding of services and, ultimately, affected the state fiscal year. The utility of the former process was far outweighed by the gravity of harm often suffered by recipients of supplemental pay and the state.

The legislature recognized the detrimental effects of the former process and enacted laws to streamline the procedures and bring about immediacy when financial errors are being corrected. The new law eliminated the trilateral process where the department paid supplemental pay directly to the recipient based on information provided by the municipality. The new law streamlined the process by requiring the municipality to furnish warrant information to the department and then the department pays the total sum of the warrants solely to the municipality. The municipality then distributes the supplemental pay directly to its individual recipients. When there is an error, the municipality and recipient can remediate the problem without the need for intervention by the department. The expedited process is important, particularly where a financial error affects the home mortgage, utility bills, or prescriptive medication of a recipient. It improves departmental

budgeting procedures by making line item allowances predictable, and with greater accuracy in reporting to departmental auditors and legislative oversight bodies.

This Rule provides clarity for the procedural operations by recognizing modern technological methods for delivery of supplemental pay, e.g., direct deposit to the recipient's financial institution. Moreover, this Rule clarifies how warrants are to be processed, how changes are to be made, notification of changes to employment status, and eligibility requirements for the receipt thereof, all limited by the provisions of R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3.

Title 55

PUBLIC SAFETY

Part XIII. Constables and Justices of the Peace Supplemental Pay

Chapter 1. Warrants

§101. Purpose

A. The warrant consists of a list of all recipients in a municipality who are currently receiving supplemental pay and a signature sheet.

B. The warrant is the municipality's authorization for the department to pay the listed recipients for the following month. Warrants will be issued by the department on a monthly basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§103. Who Is Required to Sign the Warrants

A. Two officials must sign every warrant authorizing payment of supplemental pay in addition to the preparer. The parish president is required to sign the warrants as the approving officer and the certifying officer should be police jury secretary/treasurer. The preparer must hold an administrative position, such as payroll/human resources/finance.

B. The department will request certifying signature authorizations annually. The municipality must notify the department whenever there is a change to the person or persons authorized to sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§105. Extent of Municipality's Obligation

A. The department shall remit the supplemental pay for employees listed on the warrant to the municipality. Prior to distributing payment to employees who are eligible for supplemental pay, the municipality is obligated to confirm eligibility for that specific month. If the department overpays the municipality as a result of any change in any employee's employment status, the municipality will be invoiced for the amount of the overpayment and shall promptly reimburse the department for the amount of the overpayment. The

municipality shall use extreme care in ascertaining each recipient's eligibility for the next month prior to certifying and submitting the warrant.

B. Each person who prepares, signs, or submits any supplemental pay form or document on behalf of a municipality is hereby deemed to acknowledge understanding the following legal ramifications.

C. The submission of a supplemental pay form or document and the contents therein constitutes the filing or depositing of a public record pursuant to R.S. 14:132 and R.S. 14:133. Intentionally submitting false information, forging the document or wrongfully altering the document and the contents therein may constitute a violation of applicable provisions of criminal law, including but not limited to R.S. 14:132 or R.S. 14:133, or both, and may subject the submitting party or parties to felony criminal prosecution, criminal fines and criminal restitution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§107. How to Indicate Changes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§109. Due Date

A. The approved and certified warrants must be returned to the department by the close of business on the fifteenth day of the month. If the fifteenth day of the month falls on a Saturday, Sunday, or a legal holiday, the warrant must be received immediately prior thereto. If the warrant is not received by the deadline, the municipality shall be placed in deferment and shall not receive any payments until the municipality is in compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, LR 13:247 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

Chapter 3. Applications

§301. Requirements

A. The municipality is required to submit all applications on line through the SuMPay Portal, using the most current forms and instructions on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§303. When to Submit the Oath of Office

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

Chapter 5. Change in Status

§501. When to Notify the Department

A. Notification of any change in employment or pay status must be received within fifteen days of the effective date of the change. These changes may be indicated on the warrant if time permits, if not, notification must be made via an official electronic notification. Supporting documentation must be provided.

B. Changes in employment status include but are not limited to:

1. resignations/retirements/death;
2. suspensions;
3. leave without pay;
4. change in duties/pro tem status;
5. classification/job title changes;
6. workmen's compensation;
7. military leave;
8. furlough;
9. reinstatement/return from any of the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§503. Resignations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§505. Death

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

Chapter 7. Payroll Information

§701. Eligibility Requirements

A. A constable or justice of the peace is eligible for state supplemental pay when the individual takes office.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§703. Cut Off Date for Eligibility for that Month's Check

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§705. Back Pay Policy

A. The department's fiscal year ends on June 30th, therefore, Legislative approval is required for back supplemental pay beyond July.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§707. Stop Payments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§709. Duplicate W-2's

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2218.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), repealed by the Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

§711. Correspondence

A. All correspondence and or notifications to the department must come from the municipality, not the individual recipient. In all correspondence or notifications, please include the applicant or recipient's name, last four digits of social security number, and the municipality's contact information. All correspondence or notifications shall be by electronic means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:2591, R.S. 36:404, R.S. 40:1667.1, R.S. 40:1667.2, and R.S. 40:1667.3

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, LR 13:246 (April 1987), amended by Department of Public Safety and Corrections, Public Safety Services, Office of Management and Finance, LR 50:

Family Impact Statement

The Effect of this Rule on the Stability of the family.

The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

1. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

2. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earnings and family budget.

3. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

4. The Effect of this Rule on Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

The impact of the proposed Rule on families and children in poverty has been considered and it has been determined that the proposed Rule should not negatively impact household income, assets, and financial security, early childhood development and preschool through postsecondary education development, employment and workforce development, taxes and tax credits, nor child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Impact Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have any adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments or requests for public hearing on this proposed Rule change to Gail Holland, Deputy General Counsel, Louisiana Department of Public Safety, Office of Legal Affairs, P.O. Box 66614, Baton Rouge, LA 70896 until 4:30 p.m. October 10, 2024.

Gail Holland
Deputy General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Constables and Justices of the Peace Supplemental Pay

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

It is not anticipated that state or local governmental units will incur any costs or savings as a result of this proposed rule.

To align Administrative Code with current practice, the Department of Public Safety (DPS) proposed to amend Sections 101, 103, 105, 107, 109, 301, 303, 501, 503, 505, 701, 703, 705, 707, 709, and 711 of Part XIII, Chapters 1, 3, 5, and 7 of Title 55 (Public Safety) of the Louisiana Administrative Code. Specifically, the proposed rule:

Streamlines the process and requirements for how warrants are processed for payment.

Establishes that municipalities submit all applications online through the SuMPay portal.

Specifies that notifications of any change in employment or pay status be communicated within fifteen days of the effective date of the change.

States all correspondence and or notifications to the department must be by electronic means and come from the municipality, parish, or fire protection district, not the individual recipient.

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

There is no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons, small business, or non-governmental groups. The proposed measure clarifies the process of disbursing funds to satisfy warrants approved and certified by governing authorities, and provides consistency between the administrative code and current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not anticipated to have an effect on competition and employment.

Gail Holland
Deputy General Counsel
2409#005

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Tax Policy and Planning Division

Severance Tax Returns—Electronic Filing and Payment Requirements (LAC 61:III.1525)

Under the authority of R.S. 47:1511, 47:1519, 47:1520 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, through this Notice of Intent, proposes to amend its regulations to require electronic filing by severers and purchasers of timber and minerals (other than oil and gas) who are filing severance tax returns and to require electronic payments of all severance taxes.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2)-(3) grants the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. The purpose of this amendment is to require electronic filing of mineral and timber severance tax returns and to require electronic payment of all severance taxes. This rule is written in plain language in an effort to increase transparency.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1525. Severance Tax

A. Oil and Gas

1. R.S. 47:1520(A)(1)(b) authorizes the secretary of revenue to require electronic filing of tax returns or reports by persons severing oil or gas from the soil or water from the state that are required to file reports under R.S. 47:635(A)(2) or 640(A)(2).

2. Persons required to file reports under R.S. 47:635(A)(2) and 640(A)(2) shall be required to file the tax returns or report electronically with the Department of Revenue using the electronic format prescribed by the department.

3. Form G-2, Application for Certification of Incapable Wells, and Form O-2, Application for Certification of Stripper/Incapable Wells, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. If the due date falls on a weekend or holiday, the application and electronic filing thereof is due on the next business day.

4. Effective for all taxable periods beginning on or after the January 1, 2025, all payments due on the severance of oil or gas shall be electronically transferred to the Department of Revenue on or before the twenty-fifth day of the second month following the production month.

B. Minerals (other than oil and gas) and Timber

1. Effective for all taxable periods beginning on or after the January 1, 2025, all returns and reports required by R.S. 47:635(A)(1) and 640(A)(1) shall be filed electronically with the Department of Revenue using the electronic format prescribed by the department.

2. Effective for all taxable periods beginning on or after the January 1, 2025, all payments of tax on the severance of any natural resources, other than oil or gas, shall be electronically transferred to the Department of Revenue on or before the twenty-fifth day of the second month following the production month.

3. Specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

C. Penalties

1. Failure to comply with these electronic filing requirements will result in the assessment of a penalty of \$100 or five percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

2. If the taxpayer can prove electronic filing of a tax return, report, or application for certification would create an undue hardship, the secretary may exempt the taxpayer from filing the return, report, or application electronically.

3. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 through 1602.

4. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1519, 47:1520, 47:635(A)(2), 47:640(A)(1), 47:633(9)(c).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1271 (June 2010), amended LR 37:1614 (June 2011), amended by the Department of Revenue, Tax Policy and Planning Division, LR 50:

Family Impact Statement

The proposed adoption of this Rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. the stability of the family.
2. the authority and rights of parents regarding the education and supervision of their children.
3. the functioning of the family.
4. family earnings and family budget.
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

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

Small Business Analysis

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:974.4.

Provider Impact Statement

The proposed Rule has no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service.
2. the total direct and indirect effect on the cost to the provider to provide the same level of service.
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to John Pearce, Attorney, Tax Policy and Planning Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., October 28, 2024.

Public Hearing

A public hearing will be held on October 29, 2024 at 10 a.m. in the River Room, located on the Seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana. Should individuals with a disability need an accommodation in order to participate, contact John Pearce at the address given above in the Public Comments section, by email at LDRadarequests@la.gov or at by phone at (225) 219-2784.

Richard Nelson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Severance Tax Returns—Electronic Filing and Payment Requirements

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

Implementation of this proposed rule will result in approximately \$105,500 in additional costs associated with the development and testing of the reporting schedule. Computer system acceptance of the required electronic return is already in place. Accounting for non-compliance penalties will not result in material additional costs.

The proposed rules require severance taxpayers to file their mineral tax and timber tax returns and reports electronically. In addition, severance taxpayers are required to submit payments electronically for the severance oil, severance gas, minerals, and timber taxes. The proposed rules also provide for the assessment of penalties for non-compliance and the waiver of penalties as provided for in R.S. 47:1520(B).

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

The proposed rules may increase self-generated revenue (SGR) and state general fund (SGF) collections from penalties by an indeterminable amount beginning in FY 25 (see note below). A modest and temporary increase in revenue from penalties may occur as the proposed rules are implemented, although the Louisiana Department of Revenue ("LDR") cannot predict non-compliant behavior. For returns that are currently required to be filed electronically, LDR has collected the following amounts in non-E-filing penalties: \$48,900 in FY 20, \$23,500 in FY 21, \$13,900 in FY 22, \$113,100 in FY 23, and \$230,300 in FY 24. LDR has collected the following amounts in non-E-payment penalties: \$395,800 in FY 20, \$438,500 in FY 21, \$390,900 in FY 22, \$356,467 in FY 23, and \$418,992 in FY 24. However, any actual collections in penalties are dependent upon non-compliant behavior associated with the filing types included in the proposed rules. Therefore, any increase in revenue is indeterminable.

Note: Pursuant to Act 348 of the 2020 Regular Session, penalties and fees except compensatory fees levied by LDR will accrue to the state general fund, rather than self-generated revenue for the department.

Local governmental units are not affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules require severance taxpayers to file their minerals tax and timber tax returns and reports electronically and remit the severance oil, gas, minerals, and timber taxes and payments by electronic funds transfer for reporting periods beginning on or after January 1, 2025. Electronic filing of the minerals tax and timber tax returns will be available directly through LDR's LaTAP portal which will allow taxpayers to file for free. LDR does not have the information necessary to determine the additional costs to comply with the proposed rules, but these costs are expected to be minimal as online

access and activity have largely become a business standard. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. LDR cannot estimate the additional penalty amount as it is dependent upon taxpayer violations and liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Richard Nelson
Secretary
2409#062

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Sharks and Sawfishes—Harvest Regulations (LAC 76:VII.357)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.357) by removing the recreational daily size, bag, and possession limits of Blacktip and Bull Sharks from a minimum of 54 inches fork length to no minimum size limit for either species and from a bag and possession limit of 1 per person or 1 per vessel to no bag or possession limit for either species. Additional modifications to the rule prohibit the retention of Shortfin Mako Sharks in both the recreational and commercial fisheries and provide for an increase in the daily commercial trip limit from 45 to 55 sharks from the Large Coastal Species group while providing secretarial authority to adjust those commercial trip limits as deemed necessary.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent, including but not limited to, the filing of the fiscal and economic impact statement, the filing of the notice of intent, and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and promulgate the final rule.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§357. Sharks and Sawfishes – Harvest Regulations

A. - E.2. ...

F. Sharks taken under a recreational bag limit shall not be sold, purchased, exchanged, traded, bartered, or attempted to be sold, purchased, exchanged, traded, or bartered. A person subject to a bag limit shall not possess at any time, regardless of the number of trips or the duration of a trip, any shark in excess of the recreational bag limits or less than minimum size limits as follows.

1. All sharks taken under a recreational bag limit within or without Louisiana waters must be at least 54 inches fork length, except that the minimum size limit does not apply for Atlantic sharpnose, bonnethead, blacktip, or bull sharks. No sandbar or silky shark may be retained under a recreational bag limit.

2. Owners/operators of vessels other than those taking sharks in compliance with a state or federal commercial permit are restricted to no more than one shark from either the large coastal (except bull and blacktip sharks which shall have no bag limit), small coastal or pelagic group per vessel per trip within or without Louisiana waters, subject to the size limits described in LAC 76:VII.357.F.1, and, in addition, no person shall possess more than one Atlantic sharpnose shark and one bonnethead shark per person per trip within or without Louisiana waters, regardless of the length of a trip. No sandbar or silky shark may be retained by persons fishing under these limits.

F.3. - H.1. ...

2. Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any trip, or land from any trip, or sell, barter, trade, or exchange in excess 55 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any sandbar sharks unless they also have in their name and in possession a valid federal shark research permit under 50 CFR 635.32(1). The secretary of the department is authorized to adjust the daily possession limit of sharks from the large coastal species group as deemed necessary.

H.3. - J.6. ...

K. Prohibited Species

1. No person shall take, possess, purchase, sell, barter, exchange or attempt to possess, purchase, sell, barter, or exchange any of the following species or parts thereof:

- a. basking shark—*Cetorhinus maximus*;
- b. white shark—*Carcharodon carcharias*;
- c. bigeye sand tiger—*Odontaspis noronhai*;
- d. sand tiger—*Odontaspis taurus*;
- e. whale shark—*Rhincodon typus*;
- f. smalltooth sawfish—*Pristis pectinata*;
- g. largetooth sawfish—*Pristis pristis*;
- h. Atlantic angel shark—*Squatina dumerili*;
- i. Caribbean sharpnose shark—*Rhizoprionodon porosus*;
- j. smalltail shark—*Carcharhinus porosus*;
- k. bignose shark—*Carcharhinus altimus*;
- l. Caribbean reef shark—*Carcharhinus perezi*;
- m. dusky shark—*Carcharhinus obscurus*;
- n. Galapagos shark—*Carcharhinus galapagensis*;
- o. narrowtooth shark—*Carcharhinus brachyurus*;
- p. night shark—*Carcharhinus signatus*;
- q. bigeye sixgill shark—*Hexanchus vitulus*;
- r. bigeye thresher shark—*Alopias superciliosus*;
- s. longfin mako shark—*Isurus paucus*;
- t. shortfin mako shark—*Isurus oxyrinchus*;
- u. sevengill shark—*Heptranchias perlo*;
- v. sixgill shark—*Hexanchus griseus*.

K.2. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 35:705 (April 2009), LR 39:1062 (April 2013), LR 43:1188 (June 2017), LR 46:50 (January 2020), LR 48:2994 (December 2022), LR 50:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rule change is expected to have a minor positive effect on the revenues of commercial fishers who harvest large coastal sharks and a negative effect on commercial fishers who harvest shortfin mako sharks as described in R.S. 49:965.2 through R.S. 49:965.8. Most of the commercial fishers who harvest sharks meet the characteristics of small businesses.

Provider Impact Statement

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

Public Comments

Interested persons may submit written comments relative to the proposed rule to Jason Adriance, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov by November 7, 2024.

Brandon J. DeCuir
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sharks and Sawfishes—Harvest Regulations

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

The proposed rule change will have no expenditure impact on state or local governmental units.

The proposed rule change does the following:

(1) Removes recreational minimum size limits and bag limits for blacktip sharks and bull sharks;

(2) Increases the commercial possession limit for sharks from the large coastal species group from 45 sharks per trip to 55 sharks per trip,

(3) Provides the Secretary of Wildlife and Fisheries (Secretary) the authority to adjust commercial trip limits as deemed necessary;

(4) Removes the restriction limiting the number of commercial shark-harvesting trips to one trip per day, and;

(5) Adds shortfin mako sharks on the list of prohibited species of sharks, prohibiting the harvest of the species.

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

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change removing the recreational size limit and bag limit for blacktip sharks and bull sharks is expected to benefit anglers who target or harvest sharks.

The proposed rule change is expected to have a minor positive effect on revenues of commercial fishers who harvest large commercial sharks. The average cumulative dockside value of large coastal sharks (in inflation-adjusted 2023 dollars) between 2019 and 2020 was \$482,411.

The proposed rule change adds shortfin mako sharks to Louisiana's list of prohibited species to make state regulations consistent with federal regulations that have prohibited the harvest of the species in federal waters since 2022. It is expected to reduce revenues of commercial fishers who harvest sharks by less than \$1,000 per year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no impact on competition and employment in Louisiana.

Bryan McClinton
Undersecretary
2409#063

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Workforce Commission
Office of Workers' Compensation**

**Medical Treatment Guidelines
Disputed Claim for Medical Treatment (LAC 40:I.2328)**

The Workforce Commission does hereby give notice of its intent to amend certain portions of the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 23, Subchapter B, Section 2328 regarding medical necessity appeals. The purpose of this amendment is to update the medical dispute form in accordance with current administrative process. This Notice of Intent is promulgated by the authority vested in the assistant secretary of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.7.

Title 40

LABOR AND EMPLOYMENT

**Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines**

Chapter 23. Upper and Lower Extremities Medical Treatment Guidelines

Subchapter B. Shoulder Injury Medical Treatment Guidelines

§2328. LWC-WC 1009. Disputed Claim for Medical Treatment

E-Mail to: mgd1009@lwc.la.gov

Fax to: OWCA—Medical Services 1. Last four digits of Social Security No. ___-__-__

ATTN: Medical Director 2. Date of Injury/Illness ___-__-__

(225) 342-9836 3. Parts of Body Injury _____

Mail to: Medical Services 4. Date of Birth ___-__-__

P.O. Box 94040 5. Date of This Request ___-__-__

Baton Rouge, LA 70804 6. Claim Number _____

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Small Business Analysis

This amendment to Title 40 should have no direct impact on small or local businesses.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to Brian Blackwood, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5 pm on October 10, 2024.

Susana Schowen
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Medical Treatment Guidelines Disputed Claim for Medical Treatment

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

The proposed rule changes are not anticipated to result in any direct material effect on state or local governmental units.

The purpose of the proposed amendments is to codify existing form processing requirements that are currently being used by the Office of Workers' Compensation. The proposed rule change updates a medical dispute form for stakeholders to file an appeal on medical necessity per LAC 40:2715(J) & (L).

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

There is no anticipated direct material effect on state or local revenues as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to result in a direct economic benefit to persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Brian Blackwood
Assistant Secretary
2409#057

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services

Hunting Season Variances for Farm-Raised White-Tailed Deer

Pursuant to LAC 7:XXI.1719(A), farm-raised white-tailed deer may be harvested by killing from October 1 through January 31. LAC 7:XXI.1719(C) authorizes the commissioner of Agriculture and Forestry to establish, by written order, variances of these dates as the commissioner deems necessary to carry out the purposes of R.S. 3:3101-3108.

In light of the foregoing, and in consideration of the applications for variances, commissioner of Agriculture and Forestry, Mike Strain, DVM, has authorized the following:

1. Two Brothers Whitetails LLC, License No. 2068, 56099 Dohm Road, Loranger, LA 70446, through its owner, Brandon Bollinger, is authorized to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from September 1, 2024, until September 30, 2024.

2. Diamond J Whitetails, License No. 2024, 498 Jones Road, Haughton, LA 71037, through its owner, Herb Jeane, is authorized to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from September 1, 2024, until September 30, 2024.

3. Banks Riverport LLC, License No. 2054, 175 Brown Rd, Mangham, LA 71259, through its owner, Trae Banks, is authorized to open its hunting grounds for the purpose of harvesting farm-raised white-tailed deer from August 6, 2024, until September 30, 2024.

Mike Strain, D.V.M.
Commissioner

2409#003

POTPOURRI

Department of Energy and Natural Resources Office of Conservation

August 2024 Revised Orphaned Oilfield Sites

Due to many errors in the original published list, the following is a revision to the August 2024 list of Orphaned Oilfield Sites. Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
British-American Oil Prod. Co.	Golden Meadow	L	Leo Lafont	003	23914 (30) Casing Stub
C&C Oil Field Serving Co.	Caddo Pine Island	S	Crawford	002	55022
C&C Oil Field Serving Co.	Caddo Pine Island	S	Crawford	001	54366
Integrated Exploration & Production Llc	Stuarts Bluff	L	SL 4909	003-D	175154
Integrated Exploration & Production Llc	Bayou Biloxi	L	Vua;Biloxi Marsh Lands 6	002	228079 (30) Cribbing
Integrated Exploration & Production Llc	Lake Borgne	L	SL 17546	001	227385 (30) Cribbing
Integrated Exploration & Production Llc	Bayou Biloxi	L	Cris I Ra Sua;Bmlc	003-ALT	226849
Integrated Exploration & Production Llc	Lake Borgne	L	SL 17073	005	226242
Integrated Exploration & Production Llc	Bayou Biloxi	L	Cris I Ra Suc;B Marsh Lds 1	002	228303 (30) Cribbing
Integrated Exploration & Production Llc	Bayou Biloxi	L	Cris I Ra Sua;Biloxi Marshland	001	225862 (30) Cribbing
Integrated Exploration & Production Llc	Lake Borgne	L	SL 17074	002	226997
Integrated Exploration & Production Llc	Stuarts Bluff	L	SL 4909 SWD	003	173283 (30) Cribbing/Casing
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	010	34399
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	021	51881
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	023	53598

Operator	Field	District	Well Name	Well Number	Serial Number
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	005	58115
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	009	126168
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	016	180256
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	002	199425
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark Swd	007	990520
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	017	50785
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	003	53282
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	028	58599
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	011	152575
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	005	34206
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	002	33909
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	027	55224
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	007	57907
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	008	57908
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	014	156782
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	021	180986
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	023	186774
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	012	196558
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	001	199424
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	003	34549
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	020	51880
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	004	53426

Operator	Field	District	Well Name	Well Number	Serial Number
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	025	55216
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	030	67500
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	003	990516
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	011	34477
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	007	34398
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	031	76661
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	013	153902
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	015	180255
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	019	180921
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	009	196510
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	007	199420
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	001	990514
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	002	990515
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	014	40369
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	019	51879
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	002	53283
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Levee Board	006	58116
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	029	58537
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark Swd	001	974401
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	008	35002
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	018	50786
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	022	51882

Operator	Field	District	Well Name	Well Number	Serial Number
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	014	196506
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	011	196511
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Noel Estate A	026	55161
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	009	151764
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	020	180985
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	018	180920
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	017	180922
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	013	196559
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	004	199428
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Clark	006	200137
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	004	990517
J. Kirin Oil & Gas Llc	Caddo Pine Island	S	Geo J J Clark	005	990518
Meridian Resources (Usa) Inc.	Lake Verret, East	L	Simmons	002	223927
Meridian Resources (Usa) Inc.	Lake Verret, East	L	Simmons Swd	001	972434
Meridian Resources (Usa) Inc.	Lake Verret, East	L	Rob 3-5 Ra Sua;Triche Estate	001	247812
Meridian Resources (Usa) Inc.	Lake Verret, East	L	Pacific Enterprises	001	222983
R L Operating Co Llc	Bunchy Creek	L	K Rb Sua;T L Garth Etal	001	241601
R L Operating Co Llc	Bunchy Creek	L	W S Kingrey Et Al Swd	001	973953
R L Operating Co Llc	Bunchy Creek	L	5830 Ra Sua;T L Garth Etal	001-ALT	225560

Operator	Field	District	Well Name	Well Number	Serial Number
R L Operating Co Llc	Bunchy Creek	L	Cane River Leasing Llc	001	249134
R L Operating Co Llc	Bunchy Creek	L	5830 Ra Sua;Kingrey Est	001	226841
R L Operating Co Llc	Bunchy Creek	L	Barbara Brawner Etal	001	244052
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	1	65307
Rapier Resources Company	Bay St Elaine	L	I I Sua;SI 2995 LI&E U3	001-D	68596
Rapier Resources Company	Bay St Elaine	L	SI 2995 LI&E U3	5	76448
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	005-D	77141
Rapier Resources Company	Bay St Elaine	L	I I Sud;SI 2995 LI&E U3	005-T	77456
Rapier Resources Company	Bay St Elaine	L	SI 2995 LI&E U3	6	83749
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	7	84505
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	006-D	84684
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	007-D	85696
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	10	88355
Rapier Resources Company	Bay St Elaine	L	Vuc;SI 2995 LI&E	010-D	89454
Rapier Resources Company	Bay St Elaine	L	SI 2995 L L & E Unit 3	12	119856
Rapier Resources Company	Bay St Elaine	L	SI 2995 LI&E Unit 3	012D	121159
Rapier Resources Company	West Delta Block 27	L	SL 10090	1	180128
Rapier Resources Company	West Delta Block 27	L	SL 10090	2	180207

Operator	Field	District	Well Name	Well Number	Serial Number
Rapiere Resources Company	West Delta Block 27	L	SL 10090	3	181417
Rapiere Resources Company	West Delta Block 27	L	SL 10089	1	184722
Rapiere Resources Company	West Delta Block 27	L	SL 10090	4	203549
Rapiere Resources Company	Bay St Elaine	L	SL 2995-LL&E SWD	2	207489
Rapiere Resources Company	Iberia	L	Theres a S Broussard Etal	2	228933 (30) Debris
Rapiere Resources Company	Summer ville	M	Weyer haeuser	1	248440
Time Energy, L. L. C.	Cox Bay	L	BN-1/BN-8 RA SUA; CBU	056-ALT	50287 (30) Storage Barge
Twiner Exploration, Inc.	Little Creek	M	Carroll	001	188490

Benjamin C. Bienvenu
Commissioner

2409#035

POTPOURRI

Department of Justice

Occupational Licensing Review Program
Accepting Participants for FY 2024-2025
Period of January 1, 2024—June 30, 2026

The Department of Justice is currently accepting occupational licensing boards into the Department of Justice Occupational Licensing Review Program (OLRP) established by R.S. 49:260. This program provides for active state supervision and was established to ensure that participating boards and board members will avoid liability under federal antitrust laws. Participants for the January 1, 2025—June 30, 2026 period will be accepted into the program through December 31, 2024. For information about participating in the program, contact Jessica Weimer, Section Chief, OLRP—Public Protection Division, Louisiana Department of Justice at olrp@ag.louisiana.gov.

Jessica Weimer
Section Chief

2409#039

POTPOURRI

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

Public Hearing—Substantive Change to Notice of Intent
Recreational and Commercial Harvests; Prohibitions
(LAC 76:XV.101)

The Department of Wildlife and Fisheries (department) and the Wildlife and Fisheries Commission (commission) published a Notice of Intent to amend its rules, in the January 20, 2024 edition of the *Louisiana Register*. The commission proposes to amend the original Notice of Intent to clarify and/or modify language regarding access to potable water for captive reptiles; enclosure sizes for snakes, turtles, and tortoises; and the grace period for registering prohibited or restricted species with the department, as well as commercial sale of said species, as applicable. These changes are based upon public comment provided during the comment period for the original Notice of Intent and subsequent communication with stakeholders.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission’s review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

Title 76

WILDLIFE AND FISHERIES

Part XV. Reptiles and Amphibians

Chapter 1. Guidelines

§101. Recreational and Commercial Harvests; Prohibitions

A. Purpose. These regulations are to govern the collection, commerce, captive maintenance, and research and management of native and certain exotic species of reptiles and amphibians. Consistent with the constitutional authority and legislative mandates, the Wildlife and Fisheries Commission and Department of Wildlife and Fisheries support the following guidelines, principles and regulations for collectors, buyers/dealers and any person handling native species of reptiles and amphibians.

B. General Considerations

1. The living conditions of animals held in captivity shall be appropriate for that species and contribute to their health and well-being. The housing, feeding, and nonmedical care of the animals shall be directed by a person experienced in proper care, handling, and use of the species being maintained and follow species appropriate industry guidelines such as Association of Zoos and Aquariums (AZA) Animal Wellbeing Resources and the American Society of Ichthyologists and Herpetologists Guidelines for

Use of Live Amphibians and Reptiles in Field and Laboratory Research.

2. It is unlawful to release, within the state, captive or wild native or nonnative reptiles and amphibians, from within or outside the state, unless approved and permitted by the department in accordance with R.S. 56:20.A. Exceptions may be granted for department-permitted Nuisance Wildlife Control Operators (NWCs).

3. Endangered, threatened, or restricted species shall not be removed from the wild, nor imported or exported, except in compliance with applicable regulations.

4. Persons engaged in herpetological research shall possess a Scientific Research and Collecting Permit prior to removal of native reptiles or amphibians from the wild. Removal of species that are tending nests in the wild is prohibited during the nesting season unless for scientific reasons and permitted by the department via a Scientific Research and Collecting Permit.

C. Collecting

1. Live-capture techniques shall be used to prevent or minimize damage to the animal.

2. Traps shall be checked, at minimum, once daily. Investigators must make every effort to prevent trap deaths from exposure, drowning, cardiogenic shock, or capture myopathy.

3. Removal or handling of native reptiles and amphibians on State Wildlife Management Areas, Refuges, and Conservation Areas is prohibited without a WMA Access Permit, Self-Clearing Permit, and a Reptile/Amphibian WMA Use Permit from the Department of Wildlife and Fisheries pursuant to Paragraphs G.2 and J.2 herein. Collecting shall be conducted so as to leave habitat as undisturbed as possible. Removal of animals from any breeding or hibernation aggregation or collection of gravid females from any population shall be avoided unless for scientific reasons and permitted by the department via a Scientific Research and Collecting Permit.

D. Methods of Collection (R.S. 56:632.6)

1. The use of gasoline, chemicals, or other volatile substances to flush reptiles and amphibians from natural hiding places, nests, burrows, or dens is prohibited.

2. The destruction of natural habitats is prohibited. All logs, rocks, stumps, and other natural objects may be turned over or moved, but they must be replaced in their original position upon completion of the collector's inspection.

3. Any trap or other device designed to capture reptiles or amphibians, which remains in the field unattended between routine inspections as required herein, must bear a tag with the name, address, and license number of the collector. All such devices must be inspected at least once every 24 hours or they must be rendered unworkable and removed from the field during periods of non-use.

E. Restraint and Handling

1. General Principles. Captive animals shall be properly restrained and follow the American Society of Ichthyologists and Herpetologists Guidelines for Use of Live Amphibians and Reptiles in Field and Laboratory Research. The decision to use physical or chemical restraint of wild amphibians or reptiles shall be based upon knowledge of behavior of the animals, and availability of facilities. Collectors shall determine and use the least amount of

restraint necessary to confine animals in a humane manner. Species shall not be confined with other species (other than food prey) that they may injure.

2. Animals shall be handled calmly and with minimum personnel necessary. Darkened conditions tend to alleviate stress and calm the animals and are recommended whenever appropriate. When handling, placing, or dropping large reptiles into a bag, the use of hooks, tongs, etc., is preferable to reduce stress to the animal and potential harm to the animal and handler during capture.

3. Euthanasia of reptiles or amphibians shall be performed humanely following the guidelines adopted by the American Veterinary Medical Association (AVMA), which shall ensure pain and distress to the animal is minimized to the extent possible.

F. Housing and Maintenance

1. Captive maintenance shall incorporate those aspects of natural habitat deemed important to the survival and well-being of the animal and follow species appropriate industry guidelines such as AZA Animal Care Manuals and the American Society of Ichthyologists and Herpetologists Guidelines for Use of Live Amphibians and Reptiles in Field and Laboratory Research. Individuals partaking in the care of captive reptiles and amphibians shall become familiar with the life history needs of the species in captivity and provide enclosure and holding conditions that create a humane environment. Captive conditions shall demonstrate the ability to prevent diseases or parasites. In the event that a captive animal exhibits signs of illness or injury, said animal shall be evaluated by a licensed veterinarian within 48 hours. A letter from the consulting veterinarian or veterinary practice may be requested by Department of Wildlife and Fisheries personnel at any time. Adequacy of maintenance, relative to the natural environment, shall be evaluated by monitoring a combination of factors such as changes in growth and weight, survival rates, breeding success, activity levels, general behavior, and appearance. Captive environments shall include necessary features to ensure all physical, social, and behavioral needs of the species are met, such as appropriate enclosure size and ventilation; natural, or appropriate, bedding materials; cover or hiding places; basking platforms; potable water; and water baths. Potable water shall be accessible and meet requirements as appropriate for the species. Natural foods should be duplicated as closely as possible, as should natural light, moisture, and temperature conditions unless alterations of these are factors under investigation for scientific purposes and permitted by the department via a Scientific Research and Collecting Permit. Failure to comply will result in penalties in accordance with Subsection L of this Rule and may result in confiscation and forfeiture of subject animals.

a. Snakes 8 feet in length and longer—the perimeter of the enclosure shall not be less than the length of the snake, and the height of the enclosure shall not be less than twelve inches. Snakes less than 8 feet in length—minimum enclosure size shall be relative to the length of the body and tail and shall be 1/2 that length on the longest side.

b. Turtles and tortoises—minimum enclosure size shall be based on the straight-line carapace (top shell) length, and shall be 5 times that length on the longest side, 3 times that length on the shortest side, and 2 times that length

in height. Turtles possessed for commercial purposes by Louisiana Department of Agriculture and Forestry licensed turtle farmers are exempt from the enclosure sizes herein.

c. Lizards—minimum enclosure size shall be based relative to the length of the body and tail and shall be at least 1.5 times that length on the longest side, 1 times on the shortest side, and 1.2 times in height.

2. Frequency of cage cleaning shall be adequate to prevent unsanitary conditions or disease and minimize stress to the animal.

G. Turtle Rules and Regulations

1. Commercial Use of Native Turtles is Prohibited.

a. No person shall commercially take, possess, sell, purchase, trade, barter, exchange, import or export native turtles, their eggs, or any parts thereof, or attempt to commercially take, possess, sell, purchase, trade, barter, exchange, import or export native turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale and possession of native turtles by the Department of Agriculture and Forestry (LDAF) licensed turtle farmers as provided in R.S. 56:632 et seq., and R.S. 3:2358.1 et seq., which were legally acquired prior to the effective date of this prohibition or imported legally into this state and which have proper records documenting legal acquisition. Subsequent to the effective date of this Rule, approval from the Department of Wildlife and Fisheries via a Reptile/Amphibian Broodstock Collection Permit is required for LDAF licensed turtle farmers to acquire native turtles from the wild, for captive breeding purposes only. LDAF turtle farms that are newly licensed subsequent to the effective date of this Rule shall not be eligible for a permit to collect native turtles from the wild. Alligator Snapping Turtles, Razor-backed Musk Turtles, box turtles, and any prohibited turtle species as listed in Paragraph G.4 herein will not be permitted for wild collection. LDAF turtle farms will be limited to three designated agents for collecting native turtles from the wild and all designated agents shall be listed on the Reptile/Amphibian Broodstock Collection Permit. Each designated agent shall possess a valid Reptile/Amphibian Collector's License, pursuant to R.S. 56:632.4, and a copy of the Reptile/Amphibian Broodstock Collection Permit while in possession of wild-caught turtles. Reptile/Amphibian Broodstock Collection Permits shall include parameters set forth by the department along with each designated agent's name, date of birth, driver license number, and Reptile/Amphibian Collector's License number. Reptile/Amphibian Broodstock Collection Permits and Reptile/Amphibian Collector's Licenses shall be acquired from the department's State Herpetologist or their designee. Permit and license holders will be required to comply with all reporting requirements set forth by the department. No LDAF licensed turtle farmer or their designated agent shall have had a Title 56 or Title 76, Class 3 or higher conviction within three years prior to application submittal.

2. Recreational Take and Possession Limit.

a. No person shall collect or possess more than 10 restricted turtles, as listed in Paragraph G.3 herein, in any combination, with no individual species to exceed two per person at any time, except for the Alligator Snapping Turtle which shall be restricted to one per person per day and a possession limit of one unless approved and permitted by the

Department of Wildlife and Fisheries for scientific, exhibition, or educational use. Persons engaged in collection and possession of native turtles for recreational purposes shall possess a basic recreational fishing license. Persons engaged in collection and possession of native turtles for recreational purposes on Department of Wildlife and Fisheries owned or managed lands shall possess a basic recreational fishing license, a WMA Access Permit, and a Reptile/Amphibian WMA Use Permit that shall be acquired from the department's State Herpetologist or their designee and will require mandatory reporting. Accredited and certified zoos, aquariums, universities, and research and nature centers will be exempt from native turtle possession limits via a department-issued permit. Other facilities may be exempt from native turtle possession limits at the discretion of the department's State Herpetologist or their designee via a department-issued permit.

b. No person shall collect, possess, transport, or export prohibited turtle species, as listed in Paragraph G.4 herein, unless approved and permitted by the Department of Wildlife and Fisheries for scientific, exhibition, or educational use. Individuals exceeding the possession limit for restricted turtles or in possession of prohibited turtles shall have 180 days from the effective date of this rule to register those turtles with the department's State Herpetologist or their designee. The acquisition of additional turtles is prohibited until the number of restricted turtles in possession is below the limit set forth herein. No person with a temporary exemption to possess prohibited turtles shall acquire additional prohibited turtles, subsequent to the effective date of this Rule, or once said turtles have expired. Permits for registered prohibited turtles shall be renewed annually and permit holders shall renew their permit within 30 days of the expiration date. Facilities housing prohibited turtles shall be open to inspection, as requested, prior to issuance of a permit and at other times deemed necessary to ensure permit compliance by Department of Wildlife and Fisheries personnel or other persons authorized by the department to perform such inspections. No person shall transfer possession of native turtles that exceed the possession limits set forth herein except to the Department of Wildlife and Fisheries or its designated agent. It is unlawful to collect, possess, transport, or export any turtles designated as endangered or threatened pursuant to the Endangered Species Act of 1973 as listed in Paragraph J.6 herein, absent a valid permit.

i. Collection of eggs of any native turtle species is prohibited.

ii. Possession of more than two native box turtles, regardless of species, is prohibited.

iii. No person shall possess restricted turtles taken with commercial gear in accordance with R.S. 56:305.

iv. Department-permitted wildlife rehabilitators may be exempted from native turtle possession limits and prohibitions set forth herein, via a department-issued permit.

v. In all instances, except with regard to turtle farmers licensed through LDAF while operating in accordance with their applicable licenses, it shall be unlawful to engage in captive breeding activities for native turtles or to release captive turtles, regardless of age or species, into the wild unless approved and permitted by the

Department of Wildlife and Fisheries. Offspring from unauthorized captive breeding activities shall be surrendered to the department.

vi. Disruption, damage, or destruction to gopher tortoise burrows is prohibited.

3. Restricted Turtles

a. List of restricted turtles:

- i. Snapping Turtle—*Chelydra serpentina*;
- ii. Alligator Snapping Turtle—*Macrochelys temminckii*;
- iii. Mississippi Mud Turtle—*Kinosternon subrubrum hippocrepis*;
- iv. Razor-backed Musk Turtle—*Sternotherus carinatus*;
- v. Eastern Musk Turtle—*Sternotherus odoratus*;
- vi. Southern Painted Turtle—*Chrysemys dorsalis*;
- vii. Ouachita Map Turtle—*Graptemys ouachitensis*;
- viii. Mississippi Map Turtle—*Graptemys pseudogeographica kohnii*;
- ix. Sabine Map Turtle—*Graptemys sabinensis*;
- x. Box Turtles—*Terrapene* sp.
- xi. Eastern River Cooter—*Pseudemys concinna concinna*;
- xii. Red-eared Slider—*Trachemys scripta elegans*;
- xiii. Smooth Softshell—*Apalone mutica*;
- xiv. Spiny Softshell—*Apalone spinifera*;

4. Prohibited Turtles

a. List of Prohibited Turtles

- i. Stripe-necked Musk Turtle—*Sternotherus minor peltifer*;
- ii. Eastern Chicken Turtle—*Deirochelys reticularia reticularia*;
- iii. Western Chicken Turtle—*Deirochelys reticularia miaria*;
- iv. Ringed Map Turtle—*Graptemys oculifera*; Federally Threatened;
- v. Pearl River Map Turtle—*Graptemys pearlensis*; Federally Threatened;
- vi. Mississippi Diamond-backed Terrapin—*Malaclemys terrapin pileata*;
- vii. Gopher Tortoise—*Gopherus polyphemus*; Federally Threatened;
- viii. Green Sea Turtle—*Chelonia mydas*; Federally Threatened;
- ix. Loggerhead Sea Turtle—*Caretta caretta*; Federally Threatened;
- x. Kemp's Ridley Sea Turtle—*Lepidochelys kempii*; Federally Endangered;
- xi. Hawksbill Sea Turtle—*Eretmochelys imbricata*; Federally Endangered;
- xii. Leatherback Sea Turtle—*Dermochelys coriacea*; Federally Endangered.

b. Transport and release of turtles from within or outside of the state is prohibited unless permitted by the department.

5. Nuisance Wildlife Control Operators (NWCO), as permitted through the department in accordance with the LAC 76:V.127 and the rules therein, shall be exempt from take and possession limits. NWCO permittees are only authorized to live trap and relocate, live trap and euthanize, or lethally trap reptiles and amphibians that are not protected

by federal law. Animals that are not euthanized may not be released on department owned or managed land and may not be sold, bartered or exchanged. NWCO permittees shall not relocate or release Red-eared Sliders off site. Euthanasia of captured animals shall be performed humanely following AVMA guidelines, as referenced in Paragraph E.3 herein, which shall ensure pain and distress to the animal is minimized to the extent possible. Private landowners may harvest Red-eared Sliders considered a nuisance on private property owned by the landowner, given that said turtles are humanely euthanized in accordance with AVMA guidelines and shall not be transported or released off site.

6. Turtle Trap—any device constructed with horizontal funnel entrances not positioned in tandem, or opening on the upper surface, with or without attractants, to allow constant functional breathing of any air-breathing captured specimens, designed to attract and/or capture turtles in aquatic habitats.

a. Each trap or device shall be clearly marked as "TURTLE TRAP" and must bear a tag with the name, address, and license number of the collector.

b. Trap or device placement in the water column shall provide continuous breathing opportunities for the captured specimens by having openings in the upper surface to allow functional breathing of the captured specimens.

c. All fish and/or other nontarget species shall be released into the wild upon discovery or within 24 hours, whichever comes first.

H. ...

I. Checklist of native or established nonnative amphibians and reptiles of Louisiana as listed by Boundy J. and Carr J., 2017, *Amphibians and Reptiles of Louisiana*, LSU Press. Taxonomy following Crother, B.I. (ed.). 2017, *Scientific and Standard English Names of Amphibians and Reptiles of North America North of Mexico, with Comments Regarding Confidence in Our Understanding*, pp. 1-102, SSAR Herpetological Circular 43 and Pyron, R.A. and Beamer, D.A. 2023, *Systematic Revision of the Spotted and Northern Dusky Salamanders (Plethodontidae: Desmognathus conanti and D. fuscus)*, with six new species from the eastern United States, *Zootaxa* Vol. 5311 (4): 451-504.

1. Salamanders

a. Family Ambystomatidae

- i. Spotted Salamander—*Ambystoma maculatum*;
- ii. Marbled Salamander—*Ambystoma opacum*;
- iii. Mole Salamander—*Ambystoma talpoideum*;
- iv. Small-mouthed Salamander—*Ambystoma texanum*;
- v. Eastern Tiger Salamander—*Ambystoma tigrinum*;

b. Family Amphiumidae

- i. Two-toed Amphiuma—*Amphiuma means*;
- ii. Three-toed Amphiuma—*Amphiuma tridactylum*;

c. Family Plethodontidae

- i. Spotty Dusky Salamander—*Desmognathus conanti*;
- ii. Catahoula Spotted Dusky Salamander—*Desmognathus catahoula*;
- iii. Valentine's Southern Dusky Salamander—*Desmognathus valentinei*;

iv. Southern Two-lined Salamander—*Eurycea cirrigera*;

v. Three-lined Salamander—*Eurycea guttolineata*;

vi. Western Dwarf Salamander—*Eurycea paludicola*;

vii. Southeastern Dwarf Salamander—*Eurycea quadridigitata*;

viii. Four-toed Salamander—*Hemidactylium scutatum*;

ix. Louisiana Slimy Salamander—*Plethodon kisatchie*;

x. Mississippi Slimy Salamanders—*Plethodon mississippi*;

xi. Southern Red-backed Salamander—*Plethodon serratus*;

xii. Webster's Salamander—*Plethodon websteri*;

xiii. Gulf Coast Mud Salamander—*Pseudotriton montanus flavissimus*;

xiv. Southern Red Salamander—*Pseudotriton ruber vioscai*;

d. Family Proteidae

i. Gulf Coast Waterdog—*Necturus beyeri*;

ii. Red River Mudpuppy—*Necturus maculosus louisianensis*;

e. Family Salamandridae

i. Central Newt—*Notophthalmus viridescens louisianensis*;

f. Family Sirenidae

i. Western Lesser Siren—*Siren intermedia nettingi*;

2. Toads and Frogs

a. Family Bufonidae

i. Dwarf American Toad—*Anaxyrus americanus charlesmithi*;

ii. Fowler's Toad—*Anaxyrus fowleri*;

iii. Oak Toad—*Anaxyrus quercicus*;

iv. Southern Toad—*Anaxyrus terrestris*;

v. Gulf Coast Toad—*Incilius nebulifer*;

b. Family Hylidae

i. Blanchard's Cricket Frog—*Acris blanchardi*;

ii. Eastern Cricket Frog—*Acris crepitans*;

iii. Southern Cricket Frog—*Acris gryllus*;

iv. Western Bird-voiced Treefrog—*Hyla avivoca avivoca*;

v. Cope's Gray Treefrog—*Hyla chrysoscelis*;

vi. Green Treefrog—*Hyla cinerea*;

vii. Pine Woods Treefrog—*Hyla femoralis*;

viii. Barking Treefrog—*Hyla gratiosa*;

ix. Squirrel Treefrog—*Hyla squirella*;

x. Gray Treefrog—*Hyla versicolor*;

xi. Cuban Treefrog—*Osteopilus septentrionalis*, established nonnative;

xii. Spring Peeper—*Pseudacris crucifer*;

xiii. Ornate Chorus Frog—*Pseudacris ornata*;

xiv. Strecker's Chorus Frog—*Pseudacris streckeri*;

xv. Cajun Chorus Frog—*Pseudacris fouquettei*;

c. Family Eleutherodactylidae

i. Rio Grande Chirping Frog—*Eleutherodactylus cystignathoides campi*, established nonnative;

ii. Greenhouse Frog—*Eleutherodactylus planirostris*, established nonnative;

d. Family Microhylidae

i. Eastern Narrow-mouthed Frog—*Gastrophryne carolinensis*;

e. Family Scaphiopodidae

i. Eastern Spadefoot—*Scaphiopus holbrookii*;

ii. Hurter's Spadefoot—*Scaphiopus hurterii*;

f. Family Ranidae

i. Southern Crawfish Frog—*Lithobates areolatus areolatus*;

ii. American Bullfrog—*Lithobates catesbeianus*;

iii. Green Frog—*Lithobates clamitans*;

iv. Pig Frog—*Lithobates grylio*;

v. Pickerel Frog—*Lithobates palustris*;

vi. Dusky Gopher Frog—*Lithobates sevosus*;

vii. Coastal Plains Leopard Frog—*Lithobates sphenoccephalus utricularius*;

3. Turtles

a. Family Cheloniidae

i. Loggerhead Sea Turtle—*Caretta caretta*;

ii. Green Sea Turtle—*Chelonia mydas*;

iii. Atlantic Hawksbill Sea Turtle—*Eretmochelys imbricata imbricata*;

iv. Kemp's Ridley Sea Turtle—*Lepidochelys kempii*;

b. Family Chelydridae

i. Snapping Turtle—*Chelydra serpentina*;

ii. Alligator Snapping Turtle—*Macrochelys temminckii*;

c. Family Dermochelyidae

i. Leatherback Sea Turtle—*Dermochelys coriacea*;

d. Family Emydidae

i. Southern Painted Turtle—*Chrysemys dorsalis*;

ii. Western Chicken Turtle—*Deirochelys reticularia miaria*;

iii. Eastern Chicken Turtle—*Deirochelys reticularia reticularia*;

iv. Northern Map Turtle—*Graptemys geographica*;

v. Ringed Map Turtle—*Graptemys oculifera*;

vi. Pearl River Map Turtle—*Graptemys pearlensis*;

vii. Mississippi Map Turtle—*Graptemys pseudogeographica kohnii*;

viii. Ouachita Map Turtle—*Graptemys ouachitensis*;

ix. Sabine Map Turtle—*Graptemys sabinensis*;

x. Mississippi Diamond-backed Terrapin—*Malaclemys terrapin pileata*;

xi. Eastern River Cooter—*Pseudemys concinna concinna*;

xii. Gulf Coast Box Turtle—*Terrapene carolina major*;

xiii. Three-toed Box Turtle—*Terrapene carolina triunguis*;

xiv. Plains Box Turtle—*Terrapene ornata ornata*;

xv. Red-eared Slider—*Trachemys scripta elegans*;

e. Family Kinosternidae

i. Mississippi Mud Turtle—*Kinosternon subrubrum*

- hippocrepis;
- ii. Razor-backed Musk Turtle—*Sternotherus carinatus*;
 - iii. Stripe-necked Musk Turtle—*Sternotherus minor peltifer*;
 - iv. Eastern Musk Turtle—*Sternotherus odoratus*;
- f. Family Testudinidae
- i. Gopher Tortoise—*Gopherus polyphemus*;
 - g. Family Trionychidae
 - i. Florida Softshell—*Apalone ferox*, established nonnative;
 - ii. Gulf Coast Smooth Softshell—*Apalone mutica calvata*;
 - iii. Midland Smooth Softshell—*Apalone mutica mutica*;
 - iv. Gulf Coast Spiny Softshell—*Apalone spinifera aspera*;
 - v. Pallid Spiny Softshell—*Apalone spinifera pallida*;
 - vi. Eastern Spiny Softshell—*Apalone spinifera spinifera*;
4. Lizards
- a. Family Anguidae
 - i. Western Slender Glass Lizard—*Ophisaurus attenuatus attenuatus*;
 - ii. Eastern Slender Glass Lizard—*Ophisaurus attenuatus longicaudus*;
 - iii. Eastern Glass Lizard—*Ophisaurus ventralis*;
 - b. Family Dactyloidae
 - i. Green Anole—*Anolis carolinensis*;
 - ii. Brown Anole—*Anolis sagrei*, established nonnative;
 - c. Family Gekkonidae
 - i. Sri Lankan Spotted House Gecko—*Hemidactylus parvimaclatus*, established nonnative;
 - ii. Mediterranean Gecko—*Hemidactylus turcicus*; established nonnative;
 - d. Family Phrynosomatidae
 - i. Prairie Lizard—*Sceloporus consobrinus*;
 - e. Family Scincidae
 - i. Southern Coal Skink—*Plestiodon anthracinus pluvialis*;
 - ii. Common Five-lined Skink—*Plestiodon fasciatus*;
 - iii. Southeastern Five-lined Skink—*Plestiodon inexpectatus*;
 - iv. Broad-headed Skink—*Plestiodon laticeps*;
 - v. Southern Prairie Skink—*Plestiodon septentrionalis obtusirostris*;
 - vi. Little Brown Skink—*Scincella lateralis*;
 - f. Family Teiidae
 - i. Eastern Six-lined Racerunner—*Aspidoscelis sexlineata sexlineata*;
5. Snakes
- a. Family Colubridae
 - i. Northern Scarletsnake—*Cemophora coccinea copei*;
 - ii. Buttermilk Racer—*Coluber constrictor anthicus*;
 - iii. Tan Racer—*Coluber constrictor etheridgei*;
 - iv. Eastern Yellow-bellied Racer—*Coluber constrictor flaviventris*;
 - v. Black-masked Racer—*Coluber constrictor latrunculus*;
 - vi. Southern Black Racer—*Coluber constrictor priapus*;
 - vii. Eastern Coachwhip—*Coluber flagellum flagellum*;
 - viii. Prairie Kingsnake—*Lampropeltis calligaster*;
 - ix. Scarlet Kingsnake—*Lampropeltis elapsoides*;
 - x. Western Milksnake—*Lampropeltis gentilis*;
 - xi. Speckled Kingsnake—*Lampropeltis holbrooki*;
 - xii. Eastern Black Kingsnake—*Lampropeltis nigra*;
 - xiii. Northern Mole Kingsnake—*Lampropeltis rhombomaculata*;
 - xiv. Eastern Milksnake—*Lampropeltis triangulum*;
 - xv. Northern Rough Greensnake—*Ophedryx aestivus aestivus*;
 - xvi. Red Cornsnake—*Pantherophis guttatus*;
 - xvii. Western Ratsnake—*Pantherophis obsoletus*;
 - xviii. Slowinski's Cornsnake—*Pantherophis slowinskii*;
 - xix. Gray Ratsnake—*Pantherophis spiloides*;
 - xx. Black Pinesnake—*Pituophis melanoleucus lodingi*;
 - xxi. Louisiana Pinesnake—*Pituophis ruthveni*;
 - xxii. Southeastern Crowned Snake—*Tantilla coronata*;
 - xxiii. Flat-headed Snake—*Tantilla gracilis*;
- b. Family Crotalidae [Venomous]
- i. Eastern Copperhead—*Agkistrodon contortrix*;
 - ii. Northern Cottonmouth—*Agkistrodon piscivorus*;
 - iii. Eastern Diamond-backed Rattlesnake—*Crotalus adamanteus*;
 - iv. Timber Rattlesnake—*Crotalus horridus*;
 - v. Western Pygmy Rattlesnake—*Sistrurus miliarius streckeri*;
- c. Family Dipsadidae
- i. Midwestern Wormsnake—*Carphophis amoenus helenae*;
 - ii. Western Wormsnake—*Carphophis vermis*;
 - iii. Mississippi Ring-necked Snake—*Diadophis punctatus stictogenys*;
 - iv. Western Mudsnake—*Farancia abacura reinwardtii*;
 - v. Common Rainbow Snake—*Farancia erytrogramma erytrogramma*;
 - vi. Eastern Hog-nosed Snake—*Heterodon platirhinus*;
 - vii. Pine Woods Littersnake—*Rhadinaea flavilata*;
- d. Family Elapidae [Venomous]
- i. Harlequin Coralsnake—*Micrurus fulvius*;
 - ii. Texas Gulf-Coast Coralsnake—*Micrurus tener tener*;
- e. Family Natricidae
- i. Rough Earthsnake—*Haldea striatula*;
 - ii. Delta Swampsnake—*Liodytes rigida deltae*;
 - iii. Gulf Swampsnake—*Liodytes rigida sinicola*;
 - iv. Gulf Saltmarsh Watersnake—*Nerodia clarkii clarkii*;

- v. Mississippi Green Watersnake—*Nerodia cyclopion*;
- vi. Plain-bellied Watersnake—*Nerodia erythrogaster*;
- vii. Broad-banded Watersnake—*Nerodia fasciata confluens*;
- viii. Northern Diamond-backed Watersnake—*Nerodia rhombifer rhombifer*;
- ix. Midland Watersnake—*Nerodia sipedon pleuralis*;
- x. Graham's Crayfish Snake—*Regina grahamii*;
- xi. Red-bellied Snake—*Storeria occipitomaculata*;
- xii. Orange-striped Ribbonsnake—*Thamnophis proximus proximus*;
- xiii. Gulf Coast Ribbonsnake—*Thamnophis proximus orarius*;
- xiv. Common Ribbonsnake—*Thamnophis saurita saurita*;
- xv. Eastern Gartersnake—*Thamnophis sirtalis sirtalis*;
- xvi. Western Smooth Earthsnake—*Virginia valeriae elegans*;
- f. Family Typhlopidae
 - i. Brahminy Blindsnake—*Indotyphlops braminus*, established nonnative;
 - g. Family Alligatoridae
 - i. American Alligator—Alligator mississippiensis.

J. Native Reptile and Amphibian Regulations

1. The provisions in this Subsection apply to native reptile and amphibians except for the American Alligator in accordance with LAC 76:V.701 and native turtles in accordance with LAC 76:XV.101.G.2, and the rules set forth therein. The species listed in Paragraph J.4 herein are considered species of conservation concern and may not be killed or removed from the wild without a permit issued by the department. It shall be unlawful to collect, possess, transport, or export reptiles or amphibians designated as endangered or threatened pursuant to the Endangered Species Act of 1973 as listed in Paragraph J.6 herein, absent a valid permit.

a. The species listed in Paragraph J.4 herein may only be captured for research purposes deemed acceptable by the Department of Wildlife and Fisheries and immediately released alive without removal from the site as part of a scientific study, as permitted by the department via a Scientific Research and Collecting Permit.

2. License Requirements. A Reptile and Amphibian Collector's License is required to commercially collect and sell native reptiles and amphibians. A Reptile and Amphibian Wholesale/Retail Dealer's License is required for purchasing or acquiring native reptiles and amphibians, from within or outside the state, for sale or resale, or possessing native reptiles and amphibians for propagation for sale, in accordance with R.S. 56:632.5. Reptile/Amphibian Collector and Reptile/Amphibian Wholesale/Retail Dealer licenses shall be acquired from the department's State Herpetologist or their designee and must comply with associated reporting requirements set forth by the department. Persons engaged in collection and possession of native reptiles and amphibians for recreational purposes shall possess a basic recreational fishing license.

a. Commercial and recreational collection of native reptiles and amphibians on Department of Wildlife and Fisheries owned or managed lands requires a Reptile/Amphibian WMA Use permit, with mandatory reporting, acquired from the department's State Herpetologist or their designee. Commercial collection of native reptiles and amphibians on department owned or managed lands is only permitted for Louisiana residents.

b. Nuisance Wildlife Control Operators, as permitted through the department in accordance with the LAC 76:V.127 and the rules therein, shall be exempt from take and possession limits.

c. All persons selling native, captive-reared reptiles and amphibians, regardless of the number of generations removed from the wild, shall be required to possess a Reptile and Amphibian Wholesale/Retail Dealer's License, pursuant to R.S. 56:632.5.B.

d. Pursuant to R.S. 56:634, bullfrogs (*Lithobates catesbeianus*) and pig frogs (*Lithobates grylio*) may be taken year round except during the months of April and May; and no person shall take or possess bullfrogs that are less than five inches in length, nor take or possess pig frogs that are less than three inches in length. The length is measured from the tip of the muzzle to the posterior end of the body between the hind legs.

3. Organized events that wantonly or willfully waste native amphibians or reptiles are prohibited.

4. List of amphibians and reptiles that may not be killed or removed from the wild without a department-issued permit:

- a. Eastern Tiger Salamander—*Ambystoma tigrinum*;
- b. Four-toed Salamander—*Hemidactylum scutatum*;
- c. Valentine's Southern Dusky Salamander—*Desmognathus valentinei*;
- d. Southeastern Dwarf Salamander—*Eurycea quadridigitata*;
- e. Southern Red-backed Salamander—*Plethodon serratus*;
- f. Webster's Salamander—*Plethodon websteri*;
- g. Louisiana Slimy Salamander—*Plethodon kisatchie*;
- h. Mud Salamander—*Pseudotriton montanus flavissimus*;
- i. Red Salamander—*Pseudotriton ruber vioscai*;
- j. Strecker's Chorus Frog—*Pseudacris streckeri*;
- k. Southern Crawfish Frog—*Lithobates areolatus areolatus*;
- l. Red River Mudpuppy—*Necturus louisianensis*;
- m. Southern Prairie Skink—*Plestiodon septentrionalis obtusirostris*;
- n. Western Wormsnake—*Carphophis vermis*;
- o. Common Rainbow Snake—*Farancia erytrogramma erytrogramma*;
- p. Eastern Hog-nosed Snake—*Heterodon platirhinos*;
- q. Northern Mole Kingsnake—*Lampropeltis rhombomaculata*;
- r. Pinewoods Littersnake—*Rhadinaea flavilata*;
- s. Southeastern Crowned Snake—*Tantilla coronata*;

- t. Harlequin Coralsnake—*Micrurus fulvius*;
- u. Eastern Diamond-backed Rattlesnake—*Crotalus adamanteus*.

5. No person shall import or transport into the state any species of reptile or amphibian as listed as injurious wildlife under the U.S. Fish and Wildlife Service Lacey Act (18 U.S.C. 42), and all associated rules therein, except for accredited and certified facilities permitted by the department.

6. List of Threatened or Endangered Amphibians and Reptiles pursuant to the Federal Endangered Species Act (ESA) of 1973. The following species are listed as threatened or endangered in Louisiana (LAC 76:I.317) and may not be collected:

- a. Dusky Gopher Frog—*Lithobates sevosus*;
- b. Green Sea Turtle—*Chelonia mydas*;
- c. Hawksbill Sea Turtle—*Eretmochelys imbricata*;
- d. Kemp's Ridley Sea Turtle—*Lepidochelys kempii*;
- e. Leatherback Sea Turtle—*Dermochelys coriacea*;
- f. Loggerhead Sea Turtle—*Caretta caretta*;
- g. Gopher Tortoise—*Gopherus polyphemus*;
- h. Ringed Map Turtle—*Graptemys oculifera*;
- i. Pearl River Map Turtle—*Graptemys pearlensis*;
- j. Louisiana Pinesnake—*Pituophis ruthveni*;
- k. Black Pinesnake—*Pituophis melanoleucus*

lodging.

K. Nonnative Amphibians and Reptiles, and All Venomous Snakes

1. Restricted Snakes. The importation, private possession, selling, and/or purchasing of constrictor snakes in excess of eight feet, which is including but not limited to the following species: *Apodora papuana* (Papuan Python), *Liasis olivacea* (Olive Python), *Morelia spilota* (Carpet or Diamond Python), *Morelia kinghorni* (Scrub Python), *Morelia amethystina* (Amethystine Python), *Python natalensis* (Southern African Python), *Python sebae* (African Rock Python), *Python reticulatus* (Reticulated Python), any species of the genus *Boa* (Boa Constrictors), and any species of the genus *Eunectes* (Anacondas), and venomous snakes, as defined in Subparagraph K.1.a herein, (hereinafter "restricted snakes") obtained in any manner, shall only be allowed via permit issued by the Department of Wildlife and Fisheries except for animals kept by certified zoos and aquariums, and other facilities as approved by the department including universities, and accredited research centers, nature centers, animal sanctuaries, and scientific organizations, and medical research facilities as defined in the Animal Welfare Act as found in the United States Code Title 7, Chapter 54, 2132(e). Large constrictor and venomous snake species listed within Subparagraph K.2.a herein, are prohibited from possession, importation, selling, and purchasing. A Restricted Snake Permit is required for possession of large constrictor snakes listed within Subparagraph K.2.c herein, regardless of size in length.

a. *Venomous Snakes*—any species under current taxonomic standing, recognized to belong to the Families Viperidae (Vipers), Crotalidae (Pit Vipers), Elapidae (elapids), and Hydrophiidae (sea snakes), except prohibited species listed in Subparagraph K.2.a herein.

b. Permit Requirements. Possession of restricted snakes is prohibited, except as authorized via a Restricted Snake Permit by the department. Restricted Snake Permits

shall expire annually on the 31st day of December, and must be renewed within 30 days of the expiration date. Any individual who remains non-compliant after 30 days shall forfeit all restricted snakes to department personnel, who may dispose of the snakes per department policy.

i. Applicant must be at least 18 years old at the time of application.

ii. Any person requesting a permit to allow importation and/or private possession of venomous snakes shall demonstrate no less than one year of substantial, practical experience (to consist of no less than 500 hours) in the care, feeding, handling, and/or husbandry of the species for which the permit is sought, or other species within the same zoological family, which are substantially similar in size, characteristics, care, and nutritional requirements to the species for which the permit is sought.

iii. For the purpose of demonstrating compliance, applicants shall submit documentation of such required experience, including a detailed description of the experience acquired, the dates and time frames the experience was obtained and the specific location(s) where it was acquired, and references of no less than two individuals having personal knowledge of the stated experience. Additional documentation may include records of prior permits for the keeping of venomous reptiles, employment records, or any other competent documentation of the required experience.

iv. Documented educational experience in zoology or other relevant biological sciences obtained at the college or technical school level or above may substitute for up to 250 hours of the required experience. The Department of Wildlife and Fisheries shall be responsible for judgment of the adequacy of the documentation.

v. Notification of relocation of facilities shall be made within 30 days of a move, and permittee shall be allowed to keep the animals in the same setup(s) until the inspection of the facility and/or room and cages within which the animals are to be kept at the new location can be undertaken by department personnel.

vi. In the event of an escape where a constrictor snake in excess of eight feet or a venomous snake escapes its cage and its secure containment room, and becomes outside the control of the permit holder and/or owner, notification shall immediately be made to the Department of Wildlife and Fisheries 24-hour hotline number.

vii. Secure escape proof containers shall be required when transporting restricted snakes.

viii. Restricted snakes shall be kept in secure, escape proof enclosures with doors that lock. Said enclosures shall be kept in a secure, escape proof room or outbuilding that is securely locked to prevent escape or unauthorized intrusion and when restricted snakes are being fed, the cages are being cleaned, or otherwise worked by the person trained and experienced in proper care, handling, and use of the species being maintained. Enclosures constructed below ground level shall be equipped with barriers to prevent visitors from falling into such enclosures. The possession of Restricted Snakes in any manner not in accordance with this Section is prohibited.

ix. Facilities that house constrictor snakes in excess of eight feet or venomous snakes in private possession shall be open to inspection prior to issuance of a

permit and at other times deemed necessary to ensure permit compliance by Department of Wildlife and Fisheries personnel or other persons authorized by the department to perform such inspections.

c. License Requirements. A Reptile and Amphibian Wholesale/Retail Dealer's License is required for purchasing or acquiring Restricted Snakes, as defined under Paragraph K.1 herein, from within or outside the state, for sale or resale, or possessing Restricted Snakes for propagation for sale in accordance with R.S. 56:632.5.

2. Prohibited and Restricted Nonnative Reptiles and Amphibians.

a. The following nonnative reptile and amphibian species are prohibited from importation, possession, sale, attempting to sell, transfer, release, and reproduction in the state due to the potential risk of establishment in the wild and detrimental hazard to native wildlife and public health and safety. Individuals in possession of the species listed in Subparagraph K.2.a herein shall have 365 days from the effective date of this Rule to register those animals with the department and acquire a permit.

- i. All crocodylians;
- ii. All species in the Genera *Salvator* and *Tupinambis*, including the Argentine Black and White Tegu (*Salvator merianae*);
- iii. Nile Monitor (*Varanus niloticus*);
- iv. Savannah Monitor (*Varanus exanthematicus*);
- v. Green Iguana (*Iguana iguana*);
- vi. Brown Anole (*Anolis sagrei*);
- vii. Burmese Python (*Python bivittatus*);
- viii. Brown Tree Snake (*Boiga irregularis*);
- ix. All Genera in the Family Atractaspididae (stiletto snakes);
- x. All species in the Genera *Dispholidus* (boomslangs), *Thelotornis* (twig snakes), and *Rhabdophis* (keelback snakes) of the Family Colubridae;
- xi. All species in the Genera *Naja*, *Ophiophagus*, *Pseudohaje*, *Aspidelaps*, and *Walterinnesia* (cobras); *Dendroaspis* (mambas), *Oxyuranus* (taipans), and *Bungarus* (kraits) of the Family Elapidae;
- xii. Cuban Treefrog (*Osteopilus septentrionalis*);
- xiii. Cane Toad (*Rhinella marina*);
- xiv. African Clawed Frog (*Xenopus laevis*).

b. Permits for registered prohibited nonnative reptile and amphibian species shall be renewed every two years and permit holders shall renew their permit within 30 days of the expiration date. Facilities housing prohibited nonnative reptile and amphibians shall be open to inspection by Department of Wildlife and Fisheries personnel, as requested, prior to issuance of a permit and at other times deemed necessary to ensure permit compliance by department personnel or other persons authorized by the department to perform such inspections. No person with a temporary exemption to possess prohibited nonnative reptile or amphibian species shall acquire more prohibited nonnative reptile or amphibian species and will not be reissued a permit, once said animals have expired. No person shall transfer possession of prohibited nonnative reptile and amphibian species except to the Department of Wildlife and Fisheries or its designated agent. Prohibited animals, as defined in Subparagraph K.2.a herein, which are permitted under a temporary exemption, may not be used for breeding

purposes. Persons or businesses in possession of prohibited nonnative reptiles or amphibians for commercial sale shall have 365 days from the effective date of this Rule to sell said inventory or surrender said inventory to the department. Animals surrendered to the department under this provision shall be handled via department policy. Prohibited nonnative reptiles or amphibians may not be in possession for commercial use after 365 days of the effective date of this Rule. With exception to the grace period provided in Subparagraph K.2.a herein, possession of prohibited reptile and amphibian species shall only be allowed for scientific research, educational exhibition, and control or eradication purposes via a department-issued permit. In the event of an escape of a prohibited nonnative reptile or amphibian species, department personnel shall be notified immediately via the Department of Wildlife and Fisheries 24-hour hotline number.

c. The following restricted nonnative species may be in possession only via permit to be approved and monitored by the department. Facilities that house restricted nonnative species shall be open to inspection prior to issuance of a permit and at other times deemed necessary to ensure compliance with the permit by department personnel or other persons authorized by the department to perform such inspections. Individuals in possession of the species listed in Subparagraph K.2.c herein shall have 365 days from the effective date of this rule to register those animals with the department and acquire a permit. In the event of an escape of a restricted nonnative reptile or amphibian species, department personnel shall be notified immediately via the Department of Wildlife and Fisheries 24-hour hotline number.

- i. Boa constrictor (*Boa constrictor*);
- ii. Reticulated Python (*Python reticulatus*);
- iii. North African Python (*Python sebae*);
- iv. South African Python (*Python natalensis*);
- v. All species in the Genus *Eunectes* (Anacondas);
- vi. Asian Water Monitor (*Varanus salvator*);
- vii. Brown Basilisk (*Basiliscus vittatus*);
- viii. Gray's American Spiny-tailed Iguana (*Ctenosaura similis*);
- ix. Northern Curly-tailed Lizard (*Leiocephalus carinatus armouri*);
- x. Peter's Rock Agama (*Agama picticauda*).

d. The Department may issue a permit for possession of prohibited or restricted nonnative reptile and amphibian species for approved scientific or research purposes.

3. No person shall possess, display or exhibit restricted snakes, as listed in Paragraph K.1 and Subparagraph K.1.a, or restricted nonnative species, as listed in Subparagraph K.2.c, in public spaces except as permitted by the department.

4. No person shall import or transport into the state any species of reptile or amphibian as listed as injurious wildlife under the U.S. Fish and Wildlife Service Lacey Act (18 U.S.C. 42), and all associated rules therein, except for accredited and certified facilities permitted by the department.

L. Violations to the provisions of this Rule shall be subject to a Class 2 violation with penalties as provided for

in R.S. 56:32, with the exception of violations regarding reporting requirements, which are subject to a Class 3 violation with penalties as provided for in R.S. 56:33. Any live reptile or amphibian seized under the provisions of this Section that is illegal to possess shall be immediately forfeited and no property right shall exist therein. The department may dispose of the seized animal in any manner the department deems appropriate. In the event of a release or escape of a captive nonnative reptile or amphibian, the department may assess all expenses incurred from the capture, transport, housing, veterinary care, or other applicable expenses, associated with the escaped animal to the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15), (25), and (30), R.S. 56:23, R.S. 56:60, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 30:2495 (November 2004), LR 31:2569 (October 2005), LR 39:1834 (July 2013), LR 42:1692 (October 2016), LR 50:

Public Hearing

In accordance with R.S. 49:966(H)(2), a public hearing on the proposed substantive changes will be held by the Department of Wildlife and Fisheries on October 22, 2024 at 10 a.m. in the Joe L. Herring Louisiana Room of the Wildlife and Fisheries Headquarters Building, 2000 Quail Drive, Baton Rouge, LA, 70808. Interested persons are invited to attend and submit oral comments on the proposed amendments.

Brandon J. DeCuir
Chairman

2409#034

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