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Executive Orders

EXECUTIVE ORDER JBE 23-5

Suspension of Election Qualifying

WHEREAS, La. R.S. 18:401.1 provides a procedure whereby the emergency suspension or delay and rescheduling of qualifying, early voting and elections can occur when there is a possibility of an emergency or common disaster occurring before or during a regularly scheduled or special election “in order to ensure maximum citizen participation in the electoral process and provide a safe and orderly procedure for persons seeking to qualify or exercise their right to vote, to minimize to whatever degree possible a person’s exposure to danger during declared states of emergency, and to protect the integrity of the electoral process...”;

WHEREAS, qualifying for the March 25, 2023 primary election is scheduled to be held Wednesday, January 25, 2023 through Friday, January 27, 2023 in the Parish of Iberville; and

WHEREAS, on January 25, 2023, pursuant to the provisions of La. R.S. 18:401.1(B), the Secretary of State certified to the Governor that a state of emergency exists in the Parish of Iberville due to a thunderstorm that occurred on January 24, 2023, resulting in a widespread power outage affecting the courthouse, and recommended suspend qualifying in the Parish of Iberville on Wednesday, January 25, 2023 and to conduct qualifying from 8:30 a.m. until 4:30 p.m. on Thursday, January 26, 2023; Friday, January 27, 2023; and Monday, January 30, 2023.

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

SECTION 1: Under the authority of La. R.S. 18:401.1(B) and based on the January 25, 2023 certification from the Secretary of State that a state of emergency exists in the Parish of Iberville due to a thunderstorm that occurred on January 24, 2023, resulting in a widespread power outage affecting the courthouse and qualifying in the Parish of Iberville on Wednesday, January 25, 2023 is suspended and to conduct qualifying from 8:30 a.m. until 4:30 p.m. on Thursday, January 26, 2023; Friday, January 27, 2023; and Monday, January 30, 2023.

SECTION 2: This order is effective upon signature and shall remain in effect unless amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 25th day of January, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2303#070

EXECUTIVE ORDER JBE 23-6

Amending the National Incident Management System (NIMS) Designation

WHEREAS, it is necessary and desirable that all federal, state, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

WHEREAS, the President in Homeland Security Directive (HSPD)-5, directed the secretary of the Department of Homeland Security to develop and administer a National Incident Management System (hereafter “NIMS”), which would provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity;

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

WHEREAS, to facilitate the most efficient and effective incident management, it is critical that federal, state, local and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

WHEREAS, the NIMS standardized procedures for managing personnel, communication, facilities and resources will improve the state’s ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management process;

WHEREAS, the requirement for NIMS was adopted by Executive Order Number JBE 2016-21;

WHEREAS, it is necessary to update Executive Order Number JBE 2016-21 to adopt a National Qualification System based on NIMS doctrine and recognized best practices;

WHEREAS, the updated National Qualification System will provide a coordinated multi-disciplined approach to the management of minor, major, or catastrophic disasters and large-scale or complex incidents and preplanned events that will improve the ability of State and Local emergency management personnel to prepare and implement emergency management plans and programs; and

WHEREAS, the best interests of the citizens of the State of Louisiana are served by amending the adoption of the standardized incident command system to facilitate the most efficient and effective incident management and align with current best practices.

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

SECTION 1: The National Incident Management System (NIMS) shall continue to be the standard of incident management for the State of Louisiana, as established within the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), which continues the standard for incident management created pursuant to Executive Order Number JBE 2016-21.

SECTION 2: The NIMS standards are hereby updated to include the National Qualification System, which will provide a coordinated multi-disciplined approach to the management of minor, major, or catastrophic disasters and large-scale or complex incidents and preplanned events that will improve the ability of State and Local emergency management personnel to prepare and implement emergency management plans and programs.

SECTION 3: All other requirements previously mandated by Homeland Security Presidential Directive HSPD-5, commencing in Fiscal Year 2005, and formally adopted by Executive Order Number JBE 2016-21 shall remain in effect as previously written.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to continue to cooperate with the implementation of the provisions of this Order and Executive Order Number JBE 2016-21.

SECTION 5: 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, at the Capitol, in the City of Baton Rouge, on this 24th day of February, 2023.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2303#071

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Licensing Section

12-Month License—Child Residential Care Class B, Residential Homes (Type IV), Child Placing Agencies General Provisions, and Juvenile Detention (LAC 67:V. 6955, 7107, 7311, 7507, and 7511)

The Department of Children and Family Services (DCFS), Licensing Section, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 8, Chapter 69, Child Residential Care, Class B, §6955; Chapter 71, Residential Homes-Type IV, §7107; Chapter 73, Child Placing Agencies—General Provisions, §7311; and Chapter 75, Juvenile Detention Facilities, §§7507 and 7511. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 180 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on March 30, 2023, and shall remain in effect for a period of 180 days or until adoption of a Final Rule, whichever occurs first.

The department proposes to amend the current process that causes providers to submit unnecessary documentation and fees to the department. This presents an unnecessary economic burden to small businesses in dealing with a government entity. The proposed Rule removes any ambiguity in the current rule when the provider's license expires outside of their renewal timeframe. In addition, the issuing of actual paper licenses every 60-90 days poses an undue burden on the workforce for the department. The proposed change does not give the department any additional authority or remove any authority currently held by the department and inefficiency in the licensing process. The proposed Rule also requires juvenile detention providers to maintain documentation of current general liability insurance and insurance for all vehicles used to transport youth.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 69. Child Residential Care, Class B

§6955. Procedures

A. - C. ...

1. A license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form, applicable fee, and required documents. The following documentation shall be submitted with the renewal application form:

- a. Office of Fire Marshal approval for occupancy;
- b. Office of Public Health, Sanitarian Services approval;

- c. city fire department approval, if applicable;
- d. copy of proof of current general liability and property insurance for facility;
- e. copy of proof of current insurance for vehicle(s) used to transport residents;
- f. copy of a satisfactory fingerprint-based criminal record check through the FBI as noted in §6966.A and/or 6966.B, as applicable and required by R.S. 46:51.2 and 15:587.1 for all owners and §6966.C and/or 6966.D, as applicable for program directors as required by R.S.46:51.2 and 15:587.1; and
- g. copy of current state central registry clearance forms for all owners and program directors/administrators.

3. Prior to renewing the residential home license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

D. - G.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1410 et seq., R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 27:1565 (September 2001), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2740 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1617 (August 2009), amended LR 36:331 (February 2010), LR 36:836, 842 (April 2010), repromulgated LR 36:1032 (May 2010), repromulgated LR 36:1277 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2522 (November 2010), repromulgated LR 36:2838 (December 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:971 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 45:508 (April 2019), effective May 1, 2019, LR 46:687 (May 2020), effective June 1, 2020, LR 49:

Chapter 71. Residential Homes—Type IV

§7107. Licensing Requirements

A. - E.2.g. ...

3. Prior to renewing the facility license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the

timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

F. - L.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 43:249 (February 2017), LR 43:1725 (September 2017), amended by the Department of Children and Family Services, Licensing Section, LR 45:519 (April 2019), effective May 1, 2019, LR 46:673 (May 2020), effective June 1, 2020, LR 49:

Chapter 73. Child Placing Agencies—General Provisions

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

A. - C.2.i. ...

3. Prior to renewing the child placing agency's license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which coincides with the last day of their anniversary month unless the license is pending adverse action.

D. - N.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), amended LR 47:1847 (December 2021), LR 49:

Chapter 75. Juvenile Detention Facilities

§7507. Licensing Requirements

A. - E.2.e. ...

3. Prior to renewing the JDF license, an on-site inspection shall be conducted to ensure compliance with all licensing laws, standards, and any other required statutes, ordinances, or regulations. A license may be issued for a period of up to one year as determined by the department. If the provider is not found to be in compliance during the timeframe for which the license is issued, the department may proceed with adverse action.

4. Upon rule promulgation, providers with licenses that expire prior to the last day of their anniversary month may be issued a license with an expiration date which

coincides with the last day of their anniversary month unless the license is pending adverse action. A provider's anniversary is determined by the month in which the initial license was issued to the juvenile detention facility and in which the license is eligible for renewal each year.

F. - I.7. ...

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 DCFS. 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. Provider may contest a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency within the timeframe specified for the submission of the CAP. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

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 DCFS 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:

§7511. Facility Responsibilities

A. - H.2.b.ii. ...

3. Administrative File

a. Insurance Policies. Provider shall have an administrative file that contains the following information:

i. documentation of a current comprehensive general liability insurance policy; and

ii. documentation of current insurance for all vehicles used to transport youth. This policy shall extend coverage to any staff member who provides transportation for youth in the course and scope of his/her employment.

I. - 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 38:1561 (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:

Terri Porche Ricks
Secretary

2303#064

DECLARATION OF EMERGENCY

Office of the Governor

Division of Administration

Office of Broadband Development and Connectivity

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

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity proposes to amend LAC 4:XXI.Chapters 1-7 as authorized by R.S. 51:2370-2370.16, relative to the administration of the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program by the Office of Broadband Development and Connectivity, in response to Acts 288 and 760 of the 2022 Regular Legislative Session.

Acts 288 and 760 of the 2022 Regular Legislative Session made several substantive changes to the GUMBO grant program. Broadband internet access has become a critical piece of infrastructure, relied upon to ignite economic growth and competitiveness, contribute to improved outcomes in healthcare, enhance agricultural output, and advance the educational experience of our children. Failure to connect the unconnected, and any further delay in constructing broadband infrastructure to serve those residents without it, would continue the substantial risk of hardship currently faced by hundreds of thousands of residents throughout the state. Further, these amendments allow for the alignment of administrative rules with the newly passed legislation in a timely manner, affords the Office of Broadband Development and Connectivity the opportunity to implement program changes and solicit applications, and provides potential GUMBO grant program applicants with guidance and requirements necessary for participation in the program ahead of the normal rulemaking process timeline. This Emergency Rule will be effective

upon signature, February 20, 2023 and will remain in effect for 180 days.

Title 4

ADMINISTRATION

Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)

Chapter 1. Program Summary

§101. Background and Authorization

A. ...

B. The Louisiana Office of Broadband Development and Connectivity, as authorized by R.S. 51:1361-51:1365.3 and 51:2370.1-2370.16, provides grants to providers of broadband services to facilitate the deployment of broadband service to unserved areas of the state. The Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program funds eligible projects, through a competitive grant application process, in economically distressed parishes throughout the state.

C. The application materials, program guidelines, and criteria set forth in this Part govern the GUMBO grant program and have been developed based on the enacting legislation for the program, Act 477 of the 2021 Regular Legislative Session, and amending legislation for the program, Acts 288 and 760 of the 2022 Regular Legislative Session.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1504 (June 2022), amended LR 49:

§103. Definitions

Broadband Service—deployed internet access service with a minimum of 100 Mbps download and 20 Mbps upload transmission speeds (100:20 Mbps).

Internet Service Provider—any entity, public or private, providing internet service to at least one location in the state.

Unserved—notwithstanding any other provision of law, any federal funding awarded to or allocated by the state for broadband deployment shall not be used, directly or indirectly, to deploy broadband infrastructure to provide broadband internet service in any area of the state where broadband internet service of at least 100:20 Mbps is available from at least one internet service provider.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1504 (June 2022), amended LR 49:

§105. Non-Applicability of other Procurement Law

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1505 (June 2022), amended LR 49:

Chapter 2. Mapping Areas for Broadband Service and Project Area Eligibility Requirements

§201. Mapping Requirements on Internet Service Providers

A. Internet service providers (ISPs) shall submit information to the office to assist in compiling a statewide parish by parish broadband map identifying the locations and capability of broadband service in the state. ISPs shall submit to the office on or before fifteen days following the expiration of the date required for submission to the federal government, broadband deployment information containing the same information and in the same format the information is submitted to the Federal Communications Commission, in a manner specified by the office. In no instance shall an entity be required to provide any data beyond that which it is required to provide to the Federal Communications Commission.

B. Any broadband availability data provided in accordance with this emergency rule shall strictly be used for the purpose of identifying served, underserved, and unserved areas to aid in the administration of the GUMBO program, and for no other purpose whatsoever.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§202. Penalty for Lack of Compliance

A. Any ISP that does not comply with the requirements of this emergency rule or submits inaccurate information may be ineligible to participate in, or receive any funding from, any state-administered grant program designated for broadband infrastructure deployment in the state in the calendar year of noncompliance and the following calendar year.

B. Any location in the state purportedly served by an ISP that does not comply with the requirements of this Section may be deemed to have internet access service of less than 25 megabits per second for download and 3 megabits per second for upload.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§203. Mapping and Project Area Protest Process

A. Any ISP submitting broadband development data to the office as required by this emergency rule may review the proposed draft of the state broadband map and submit any necessary corrective data to the office prior to the final publication or utilization of the state broadband map for any

state-administered grant program designated for broadband infrastructure in the state.

B. Any entity submitting broadband data to the office as required by this emergency rule may challenge any area submitted by another entity. Any individuals, civic groups, or local governments may also challenge submitted areas.

C. All submitted mapped areas shall be publicly available on the office's website for a period of at least 60 days prior to final map publication and utilization. During the 60-day period, any interested party may submit comments to the director concerning any submitted area.

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

E. An individual, civic group, local government, or provider of broadband service may submit a protest of any area on the grounds that the area is unserved or served, or whether the area has a serviceable location or not. Additionally, one may protest if the construction of broadband infrastructure will begin within 24 months as described in §206 of the GUMBO rules and defined within the GUMBO grant program. Comments and protests shall be submitted in writing through the office's website, and all protests shall be accompanied by all relevant supporting documentation and shall be considered by the office in connection with the review of the application or project area. The protesting party bears the burden of proof.

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

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

G. The office reserves the right to initiate contact with a protesting party to seek clarification of a protest, the data contained therein, or to request additional information.

H. Should a protest be validated, the office shall work with an ISP to amend a submitted map area. The office shall revise the statewide map in accordance with amended submissions.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§204. Penalties upon Protest Resolution

A. Upon protest resolution, at its sole discretion, the office may impose a penalty to the losing ISP or party of \$1,000 per misrepresented location and may also declare the losing party ineligible to participate in, or receive any funding from, any state-administered grant program designated for broadband infrastructure deployment in the state in the calendar year of protest initiation and the following calendar year.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§205. Broadband Availability Map Maintenance

A. Every six months, within 15 days of when ISPs submit updated information to the Federal Communications Commission, ISPs shall submit the same information to the office to assist in maintaining the statewide parish by parish broadband map identifying the locations and capability of broadband service in the state. ISPs shall submit to the office on or before 15 days following the expiration of the date required for submission to the federal government, broadband deployment information containing the same information and in the same format the information is submitted to the Federal Communications Commission, in a manner specified by the office. In no instance shall an entity be required to provide any data beyond that which it is required to provide to the Federal Communications Commission.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§206. Eligible and Ineligible Project Areas (Formerly §201)

A. Eligible areas for the GUMBO grant program are areas without deployed internet access service providing reliable transmission speeds of at least 100:20 Mbps through wireline or fixed wireless technology, and which qualify as an unserved area as defined in this Part. The office, at its sole discretion, may determine an applicable standard of what, whether a technology, network design, or transmission speed delivered, is considered “reliable.” This standard may be adjusted for each succeeding grant round, as technology improves and reliable measurable techniques and reporting advances. This standard may also be applied to any singular location, area, or geographic boundary, as established by the office. These areas are the focus of broadband expansion under this grant program. Technology such as digital subscriber line is considered “unreliable”, and areas serviced solely by this technology are considered eligible for GUMBO program funding.

B.1. Ineligible areas for the program are areas that already have reliable internet access service available to them at transmission speeds of at least 100:20 Mbps through wireline or fixed wireless technology. In addition, areas, inclusive of any singular location where a provider has been fully authorized to receive funding through Universal

Service, Connect America Phase II, Rural Digital Opportunity Fund, or other public funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of wireline broadband infrastructure in the area within 24 months from the expiration of the grant application period. In order to designate areas as ineligible and subject to exclusion, providers shall submit to the office individual addresses not less than 60 days prior to the beginning date of the application period. Such individual addresses shall be submitted in shapefile and table format, and shall be inclusive of longitudinal and latitudinal coordinates, specific to each individual address. Should such an address be assigned a specific geolocator number or other specific identifier by the federal government prior to submission to the office, relative to federal broadband availability mapping efforts, such identifier shall be included with each address. Such addresses shall also be denoted by individual points within the shapefile. Any location or area of the state, subject to a Rural Digital Opportunity Fund award, in which the provider receiving the award has proposed to provide broadband internet access service through a technology other than a wireline technology, may be eligible for the GUMBO grant program.

2. A provider with firm plans to privately fund broadband deployment within 20 months from the expiration of the grant application period may qualify the area for protection by submitting to the office, within 30 days of the close of the application period, a listing of the individual addresses comprising the privately-funded project areas meeting this requirement. Such individual addresses shall be submitted in shapefile and table format, and shall be inclusive of longitudinal and latitudinal coordinates, specific to each individual address. Should such an address be assigned a specific geolocator number or other specific identifier by the federal government prior to submission to the office, relative to federal broadband availability mapping efforts, such identifier shall be included with each address. Such addresses shall also be denoted by individual points within the shapefile. A provider seeking to qualify the area for protection shall provide the office with evidence of plans to deploy within 20 months, which shall include detailed project plans, schedules, detailed budgets, or executive affidavits. Providers that block competitive bidding for GUMBO grant program funding through credible evidence of intent to build, as evaluated and determined at the office’s sole discretion, shall be required to sign a commitment with penalties for failure to execute. Such penalties may be determined and imposed at the office’s sole discretion. The office may also, at its sole discretion, grant an extension of the 20-month period.

3. A provider seeking to privately fund broadband deployment shall construct and provide deployable and reliable broadband service within the 20-month period to at least 80 percent of the designated locations. The office may, at its sole discretion, grant an extension of the 20-month period. Such a provider shall furnish to the office a bond to guarantee the faithful performance of work, in an amount equal to the cost of proposed construction and deployment. If such a provider fails to perform in any material manner, as determined by the office at its sole discretion, and the

performance bond becomes due, the provider shall become ineligible for any state-administered grant program designated for broadband development efforts, for a time period to be determined by the office.

4. A local governing authority, to include a parish or municipal governance board comprised of publicly elected members, but not to include school district governance boards, may submit, in writing, an official resolution to the office objecting to any provider that has received, at the time of the passage of the resolution, a letter grade rating of “D” or “F”, or any subsequently equivalent rating, from the Better Business Bureau. At the request of the local governing authority, such a provider shall be ineligible to bid or place an application, solely or in partnership with any other provider, to deploy broadband services within the jurisdictional boundary of the local governing authority through the GUMBO grant program. Any such resolution shall be duly passed and submitted to and received by the office prior to the date of the opening of any associated grant application period. A local governing authority shall not be limited as to the number of resolutions it may pass, nor the number of providers to which it may object. Any such objection shall be applicable for one grant application period, only, and a local governing authority reserves the right to submit additional resolutions, in the future, specific to any succeeding grant application period.

5. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period. However, a provider with existing wireline technology facilities in the area, or a provider that intends to deploy reliable broadband service within either 24 months of the close of the application period as a result of receiving public funds specifically for broadband deployment, or 20 months of the close of the application period as a result of plans to privately fund deployment, upon submitting evidence to the office, shall be able to utilize the protest process.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1505 (June 2022), amended LR 49:

§207. Resources for Identification of Project Areas (Formerly §203)

A. Applicants can apply for funding to serve individual addresses as set forth in Chapter 3, Applications of this Part.

B.1. The office shall secure broadband availability mapping information and data from any entity, public or private, providing internet access service to at least one location, within the jurisdiction of the state, to assist the office in compiling a statewide parish-by-parish broadband availability map identifying the locations, technologies, and reliable transmission speed capabilities of broadband service in the state. At the request of the office, any such entity shall submit to the office, on or before the fifteenth day following the expiration of the date required for submission of broadband availability and deployment information to the federal government, any such broadband availability and deployment information. Such information shall be submitted to the office and shall contain the same information and be provided in the same format as it was

submitted to the Federal Communications Commission, or any other federal entity, in a manner specified by the office. Specific to this requirement, in no instance shall an entity be required to provide any data or information beyond that which it is required to provide to the Federal Communications Commission or any other federal entity.

2. Any entity that does not comply with this submission requirement or submits inaccurate information, may be ineligible to participate in, or receive any funding from, any state-administered grant program designated for broadband infrastructure deployment in the state in the calendar year of noncompliance and through the following calendar year.

a. Any location in the state purportedly served by any entity providing internet access service to at least one location in the state, that does not comply with this submission requirement, may be considered to have internet access service of less than 100:20 Mbps.

3. Any broadband availability mapping data and information, submitted as part of this mapping submission requirement, shall be used solely for the purpose of identifying served, underserved, and unserved locations and areas to aid in the administration of the GUMBO grant program and for no additional purpose.

4. Any entity submitting broadband availability mapping data and information, submitted as part of this mapping submission requirement, may be afforded the opportunity to review a proposed draft of the state broadband map prior to publication or utilization of the map for any state-administered grant application period or program designated for broadband infrastructure deployment in the state, and submit any necessary corrective data and information to the office. In conjunction with this review, the office shall provide for a challenge period and process to allow any such entity to challenge any location or area deemed eligible for any state-administered grant program designated for broadband infrastructure deployment in the state that overlaps with the challenging entity’s verified service territory.

5. The office may contract with a private entity, third-party consultant, state agency, or any combination thereof, to develop and maintain the state broadband availability map. Any contract entered into by the office with any private entity, third-party consultant, state agency, or any combination thereof, for such purpose shall include a confidentiality agreement prohibiting the disclosure of any broadband availability mapping data and information. During the development and maintenance of the state broadband availability map, in no instance shall a regional planning district or commission of the state have access to provider-identifying broadband availability mapping data and information submitted as part of this mapping submission requirement.

6. Broadband availability mapping data and information submitted as part of this mapping submission requirement shall be exempt from the public records law and shall be considered confidential, proprietary, and a trade secret of the entity providing such information. The Office, as well as any private entity, third-party consultant, or state agency retained or employed in the development or maintenance of the map, specific to provider-identifying information, shall keep such information strictly confidential

and shall not disclose such information, or cause or permit to be disclosed such information, to any third person, private entity, or public body as defined in R.S. 44:1 and shall take all actions reasonably necessary to ensure that such information remains strictly confidential and is not disclosed to or seen, used, or obtained by any third person, private entity, or public body as defined in R.S. 44:1.

7. This broadband availability mapping data and information submission requirement shall be subject to the termination provisions provided for in R.S. 51:2370.3.

C. The office advises potential applicants to consider mapping tools and other resources located within the office's website as a starting point for identifying project areas.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1505 (June 2022), amended LR 49:

Chapter 3. Applications

§303. Applications with Multiple Providers or Project Areas

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

B. ...

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

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

D. An applicant may apply for one contiguous project area or multiple non-contiguous project areas

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1506 (June 2022), amended LR 49:

§305. Application Requirements

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

1. ...
2. project area and locations to be served;
3. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1506 (June 2022), amended LR 49:

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

A. Every application shall include:

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

a. ...

b. a history of the number of households and consumers, by year of service, to which the applicant has provided broadband internet access, as well as the current number of households to which broadband internet access (at least 100:20 Mbps) is offered;

1.c. - 2.

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

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

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

i. - ii. ...

iii. the recipient of a letter of support. A parish, municipality, or school board, or any instrumentality thereof, may qualify as a nonprofit for the purposes of this section. Letters of support by a parish, municipality, or school board, or any instrumentality thereof, supporting an application shall be in the form of an official and duly passed resolution by the governing board and shall be submitted as part of an application. A letter of support does not require a formalized agreement.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1506 (June 2022), amended LR 49:

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

A. Every application shall include the following.

1. Mapping and Descriptions

a. Data and information relating to areas proposed to be served is required in order to confirm that the project is

serving eligible areas, to accurately score the application; and track progress and completion of the project if awarded. If documentation is deemed insufficient, the office reserves the right to request additional supporting documentation. If the proposed project would result in the provision of broadband service to areas that are not eligible for funding, those ineligible areas shall be identified in the application along with the eligible areas. An applicant is allowed to propose construction of broadband infrastructure to GUMBO-ineligible locations if the proposed project includes GUMBO-eligible locations, and the applicant reports this intention. An applicant may not use any GUMBO grant funding to build to these ineligible locations. Broadband infrastructure deployment to ineligible areas must result as a natural byproduct of broadband infrastructure deployment to eligible areas, and an applicant is not allowed to use any GUMBO grant funding for deployment to ineligible areas. Any potential grant awardee proposing to build broadband infrastructure to GUMBO-ineligible areas will be subjected to additional and rigorous auditing and control standards to ensure compliance with all applicable state and federal law. In no instance shall the number of ineligible locations proposed exceed 25 percent of the number of GUMBO-eligible locations contained within an application.

b. Data and information included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and have access to broadband as a result of the project. For the proposed area to be served, the total cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient.

c. The office reserves the right to request any additional data and technical information the office deems necessary.

d. Additionally, applicants may also submit applications for areas where transmission speeds are advertised as reliably meeting or exceeding 100:20 Mbps, if indisputable data is available to establish, to the satisfaction of the office, at its sole discretion, that delivered transmission speeds are reliably less than 100:20 Mbps. Such data should be statistically significant and fully support the application. In no instance should such data provide conflicting data points. Technology such as digital subscriber line is deemed unreliable to meet or exceed 100:20 Mbps and therefore ineligible for GUMBO program funding.

e. Data Submission Requirements

i. Address-Level Data—data shall be submitted at the address level. The acceptable submission formats are GIS shapefile, kml file, Excel file, or csv file. If submitting in GIS shapefile (which must be composed of the collection of .shp, .shx, .dbf, and .prj files) or kml file format, one point should represent one address and must have a defined projection/coordinate system of either unprojected Geographic latitude/longitude WGS84 EPSG 4326 coordinate system or projected Louisiana State Plan Zone N/S (NAD83) coordinate system. If submitting in Excel or csv file format, one record should represent one address and must include attributes/column data for the latitude and longitude coordinates representing the address. The latitude and longitude coordinates must be in decimal degrees (DD)

and at a minimum precision of 8 and scale of 6 (8,6). Regardless of the type of submission file, the submission must also include the full street address represented by the point/record as attributes/column data. The street portion of the address may be concatenated into a single attribute/data column or parsed into separate attribute/data columns. The address city, state, and ZIP code must be parsed into separate attribute/data columns. Refer to the table below for the suggested structure of the attributes/data columns.

Attribute/Column Name	Description
Address ID	Unique identifier of data record.
Address Number*	Address Number: Whole numbers 0 to 999999. Example: "1600" in "1600 Pennsylvania Avenue"
Street Pre-Direction*	Street Name Pre-Directional: a word preceding the Street Name element that indicates the direction taken by the road. Note, values are conditional as not every address contains a directional. Example: "South" in "South Congress Avenue" or "NW" in "NW 1st St"
Street Name*	Official name of the street. The street name is a minimum requirement. Example: "Main" in "N Main St"
Street Suffix*	Street Name Suffix: a word or phrase that follows the Street Name element and identifies a type of thoroughfare in a complete street name. Note, values are conditional as not every address contains a street suffix.
Street Post-Direction*	Street Name Post Directional: a word following the Street Name element that indicates the direction taken by the road. Note, values are conditional as not every address contains a directional. Example: "North" in "Elm Avenue North"
Unit*	A group or suite of rooms within a building that are under common ownership or tenancy, typically having a common primary entrance. Example: "Apt 1"
Urbanization**	Raw area/sector (used mostly in territories)
City	City where address is located.
State	State where address is located. Example: "VA" or "Virginia"
Zip5	Five-digit ZIP Code of an address, as given by USPS. Example: "92562" or "04616"
Zip4**	Four-digit ZIP+4 extension. Example: "92562-3860" or "04616-4410"

NOTE: * Indicates values that may be concatenated into a single attribute/data column.

** If not applicable or is unknown, exclude the attribute/data column or leave blank/<Null>

f. Additional Data Sets

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

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

- Scrubbed data (no raw data) from citizen survey results or demand aggregation results, with speed tests. This data must identify the areas that have less than 100:20 service.
- Affidavits from citizens or other individuals certifying one or more of the following:
 - o they are not able to receive broadband service; or
 - o the only available service is cellular or satellite; or
 - o the only broadband service available by the existing providers is less than 100:20 service.

2. - 2.a. ...

3. Attestation of Project Area Eligibility

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1507 (June 2022), amended LR 49:

§311. Technical Report

A. ...

B. Reporting requirements for all deployments:

1. - 2. ...

3. if the applicant is claiming a partnership, the applicant must provide a brief narrative explaining the partnership or affiliation. For applications where a nonprofit or not-for-profit partner provides only matching financial support, that information can be documented in the budget section within the relevant application. The applicant must also provide evidence of a formalized agreement, when applicable, as required in §307 of this Part;

4. - 6. ...

C. Reporting requirements for wired infrastructure deployment:

1. ...

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

a. - b. ...

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

a. ...

b. the distance from the specific site infrastructure to the end user(s) and the expected broadband speed that will be effectively and reliably delivered;

4. ...

D. Reporting requirements for fixed wireless deployment:

1. ...

2. explanation of existing networks and equipment to be used for this project, if applicable;

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

b. the number of towers or vertical assets to be used for the project, the height (in feet) of each tower or vertical asset, and whether each tower or vertical asset is existing or will be constructed. For scoring purposes, tower or vertical asset height will be converted to miles through the following equation: 1 foot of tower or vertical asset height = 1/20 mile.

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

a. - c. ...

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

4. - 5. ...

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1508 (June 2022), amended LR 49:

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

A. Budget and Narrative

1. The project budget should reflect all eligible project costs. The project budget should include the minimum provider funding match of at least 25 percent, any local government funding match from a parish, municipality, and/or school board, or any instrumentality thereof, as well as in-kind contributions, and the requested GUMBO grant program funding.

2. Matching funds, and their associated sources, shall be detailed within the project budget and budget narrative. Eligible grant recipients are required to provide at least 25 percent matching funds of the total proposed project cost to participate in the GUMBO grant program. A local government, including a parish, municipality, or school board, or any instrumentality thereof, may provide matching funds for a project, in addition to the applicant. Local government matching funds are optional and not required. There is no limitation on the minimum or maximum percentage of a project's total cost that a local government may provide through a funding match. In-kind contributions to the project by a local government should also be listed in the project budget and budget narrative, if applicable.

3. ...

B. Total Project/Infrastructure Cost

1. ...

* * *

C. Total Project/Infrastructure Cost—per prospective broadband recipient.

D. GUMBO Cost—per prospective broadband recipient.

E. Proof of Funding Availability

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the

project. If a loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1509 (June 2022), amended LR 49:

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

A. Every application shall include:

1. - 3. ...

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

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

B. It is highly encouraged that every application should include:

1. a workforce plan prioritizing the hiring of local, Louisiana resident workers, to include a signed letter of intent with a post-secondary educational institution that is a member of the Louisiana Community and Technical College System, containing an obligation upon the applicant, and contractors or subcontractors of the applicant, to put forth a good-faith effort to hire, when possible, recent graduates of broadband-related programs. At minimum, the workforce plan should also contain a commitment to offer wages at or above the prevailing rate and a description of the applicant's safety and training standards; and

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1509 (June 2022), amended LR 49:

Chapter 4. Scoring

§401. Overview

A. The GUMBO grant program is a competitive grant program. Applications shall be scored independently as provided in this Chapter, based upon a system that awards a single point for criteria considered to be the minimum level

for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

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

C. Applications are required to earn points in the three Minimal Program Outlay, Affordability, and Business and Fair Labor Practices categories to be considered eligible for GUMBO funding.

D. As a means of breaking a tie for applications receiving the same score, relative to any scoring metric or in the scoring aggregate, the office shall give priority to the application proposing the lowest GUMBO cost per prospective broadband recipient.

E. Upon the close of the application period, and throughout the evaluation and scoring phase of the program process, a blackout period shall be instituted. This blackout period shall remain in effect until the announcement of awards. During this blackout period, applicants shall not initiate contact with the office, except as otherwise provided within this part. The office reserves the right to initiate contact with an applicant to seek clarification of an application or the data and information contained therein, request additional data or information, or as necessary in response to an overlapping application or protest. An applicant may initiate contact with the office for the purposes of amending an application due to overlapping or a protest, or to withdraw an application.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1510 (June 2022), amended LR 49:

§403. Overlapping Applications or Project Areas

A. At the close of the application period, should one or more applications overlap one or more other applications; relative to one or more unserved individual addresses, the impacted applicants shall have the option and ability to resolve the overlapping individual addresses through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications will be accepted by the office until 5 PM on the 15th day of the 30-day evaluation period. Such an acceptable resolution between impacted applicants shall not result in the addition of partners to a previously

submitted application nor the expansion of an application’s project area.

B. Following 5 p.m. on the fifteenth day of the 30-day evaluation period, should one or more applications overlap one or more other applications; relative to one or more individual addresses, each application shall be scored independently. The application receiving the highest score shall proceed to grant funding consideration with its project area boundary intact. Any lower-scored application overlapping a higher-scored application shall be removed from grant funding consideration.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1510 (June 2022). Amended LR 49:

§405. Factors Subject to Scoring

A. Minimal Program Outlay

1. Provider Matching Funds. The office shall calculate the provider’s matching funds percentage of the total/infrastructure cost of the project and award points based on matching funds. Points shall be awarded as follows.

Provider Matching Funds (Percentage of Total/Infrastructure Cost)	Points
25 percent	42
35 percent	84
45 percent	132
55 percent	180
75 percent or more	264

NOTE: Points are awarded based upon the total percentage of matching funds provided beyond the required 25 percent, irrespective of the number of providers contributing to a single project.

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

Local Gov’t In-Kind and Matching	Points
No in-kind contribution or funding match	0
5 percent or higher	6

NOTE: Points are awarded based upon the total percentage of in-kind contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

B. Affordability

1. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the consumer as a result of the proposed project and shall reference the average price of all broadband service packages offering transmission speeds that meet or exceed 100:20 Mbps offered to consumers by an applicant as the

result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Base Package Price)	Points
More than \$80	0
Participates in FCC’s Affordable Connectivity Program	6
\$80 or cheaper	24
\$50 or cheaper	42

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

2. Price Stability. The Office shall award points based upon the length of time the applicant commits to maintain the above consumer price. Points shall be awarded as follows.

Consumer Price Stability (Additional Length of Time in Years)	Points
4 years	24
5 years or longer	54

C. Business and Fair Labor Practices.

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

Certified Hudson / Vet Initiative Grant Recipient	Points
Grant recipient not certified by the Hudson and/or the Veterans Initiative	0
Grant recipient certified by the Hudson and/or the Veterans Initiative	30

2. Certified Hudson and Veteran Subcontractor. The office shall award points in which the grant recipient commits to a good faith subcontracting plan to contract with or employ contracts with a small business, entrepreneurship, or entrepreneurships, certifies by the Hudson Initiative (R.S. 39:2001 et seq.) or the Veteran Initiative (R.S. 39:2171 et seq.) to substantially participate in the performance of the project. Points shall be awarded as follows.

Certified Hudson / Vet Initiative Subcontractor	Points
0 project contracts with certified Hudson and/or Veterans Initiative businesses.	0
At least 1 project contract with certified Hudson and/or Veterans Initiative businesses.	18
At least 25 percent project contracts with certified Hudson and/or Veterans Initiative businesses.	36
At least 50 percent project contracts with certified Hudson and/or Veterans Initiative businesses.	60

D. Speed to Deployment—Leverage of Existing Infrastructure. The office shall award points based upon the applicant’s ability to leverage its own or nearby or adjacent broadband service infrastructure in the proposed project area. For reference, the office will refer to the project’s

proposed estimated construction timeline, as measured from the award of the grant agreement to construction completion. Points shall be awarded as follows.

Construction Completion Date	Points
Longer than 12 months	0
Within 12 months	6
Within 6 months	18

E. Speed of Network and Other Technical Abilities - Broadband Speeds and Scalability. The office shall award points based upon the broadband transmission speeds and scalability of future bandwidth increases (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the fastest transmission speeds and scalability offered. Points shall be awarded as follows.

Broadband Speeds and Scalability (Mbps Down:-Mbps Up)	Points
Less than 1000:1000	0
At least 1000:1000	6
At least 2000:2000, or scalable to 2000:2000	18

F. Local and Tribal Coordination. The office shall award points based on defined local and tribal coordination to discuss workforce development, permitting, project construction execution, and other topics. Points shall be awarded as follows.

Local and Tribal Coordination Meetings	Points
Less than quarterly meetings with the Governor's Office of Rural Development	0
Quarterly meetings with the Governor's Office of Rural Development	30

NOTE: Quarterly meetings with Governor's Office of Rural Development will be verified via meeting minutes submitted by the Governor's Office.

G. Climate Resilience. The office shall award points based on project climate resiliency for underground infrastructure. Points shall be awarded as follows.

Climate Resiliency (Technical Ability)	Points
Less than 60 percent underground construction deployment	0
60 percent underground deployment or greater	66

H. Applicant Experience. The office shall award points based upon the applicant's experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 100:20 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal

or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

Completed Internet Projects	Points
14 or less	0
15 or more	2

I. Financial Wherewithal. The office shall reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

Bankruptcies	Points
1 or more	0
No prior bankruptcies	2

J. Letter of Local Government Support. The office shall award points based upon letters of support from local governments. The office shall reference letters submitted by a parish, municipality, or school board, or any instrumentality thereof. Letters of support eligible for scoring shall be in the form of officially and duly passed resolutions by the governing board, consisting of publicly elected members, of the parish, municipality, or school board, or any instrumentality thereof. Such a resolution shall be submitted with the application prior to the close of the application period. Points shall be awarded as follows.

Local Government Letters of Support, Numbers	Points
1 local government	1
3+ local governments	2

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

Number of Unserved Households	Points
499 or fewer	1
10,000 or more	2

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

L. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in

the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. Points shall be awarded as follows.

Percent of Unserved Households Newly and Directly Served	Points
5 percent or less	1
50 percent or more	2

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

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

Number of Unserved Businesses	Points
5 or fewer	1
20 or more	2

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

Summary	
Scored Section	Points
A-1. Minimal Program Outlay (Provider Matching Funds)	0 – 264
A-2. Minimal Program Outlay (Local Government Matching)	0 – 6
B-1. Affordability (Consumer Price)	0 – 42
B-2. Affordability (Price Stability)	0 – 54
C-1. Fair Labor Practices (Certified Hudson / Vet Initiative Grant Recipient)	0 – 30
C-2. Fair Labor Practices (Certified Hudson / Vet Initiative Subcontractor(s))	0 – 60
D. Speed to Deployment – Leverage of Existing Infrastructure	0 – 18
E. Speed of Network and Other Technical Abilities – Broadband Speeds and Scalability	0 – 18
F. Local and Tribal Coordination	0 – 30
G. Climate Resilience (Technical Ability)	0 – 66
H. Applicant Experience	0 – 2
I. Financial Wherewithal	0 – 2
J. Letter of Local Government Support	0 – 2
K. Estimated Number of Unserved Households	0 – 2
L. Percentage of Total Unserved Households Served	0 – 2
M. Unserved Businesses Served	0 – 2
Total Possible Points:	0 – 600

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1511 (June 2022), amended LR 49:

Chapter 5. Awards, Protests, and Grant Agreements §501. Award Announcements

A. All GUMBO applications shall be publicly available on the office’s website for a period of at least 30 days prior to an award announcement. Following administrative review, evaluation, and scoring, as well as fulfilling the requirement that applications be publicly available for 30 days prior to award, the office may publicly announce award winners.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

§503. Protests (Formerly §501)

A. The protest process shall be conducted in accordance with R.S. 51:2370.4(C) and 2370.5, as well as this Chapter. The deadline to submit a protest shall not exceed 30 days following the announcement of awards.

B. Following an announcement of awards, any aggrieved party may submit a protest of any award. The sole basis for the submission of a protest shall be whether a location or area is served or unserved by broadband service. Also qualifying as served for the purposes of a protest are those locations or areas where construction of broadband infrastructure will begin within either 24 months as the result of public funding or 20 months as the result of private funding, respectively, as described in §201 of this part and defined within the GUMBO grant program. Protests shall be submitted in writing in a manner determined by the office, and all protests shall be accompanied by all relevant supporting documentation.

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

1. a signed and notarized affidavit affirming the protest and attached information are true;
2. current Federal Communications Commission (FCC) reporting;
3. maximum speeds available in the proposed project area;
4. number of serviceable locations within the protested area, including the maximum speeds those serviceable locations are able to receive, and the technology used to deliver such transmission speeds;
5. street-level data of customers receiving service within the protested area, including speed test data;
6. referencing the data submitted by the applicant, shapefiles in GIS or kml file format, with accompanying excel and/or attribute table data including individual addresses, longitudinal and latitudinal coordinates, and any specific geolocator number or other specific identifier assigned by the federal government to location, that show each protested passing in the protested area, designated by a singular mapped point;

7. if applicable, heat maps indicating received signal strength indicator (RSSI) in the challenged area.

D. Upon the close of the application period, a blackout period shall be instituted. This blackout period shall remain in effect until an announcement of awards. During this blackout period, neither a protesting party nor an applicant shall initiate contact with the office, except as provided by this section. The office reserves the right to initiate contact with a protesting party or applicant to seek clarification of an application, a protest, the data contained therein, or to request additional information.

E. Should a protest be granted in any manner, the office shall work with an awardee to amend an awarded application to reduce the number of unserved prospective broadband recipients and re-scope the awarded application. The office shall revise awarded application scores in accordance with amended data and information. Should an awarded application be amended as a result of a granted protest, it is possible that the revised score would subject such an awarded application to the removal of its priority status for an award. As a result of a granted protest and a reduction in the number of unserved prospective broadband recipients, an awardee shall also have the option to withdraw its awarded application.

F. Any applicant or protesting party receiving access to any other provider's proprietary or confidential information, through the required processes of the grant program and as defined within R.S. 51:2370-2370.16 and this part and subject to confidential protection, shall not disclose such information to any other third party.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1514 (June 2022), amended LR 49:

§505. Grant Agreements [Formerly §603]

A. Following the close of the protest period, the office may issue grant agreements to eligible awardees not subject to an ongoing protest. An awardee shall have 30 days, from official issuance of the grant agreement, to sign and return the agreement. If the grant agreement is not signed by the awardee and returned to the office within 30 days from official issuance of the grant agreement, the office shall reserve the right to rescind the award and proceed to official issuance of a grant agreement to the next highest scored applicant with priority status for the awarding of a grant.

B. Construction start and completion dates shall be calculated for scoring, compliance, and failure to perform purposes and evaluations, beginning with the date the grant agreement is received by the office (following successful negotiation, if any, and with proper and legal signature affixed).

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1514 (June 2022), amended LR 49:

Chapter 6. Compliance

§601. Speed and Cost Compliance [Formerly §701]

A. The office shall require that grant recipients offer download and upload speeds of at least 100:20 Mbps. Slower speeds may be offered, but speeds that meet or exceed 100:20 Mbps must be offered. Additionally, speeds that meet or exceed 100:100 Mbps are expected to be offered, except in the rare case of a prohibitive barrier such as geography, topography, or excessive cost in deploying speeds that meet or exceed 100:100 Mbps. Should an applicant propose to offer a maximum available speed of less than 100:100 Mbps, a substantiating explanation, accompanied by corroborating evidence, shall be submitted to the office as a part of the application submission.

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement. In calculating cost, the recipient may adjust annually, consistent with the annual percentage increase in the Consumer Price Index in the preceding year.

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

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

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

F. Grant recipients shall be required to participate in federal programs that provide low-income consumers with subsidies on broadband internet access services. Grant recipients will be required to participate in the federal Affordable Connectivity Program, or future federal or state equivalent.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1515 (June 2022), amended LR 49:

§603. Reporting [Formerly §703]

A. Grant recipients shall submit to the office, no more than quarterly, unless otherwise required by federal statute or regulation, a report for each funded project for the duration of the agreement. The report shall include reporting requirements selected at the discretion of the office. Such reporting requirements, once selected, shall be consistently applied to all grant recipients of any grant program round and be effective for at least one program year. Reporting may be revised from program year to program year, at the discretion of the office.

B. Grant recipients, upon request from the office, shall provide:

1. project and expenditure reports, to include but not limited to: expenditures, project status, subawards, civil rights compliance, equity indicators, community engagement efforts, geospatial data, workforce plans and practices, and information about subcontracted entities; and

2. performance reports, to include but not limited to project outputs and outcomes.

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1515 (June 2022), amended LR 49:

§605. Disbursement and Reimbursement [Formerly §705]

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

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

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

1. 10 percent;

2. 35 percent;

3. 60 percent;

4. 85 percent;

5. 100 percent.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1515 (June 2022), LR 49:

§607. Failure to Perform [Formerly §707]

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

B. Grant recipients that fail to provide advertised connection speeds and costs shall forfeit any matching funds, up to the entire amount received through the GUMBO program.

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

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

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

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, the failure to obtain access to private or public property or any government permits under reasonable terms, such claims that shall be evaluated to the satisfaction of the office, or such other occurrence over which the grant recipient has no control, as evaluated to the satisfaction of the office.

G. If a grant recipient fails to complete a project, in a material respect, the grant recipient, at the discretion of the office, may be required to reimburse the state the actual cost to finish the project. The actual cost to finish the project shall be determined by the office, in consultation with the grant recipient. The office shall not require a grant recipient that it deems has made a good faith effort to complete a project to reimburse the state an amount greater than the remaining GUMBO cost per prospective broadband recipient as set forth in the grant recipient's application.

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1516 (June 2022), amended LR 49:

§609. State and Federal Oversight, Civil Rights Compliance, and Other Applicable Federal Law [Formerly §709]

A. Grant recipients are subject to audit or review by the state and federal government.

B. Grant recipients shall not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities:

1. Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d-1 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 22;

2. Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794;

3. Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 28; and

4. Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Treasury Department's implementing regulations, 31 C.F.R. part 23.

C. Grant recipients and all proposed projects must comply with all applicable federal environmental laws. Additionally, grant recipients and all proposed projects must comply with the following federal laws and regulations:

1. the 2019 National Defense Authorization Act (NDAA);

2. 2 C.F.R. Part 200; and

3. the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations 29 C.F.R. Part 5.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:1516 (June 2022), amended LR 49:

Chapter 7. Applicability of Amended Rule

§701. Applicability of Amended Rule

A. Any application received through the GUMBO grant program on or following February 1, 2023, or any protest, appeal, or other filing, including any judicial filing arising from an application submitted on or following to February 1, 2023, shall be subject to Acts 288 and 760 of the 2022 Regular Legislative Session and the Notice of Intent published on February 20, 2023.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 49:

Veneeth Iyengar
Executive Director

2303#008

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Horses Disqualified for a Foul (LAC 35:V.7907)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:V.7907. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by loosening the restrictions on licensed owners entering multiple horses in races in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing

practices" and "[t]o institute and maintain a program to encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane." R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature's mandate for the Racing Commission to "institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state." R.S. 4:141(A)(3).

This emergency adoption, in conjunction with the emergency adoption of LAC 35:V.6335, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries. This Emergency Rule shall become effective February 14, 2023 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

Title 35

HORSE RACING

Part V. Racing Procedures

Chapter 79. Post to Finish

§7907. Horses Disqualified for a Foul

A. If a horse is disqualified for a foul, any horse or horses of the same ownership or interest, whether coupled as an entry or not, may also be disqualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:445 (December 1976), amended LR 3:41 (January 1977), LR 4:285 (August 1978), LR 49:

Charles A. Gardiner III
Executive Director

2303#001

DECLARATION OF EMERGENCY

Office of the Governor Division of Administration Racing Commission

Owner's Entry of More than One Horse (LAC 35:V.6335)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953.1, the Racing Commission has amended LAC 35:V.6335. This action has been deemed necessary by the Racing Commission to prevent imminent peril to the public health, safety, and welfare by loosening the restrictions on licensed owners entering multiple horses in races in fulfillment of the Legislature's mandate to the Racing Commission "to encourage forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the people of this state against corrupt, incompetent, dishonest and unprincipled horse racing practices" and "[t]o institute and maintain a program to

encourage and permit development of the business of horse racing with pari-mutual wagering thereon on a higher plane.” R.S. 4:141(A) and (A)(1).

All in fulfillment of the Legislature’s mandate for the Racing Commission to “institute and maintain a regulatory program for the business of racing horses, which program assures the protection of public health, safety and welfare, vesting with the commission forceful statewide control of horse racing with full powers to prescribe rules and regulations and conditions under which all horse racing is conducted with wagering upon the result thereof with the state.” R.S. 4:141(A)(3).

This emergency adoption, in conjunction with the emergency adoption of LAC 35:V.7907, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries. This Emergency Rule shall become effective February 14, 2023 and shall remain in effect for a period of 180 days from adoption, or until finally adopted as Rule.

**Title 35
HORSE RACING**

Part V. Racing Procedures

Chapter 63. Entries

§6335. Owner's Entry of More Than One Horse

A. Not more than two horses of the same ownership or interest may be entered in an overnight race, unless the race is divided. In divided races, the starters in the separate divisions shall be determined by lot. If a race is divided, an additional conditional entry may be accepted from any interest.

B. In overnight races, the stewards may allow no more than two horses of the same ownership or interest to race as separate wagering interests, but in no case may two horses of the same ownership or interest start to the exclusion of a single entry should the number of entries exceed the starting gate capacity.

C. When making a double or joint entry in overnight races, the owner or trainer must express a preference to start should the number of entries exceed the starting gate capacity.

D. In stakes races, the stewards may allow two or more horses of the same ownership or interest to race as separate wagering interests.

E. The stewards may require horses entered in any race to be coupled for wagering interests if a majority of the stewards find it necessary in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission LR 2:437 (December 1976), amended LR 3:33 (January 1977), LR 4:280 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:3168 (December 2012), LR 49:

Charles A. Gardiner III
Executive Director

2303#002

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Children’s Choice Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.12101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services approved the use of bonus payments for agencies providing Children’s Choice Waiver services to home and community-based services waiver participants under section 9817 of the American Rescue Plan Act of 2021. The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which amended LAC 50:XXI.12101 in order to establish workforce bonus payments in the Children’s Choice Waiver for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8 and Volume 49, Numbers 1 and 2). The department subsequently promulgated an Emergency Rule, effective February 10, 2023, which rescinded these emergency provisions (*Louisiana Register*, Volume 49, Number 2).

This Emergency Rule is being promulgated to amend provisions governing reimbursement in the Children’s Choice Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$6,534,036 for state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend provisions governing reimbursement in the Children’s Choice Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 9. Children's Choice Waiver

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months.

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

b. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

c. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Support coordination providers shall produce the requested documentation upon request and within the time frame provided by LDH.

e. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid Program.

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination 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:

- i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;
- ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;
- iii. the persistent failure to pay the \$250 monthly workforce bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

B. - B.3. ...

4. Direct Service Worker Wages and Workforce Bonus Payments

a. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

i. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

ii. 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.

iii. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

iv. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all eligible direct service workers of any work status, whether full-time or part-time.

v. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

b. Establishment of Direct Service Worker Workforce Bonus Payments

i. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for that month.

ii. The direct service worker who provided services from April 1, 2021 to October 31, 2022 that worked with participants must receive at least \$250 of this \$300 bonus payment paid to providers. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

iii. Bonus payments will end October 31, 2022.

iv. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

v. - v.(b). Repealed.

c. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

i. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

(a). - (d). Repealed.

ii. Providers shall provide to the LDH or its representative all requested documentation to verify that they are in compliance with the direct service wage floor and bonus payments.

iii. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

iv. Providers shall produce the requested documentation upon request and within the timeframe provided by the LDH.

v. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payments were paid directly to the direct service workers may result in the following:

- (a). sanctions; or

- (b). disenrollment from the Medicaid Program.
- d. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments
 - i. 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). the failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour;
 - (ii.) the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or
 - (iii). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;
 - (b). Direct Service Worker Workforce Bonus Payments
 - (i). the failure to pay eligible I/DD HCBS direct service workers the \$250 monthly bonus payments;
 - (ii). the number of eligible I/DD HCBS direct service workers identified as having not been paid the \$250 monthly bonus; or
 - (iii). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly bonus payments; or
 - (c). 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 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), LR 49:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#012

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.14301)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services approved the use of bonus payments for agencies providing New Opportunities Waiver services to home and community-based services waiver participants under section 9817 of the American Rescue Plan Act of 2021. The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which amended LAC 50:XXI.14301 in order to establish workforce bonus payments in the New Opportunities Waiver for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8 and Volume 49, Numbers 1 and 2). The department subsequently promulgated an Emergency Rule, effective February 10, 2023, which rescinded these emergency provisions (*Louisiana Register*, Volume 49, Number 2).

This Emergency Rule is being promulgated to amend provisions governing reimbursement in the New Opportunities Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$64,330,272 for state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend provisions governing reimbursement in the New Opportunities Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

A. - E. ...

F. Direct Support Worker Wages and Workforce Bonus Payments

1. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

b. 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.

c. The minimum hourly wage floor paid to direct support workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all eligible direct service workers of any work status, whether full-time or part-time.

e. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Establishment of Direct Service Worker Workforce Bonus Payments

a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end October 31, 2022.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

e. - e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

i. - iv. Repealed.

b. Providers shall provide to the LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

c. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payments were paid directly to direct service workers may result in:

i. sanctions; or

ii. disenrollment from the Medicaid Program.

4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. 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:

i. Direct Service Worker Wage Floor

(a) failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b) the number of I/DD HCBS direct service workers who are identified as having been paid less than the wage floor minimum of \$9 per hour; or

(c) the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. Direct Service Worker Workforce Bonus Payments

(a) failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(b) the number of eligible I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or

(c) the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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 of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 48:41 (January 2022), LR 48:1558 (June 2022), LR 49:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#013

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Residential Options Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.16903 and 16905)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.16903 and adopt §16905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services approved the use of bonus payments for agencies providing Residential Options Waiver (ROW) services to home and community-based services waiver participants under section 9817 of the American Rescue Plan Act of 2021. The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which amended LAC 50:XXI.16903 and adopted §16905 in order to establish workforce bonus payments in the ROW for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8 and Volume 49, Numbers 1 and 2). The department subsequently promulgated an Emergency Rule, effective February 10, 2023, which rescinded these emergency provisions (*Louisiana Register*, Volume 49, Number 2).

This Emergency Rule is being promulgated to amend and adopt provisions governing reimbursement in the ROW in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$7,583,352 for state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend and adopt provisions governing reimbursement in the ROW in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 13. Residential Options Waiver

Chapter 169. Reimbursement

§16903. Direct Service Worker Wages and Workforce Bonus Payments

A. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community Based Services for Intellectual and Developmental Disabilities

1. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

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.

3. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

4. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status, whether full-time or part-time.

5. The Department of Health reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Louisiana Administrative Procedure Act.

B. Establishment of Direct Service Worker Workforce Bonus Payments

1. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

2. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

3. Bonus payments will end October 31, 2022.

4. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

5. - 5.b.Repealed.

C. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

1. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

a. - d. Repealed.

2. Providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. 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 and/or bonus payments were paid directly to direct service workers may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid Program.

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. failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;
 - ii. the number of I/DD HCBS direct service workers who are identified as having been paid less than the floor minimum of \$9 per hour; or
 - iii. the persistent failure to pay the I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

b. Direct Service Worker Workforce Bonus Payments

- i. failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

- (a). the number of eligible I/DD HCBS direct service workers who are identified as having not been paid the \$250 monthly workforce bonus payments; or

- (b). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

- c. 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 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:

§16905. Support Coordination

A. Establishment of Support Coordination Workforce Bonus Payments

1. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support

coordination worker that worked with participants for those months.

2. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

B. Audit Procedures for Support Coordination Workforce Bonus Payments

1. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

2. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

3. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

4. Support coordination providers shall produce the requested documentation upon request and within the timeframe provided by the LDH.

5. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

- a. sanctions; or
- b. disenrollment from the Medicaid Program.

C. Sanctions for Support Coordination Workforce Bonus Payments

1. The support coordination 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 pay support coordination workers the \$250 monthly bonus payments;

- b. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

- c. the persistent failure to pay the \$250 monthly workforce 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, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 49:

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#014

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing and

Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers Supports Waiver—Direct Service Worker Wages and Bonus Payments (LAC 50:XXI.6101)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.6101 in the Medical Assistance Program as authorized by the R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services approved the use of bonus payments for agencies providing Supports Waiver services to home and community-based services waiver participants under section 9817 of the American Rescue Plan Act of 2021. The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated Emergency Rules which amended LAC 50:XXI.6101 in order to establish workforce bonus payments in the Supports Waiver for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8 and Volume 49, Numbers 1 and 2). The department subsequently promulgated an Emergency Rule, effective February 10, 2023, which rescinded these emergency provisions (*Louisiana Register*, Volume 49, Number 2).

This Emergency Rule is being promulgated to amend provisions governing reimbursement in the Supports Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

This action is being taken to promote the health and welfare of Medicaid beneficiaries by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$2,074,476 for the state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend provisions governing reimbursement in the Supports Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. - G. ...

H. Direct Service Worker Wages and Bonus Payments

1. Establishment of Direct Service Worker Wage Floor for Medicaid Home and Community-Based Services for Intellectual and Developmental Disabilities

a. Effective October 1, 2021, providers of Medicaid home and community-based waiver services operated through the Office for Citizens with Developmental Disabilities employing direct service workers will receive the equivalent of a \$2.50 per hour rate increase.

b. 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.

c. The minimum hourly wage floor paid to direct service workers shall be \$9 per hour.

d. All providers of services affected by this rate increase shall be subject to a direct service worker wage floor of \$9 per hour. This wage floor is effective for all affected direct service workers of any work status, whether full-time or part-time.

e. The Department of Health (LDH) reserves the right to adjust the direct service worker wage floor as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

2. Establishment of Direct Service Worker Workforce Bonus Payments

a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end October 31, 2022.

d. LDH reserves the right to adjust the amount of the bonus payments paid to the direct service worker as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

e. - e. ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH.

i. - iv. Repealed.

b. Providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the direct service worker wage floor and bonus payments.

c. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Non-compliance or failure to demonstrate that the wage enhancement and/or bonus payment were paid directly to direct service workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid program.

4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. 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 an action will depend upon the following factors:

i. Direct Service Worker Wage Floor

(a). failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(c). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. Direct Service Worker Workforce Bonus Payments

(a). failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(b). the number of eligible I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or

(c). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

I. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months.

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. The bonus payments reimbursed to support coordination providers shall be subject to audit by LDH.

b. Support coordination providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the support coordination bonus payments.

c. This documentation may include, but is not limited to, payroll records, wage and salary sheets, check stubs, etc.

d. Support coordination providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

e. Noncompliance or failure to demonstrate that the bonus payments were paid directly to support coordination workers may result in the following:

- i. sanctions; or
- ii. disenrollment from the Medicaid Program.

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination 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:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments; or

iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), 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 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43 (January 2022), LR 48:1579 (June 2022), LR 49:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#015

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards (LAC 48:I.9305)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.9305 as authorized by R.S. 36:254 and 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals.

This action is being taken to prevent imminent peril to the health, safety, and welfare of the public by ensuring access to hospital beds during healthcare staffing shortages. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9305. Licensing Process

A. - M.2. ...

N. Plan Review. A letter to the Department of Health, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the Hospital Program Manager.

1. - 2.b....

3. Waivers

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the

hospital. The facility shall submit a waiver request in writing to the licensing section of the department on forms prescribed by the department.

b. In the waiver request, the facility shall demonstrate the following:

i. how patient health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service, condition, or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the Office of State Fire Marshal; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 15, 2023, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

O. - P. ...

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 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box

3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#016

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards
Rural Emergency Hospitals
(LAC 48:I.Chapter 93)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.Chapter 93 as authorized by R.S. 36:254 and 40:2100-2115. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals to add an exemption to the primarily engaged requirements for rural emergency hospitals and adopt provisions for their designation and certification in order to allow rural hospitals with less than 50 beds to temporarily convert to rural emergency hospitals.

This action is being taken to prevent imminent peril to the health, safety, and welfare of the public by ensuring access to emergency services in rural areas. It is anticipated that implementation of this Emergency Rule will have no fiscal impact for state fiscal year 2022-2023.

Effective March 7, 2023, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of hospitals in order to add an exemption to the primarily engaged requirements for rural emergency hospitals and adopt provisions for their designation and certification to allow rural hospitals with less than 50 beds to temporarily convert to rural emergency hospitals.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. - B. ...

C. Primarily Engaged

1. - 1.b....

2. Exemptions. The following licensed hospitals are not subject to the primarily engaged provisions/requirements of this Chapter:

a. ...

b. a licensed hospital designated as a rural hospital as defined by R.S. 40:1189.3;

c. a licensed hospital currently certified and enrolled as a Medicare/Medicaid certified hospital which has not been determined out of compliance with the federal definition of primarily engaged; if a hospital is currently Medicare/Medicaid certified, and has been determined to be currently meeting the federal definition of primarily engaged, it shall be exempt from compliance with the following provisions in this section regarding primarily engaged; and

d. a licensed hospital designated as a rural emergency hospital, as established in Section 125 of the Consolidated Appropriations Act of 2021 and defined by the Code of Federal Regulations at 42 CFR 485.500 et seq., or its successor provisions, provided that such facility is in compliance with the provisions of Section 9310 of this Chapter.

C.3. - E.9. ...

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 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 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019), LR 46:1682 (December 2020), LR 49:

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93 through Chapter 96.

* * *

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:

§9310. Rural Emergency Hospitals

A. A rural emergency hospital (REH) is a hospital facility that converts from either a critical access hospital (CAH) or a rural hospital with less than 50 beds, as established in Section 125 of the Consolidated Appropriations Act of 2021. Only a CAH or rural hospital with less than 50 beds that was licensed by the department as of December 27, 2020 may convert to a REH.

B. A REH shall be in compliance with the federal regulations for REHs, namely 42 CFR 485.500 et seq., or successor regulations.

C. Pursuant to the federal requirements, the REH shall provide emergency department services and observation care, but shall not provide acute inpatient services except for the optional service of post-hospital extended care services furnished in a unit of the facility that is a distinct part skilled nursing unit.

1. The CAH or rural hospital that is converting to a REH shall contact the licensing section of the department to temporarily inactivate its licensed acute care hospital beds while it is designated and certified as a REH by the Medicare program.

2. If the facility loses its designation or certification as a REH or begins operating again as a CAH or rural hospital, the facility shall contact the licensing section of the department to immediately re-activate its licensed acute care hospital beds.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§9311. Enforcement

A. The department shall have the authority to interpret and enforce Chapter 93 through Chapter 96 as authorized by and in accordance with the Health Care Facilities and Services Enforcement Act, R.S. 40:2199.

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), amended by the Department of Health, Bureau of Health Services Financing, LR 29:2404 (November 2003), LR 49:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#032

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities—Licensing Standards
(LAC 48:I.Chapter 97 and 9911)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.Chapter 97 and §9911 as authorized by R.S. 36:254 and 40:2009.1-2009.44. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S.49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to comply with the requirements of the following Acts of the 2022 Regular Session of the Louisiana Legislature: Act 253 requires the Department of Health to amend provisions governing the licensing of nursing facilities to provide requirements for generators or other department approved alternate electrical power sources; Act 461 requires the department to promulgate provisions concerning healthcare workplace violence; and Act 522 directs the department to promulgate requirements and standards for nursing home emergency preparedness plans (*Louisiana*

Register, Volume 48, Number 12). The department has determined that it is necessary to amend the provisions of the November 18, 2022 Emergency Rule.

This action is being taken to prevent imminent peril to the health, safety, and welfare of nursing facility residents and staff in the event of an emergency or disaster.

Effective February 20, 2023, the Department of Health, Bureau of Health Services Financing amends the November 18, 2022 Emergency Rule which amended the provisions governing the licensing of nursing facilities in compliance with Acts 253, 461, and 522 of the 2022 Regular Session of the Louisiana Legislature.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

* * *

Local Office of Emergency Preparedness (OEP)—a parish office of homeland security and emergency preparedness established pursuant to R.S. 29:727.

* * *

Nursing Facility—Repealed.

Nursing Home and/or *Nursing Facility*—a nursing home or nursing facility as defined in R.S. 40:2009.2 that is licensed by the Department of Health (LDH) in accordance with the requirements of R.S. 40:2009.3.

* * *

Unlicensed Sheltering Site—any location within or outside the state of Louisiana that is not licensed as a nursing facility by the LDH in accordance with the R.S. 40:2009.3, or licensed as a nursing facility by another state, when such location is used for evacuation purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:

§9727. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds, and suspicious death. Major injuries of unknown origin (e.g., fractures, burns, suspicious contusions, head injuries, etc.) for which the nursing facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. ...

2. all alleged violations involving abuse, neglect, exploitation, or mistreatment, including injuries of unknown origin and misappropriation of resident property, are reported immediately, but not later than two hours after the allegation is made or discovered, to the administrator of the facility and to other officials (including Health Standards Section (HSS) and law enforcement) where state law provides jurisdiction, if the events that caused the allegation involve abuse or result in a serious bodily injury; or not later than 24 hours after the events that caused an allegation

which does not involve abuse or result in serious bodily injury, to the administrator of the facility and to other officials;

3. allegations of an event that do not involve abuse or result in serious bodily injury shall be reported to the administrator of the facility and HSS not later than 24 hours after the occurrence of or discovery of the incident. The nursing facility shall utilize the current department reporting database system to provide notification;

NOTE: Repealed.

4. - 5. ...

6. immediate attempts are made to notify other involved agencies and parties as appropriate;

7. immediate notification is made to the appropriate law enforcement authority whenever warranted; and

8. the nursing facility is required to maintain internet access and to keep the department informed of its active and monitored electronic mail address at all times.

B. - C. ...

D. A final report with the results of all investigations shall be reported to HSS within five working days of the incident through use of the current department reporting database system. The report shall include:

D.1. - F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1900 (November 2016), amended LR 49:

§9761. Policies and Procedures

A. There shall be written policies and procedures that:

1. are available to staff, residents and legal representatives governing all areas of care and services provided by the nursing facility;

2. ensure that each resident receives the necessary care and services to promote the highest level of physical, medical, psychosocial functioning, and well-being of each resident;

3. are developed with the advice of a group of professional personnel consisting of at least a currently licensed physician, the administrator, and the director of nursing services;

4. are revised as necessary, but reviewed by the professional personnel group referenced in Paragraph A.3 of this Section at least annually;

5. are available to admitting physicians;

6. reflect an awareness of, and provisions for, meeting the total physical, medical, and psychosocial needs of residents, including admission, transfer and discharge planning, and the range of services available to residents, including frequency of physician visits by each type of similarly diagnosed resident admitted; and

7. are approved by the governing body.

B. The nursing facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

1. The nursing facility's personnel, visitors, and residents shall not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion.

2. The nursing facility shall develop and implement policies and procedures for screening and training employees, for protection of the residents, and for the

preventing, identifying, investigating, and reporting of abuse.

C. The nursing facility shall develop and implement policies and procedures to prevent, respond to, report, and mitigate instances of healthcare workplace violence.

D. The nursing facility is not required to admit registered sex offenders; however, if the nursing facility admits a registered sex offender, then the nursing facility shall develop policies and procedures to ensure that residents, their family members, and/or their responsible parties or guardians are notified upon admission of sex offenders living in the facilities. Such policies and procedures must include provisions for addressing the safety and well-being of other residents, staff, and visitors. The requirement of notification shall continue for as long as the information is considered a public record.

E. The administrator or his designee is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016), amended LR 49:

§9767. Emergency Preparedness

A. General Provisions

1. The nursing facility shall have an emergency preparedness plan that conforms to the format and specifications and the licensing regulations promulgated herein (see the Louisiana Model Nursing Home Emergency Plan). The plan shall be designed to manage the consequences of all hazards, declared disasters, or other emergencies that either have the potential to disrupt and/or actually disrupt the nursing facility's ability to provide care and treatment, or threatens the health, safety, and welfare of the residents. The nursing facility shall follow and execute its emergency preparedness plan in the event of a declared disaster or other emergency.

2. All nursing facilities shall submit their full, updated emergency preparedness plan to the department for approval on its current emergency preparedness webpage or electronic database. The emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

a. - d. Repealed.

3. The nursing facility's emergency preparedness plan shall include a shelter in place plan and an evacuation plan, both of which shall be activated at least once annually, either in response to an emergency or in a planned drill.

4. The nursing facility's emergency preparedness plan shall be individualized, site specific, current, and correct, and it shall comport with all requirements in Subsections C and D of this Section below.

5. The nursing facility's plan shall follow all applicable laws, standards, rules, or regulations, including R.S. 40:2009.25.

B. Emergency Preparedness Plan Approval Process

1. The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Paragraph 3.a of this Subsection below shall be performed pursuant to each reviewing entities' respective areas of knowledge, expertise, or jurisdiction.

a. - d.iii. Repealed.

2. The departmental review and approval process required by this Subsection may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process, as required by state statute.

3. Departmental Review, Transmittal, and Approval of Emergency Preparedness Plan

a. The department shall conduct a review and, if appropriate, approval of each nursing home's emergency preparedness plan submitted to it via the current department emergency preparedness webpage or other electronic database. The departmental review and approval process required by this Subsection shall include transmittal of each nursing home's emergency preparedness plan to all of the following entities for review by those entities:

- i. the Office of State Fire Marshal(OSFM);
- ii. the Governor's Office of Homeland Security and Emergency Preparedness;
- iii. the Department of Transportation and Development;
- iv. the Louisiana Emergency Response Network;
- v. the local office of emergency preparedness (OEP) of the parish in which the nursing home is located; and
- vi. the local OEP of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan, is located.

b. After review of a nursing home emergency preparedness plan by the entities listed above, the department shall either issue final approval of the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. The department shall notify the nursing home that submitted the plan of the department's decision.

- i. - vi. Repealed.

NOTE: Repealed.

4. Emergency Preparedness Plan Review by Other Entities

a. Each entity listed in Paragraph 3.a above of this Subsection shall review each nursing home emergency preparedness plan submitted to it, and shall submit one of the following documents to the department within 90 days of receipt of the emergency preparedness plan from the department:

- i. a letter of preliminary approval of the nursing home's emergency preparedness plan; or
- ii. a letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

b. any entity listed in Paragraph 3.a of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within 90 days of receipt of the plan shall be deemed to have been granted preliminary approval to the plan.

5. Revision and Resubmission of Emergency Preparedness Plan

a. Within 15 days of receipt by the nursing home of an electronic notification from the department that the nursing home's emergency preparedness plan requires changes, amendments, or revisions, the nursing home shall update and revise its emergency preparedness plan to

incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

b. After receipt of the nursing home's updated and revised emergency preparedness plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

c. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that all required changes, amendments, or revisions have been incorporated into the plan, and it shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

6. Each nursing home shall transmit, if available, a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the OSFM and the applicable local office or OEP. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the OSFM and the applicable local office or OEP.

7. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September 1, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2023.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to the nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2023.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2023.

8. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Non-Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2023.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September 1, 2023.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2024.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2024.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2024.

9. Annual Review of Emergency Preparedness Plan

a. On or before October 31, 2023, and annually thereafter each nursing home located in the parishes listed in Subsection B.7 above shall review its emergency preparedness plan.

b. On or before October 31, 2024, and annually thereafter, each nursing home located in the parishes listed in Subsection B.8 above shall review its emergency preparedness plan.

c. In conducting the annual review required by this Paragraph, a nursing home shall review any changes in the state licensing rules and regulations and any changes in federal rules and regulations for nursing homes that have been adopted since the date of its last review of its emergency preparedness plan.

d. If a nursing home conducts a review and determines that no changes, modifications, or amendments to its emergency preparedness plan are necessary, then the nursing home shall notify all of the following entities of this determination on or before November 1 of the current review period:

i. the local OEP of the parish in which the nursing home is located;

ii. the local OEP of any parish in which a sheltering site, alternative sheltering site, or evacuation site, as identified in the nursing home's emergency preparedness plan, is located;

iii. the OSFM; and

iv. the department.

e. Each notification required by Subparagraph 9.d above shall be in the form of a written attestation signed by the owner or owners, or any designee of such parties, and the administrator of the nursing home submitting the notification. A nursing home may submit an attestation provided for in this Subparagraph for no more than four consecutive years.

f. If the nursing home conducting the annual review determines that any changes, modifications, or amendments are necessary, or if the nursing home has previously submitted an attestation, as provided for in Subparagraph 9.e above, for four consecutive years, then the nursing home shall furnish a full emergency preparedness plan, prepared in accordance with the requirements and procedures provided in Subsections A through D of Section 9767, to the department on or before November 1 of the current review period.

i. Following review of the full emergency preparedness plan submitted in accordance with Subparagraph 9.f above, the department shall notify the nursing home of its decision to either approve the plan or to require changes, amendments, or revisions to the plan on or before March 1 of the current review period.

ii. In the event that the department requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise the plan to incorporate the required changes, amendments, or revisions, and it shall resubmit the plan to the department within 15 days of its receipt of the electronic notification from the department that changes, amendments, or revisions are required.

iii. After receipt of the nursing home's amended plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

iv. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that the required changes have been incorporated into the updated plan and it shall issue an approval or rejection letter to the nursing home on or before May 15 of the current review period.

(a). The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

v. The nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter, or in the alternative, a copy of the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31 of the current review period.

(a). The nursing home shall submit the final, approved emergency preparedness plan to the above recipients in electronic format, if available.

C. Contents of Emergency Preparedness Plan

1. Each nursing home's written emergency preparedness plan shall identify, at a minimum, a primary

evacuation site location and a secondary evacuation site location for emergencies or disasters. Such evacuation site locations may include the premises of other nursing homes, unlicensed sheltering sites, or both. Each such plan shall include and identify, at a minimum, all of the following:

a. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of specific evacuation determinations for those procedures and criteria;

b. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of specific sheltering in place determinations for those procedures and criteria;

c. a primary evacuation site and a secondary evacuation site, as well as any other alternative evacuation sites that the nursing home may have;

i. these evacuation sites shall be evidenced by written agreements or contracts that have been signed and dated by all parties; and

ii. a nursing facility shall accept only the number of residents for which it is licensed unless prior written approval has been secured from the department or if the nursing facility is acting as an evacuation site during a declared or non-declared emergency;

d. the policies and procedures for mandatory evacuations, which shall provide that if the state, parish, or local office of emergency preparedness (OEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the nursing facility shall evacuate unless the nursing facility receives a written exemption from the ordering authority prior to the mandated evacuation;

e. a plan for monitoring emergency alerts or notifications, including weather warnings and watches, as well as evacuation orders from local and state emergency preparedness officials;

i. this monitoring plan shall identify the staff position who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed; and

ii. the nursing facility shall have plans for monitoring during normal daily operations and when sheltering in place or during evacuations;

f. the policies and procedures for the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

g. the policies and procedures for inspection by the nursing facility, for any damage to its entire facility during and post-event;

h. the provisions for the management of staff, including sufficient and competent staffing, and the distribution and assignment of staff responsibilities and functions, either within the nursing facility or at another location;

i. an executable plan for coordinating transportation services that are sufficient to accommodate the resident census and staff. The vehicles required for evacuating residents to another location shall be equipped with temperature controls. The plan shall include the following information:

i. a system to identify residents who require specialized transportation and medical needs, including the number of residents who will be classified as:

(a) red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

(b) yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), and may need to be transported by a BLS ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

(c) green—residents who need no specialized transportation and may be transported by car, van, bus, or wheelchair accessible transportation;

j. a copy of the primary and secondary written transportation agreements for the evacuation of residents and staff that is signed and dated by all parties. Vehicles that are owned by, or are at the disposal of the nursing facility, shall have written usage agreements that are signed, dated and shall include verification of ownership, which shall include a copy of the vehicle's title or registration and the following information:

i. the number and type of vehicles;

ii. the capacity of each vehicle;

iii. a statement that each vehicle is equipped with temperature controls; and

iv. a statement that each vehicle is in good working condition;

k. policies and procedures outlining how the facility will prevent and treat heat-related medical illnesses due to the failure of temperature controls or due to other circumstances during transport;

l. the nursing facility's procedures for notifying the evacuation host site(s) local OEP, and the resident's family, legal representative or designated contact, and the department when the facility initiates its evacuation plan. The nursing facility shall have a staff position designated who is responsible for generating and documenting all attempts of notifications to the local OEPs, resident's family or responsible representative, and the department.

m. policies and procedures to ensure that an identification is directly attached to the nursing facility resident. The nursing facility shall designate a staff position to be responsible for this procedure and documentation. This identification shall remain directly attached to the resident during all phases of an evacuation and shall include, but not be limited to, the following information:

i. current and active diagnosis;

ii. medications, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions;

v. advanced directive, if applicable; and

vi. next of kin or responsible party, including contact information and relationship to resident;

n. policies and procedures, as well as a designated staff position who is responsible for ensuring, documenting, and certifying that a sufficient supply of the following items

accompanies residents on buses or other transportation during all phases of an evacuation:

- i. water;
- ii. food;
- iii. nutritional supplies and supplements;
- iv. medication(s); and
- v. other necessary supplies;
- o. staffing patterns for evacuation and the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are being provided during all phases of the evacuation, including transport of residents. For buses or vehicles transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus or vehicle. A licensed therapist who is BLS certified, or paramedic, may substitute for licensed nursing staff;
- p. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate, which shall include:
 - i. policies and procedures to ensure that seven days of necessary supplies are on hand for the duration of the shelter in place, or including any written agreements, with timelines, for how supplies will be delivered prior to the emergency event. The plan shall include a staff position responsible for ensuring and documenting that the necessary supplies are available. Supplies shall include, but are not limited to:
 - (a). drinking water or fluids, a minimum of one gallon per day, per person;
 - (b). water for sanitation, a minimum of three gallons per day, per person;
 - (c). non-perishable food, including special diets;
 - (d). medications;
 - (e). medical supplies;
 - (f). personal hygiene supplies; and
 - (g). sanitary supplies;
 - ii. policies and procedures for maintaining and posting a communications plan for contacting emergency services. The nursing facility shall designate a staff position to be responsible for documenting and contacting emergency services. The communication plan shall include:
 - (a). the type of equipment to be used;
 - (b). back-up equipment to be used if available;
 - (c). the equipment's testing schedule; and
 - (d). the power supply for the equipment being used;
 - iii. policies and procedures addressing the supply of emergency electrical power, including but not limited to a generator, in instances when primary electrical power in the nursing home is lost, but evacuation from the nursing home is not required. The plan shall include the type(s), size(s) and location(s) of the generator(s), if applicable. Such plan shall also include a statement indicating whether the nursing facility has a generator for sheltering in place. If the nursing facility has such a generator, the plan shall provide for fuel, either on hand or delivered prior to the emergency event. Such nursing facilities shall have fuel delivery agreements in place that will extend the uninterrupted operation of the generator or alternative electrical power source under full load to a total period of 168 hours for a single emergent event. Nursing facilities may interrupt operation of the generator or alternative electrical power source to conduct

routine maintenance as recommended by manufacturer's specifications. If the nursing facility has such a generator, the plan shall also provide a list of the generator's capabilities including:

- (a). its ability to provide cooling or heating for all or designated areas in the nursing facility;
- (b). its ability to power an Office of Public Health (OPH)-approved sewerage system;
- (c). its ability to power an OPH-approved water system;
- (d). its ability to power medical equipment;
- (e). its ability to power refrigeration;
- (f). its ability to power lights; and
- (g). its ability to power communications;
- iv. an assessment of the nursing facility's building to include, but not be limited to:
 - (a). wind load or ability to withstand wind;
 - (b). flood zone and flood plain information;
 - (c). possible causes and probability of power failure;
 - (d). age of building and type of construction; and
 - (e). determinations of, and locations of interior safe zones;
- v. policies and procedures for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning, or due to other circumstances, while sheltering in place;
- vi. staffing patterns for sheltering in place and for evacuation;
- q. the nursing facility's location, physical street address with longitude and latitude, and current nursing facility contact information;
- r. a risk assessment to determine the nursing facility's physical integrity. The physical integrity of the nursing facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade, as appropriate. If the facility has an unlicensed sheltering site(s) as an evacuation location, it shall also perform a risk assessment of each unlicensed sheltering site. The assessment(s) shall be reviewed annually and updated as necessary. The risk assessment shall include the nursing facility's determinations and the following information:
 - i. the nursing facility's latitude and longitude as well as the latitude and longitude for any unlicensed sheltering site;
 - ii. the flood zone determination for the nursing facility and any unlicensed sheltering site and base flood elevation for each, and the nursing facility shall evaluate how these factors will affect the building(s);
 - iii. the elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor. If applicable, the nursing facility shall evaluate how these factors will affect the viability of a site considering projected flood and surge water depths;
 - iv. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:
 - (a). the construction type and age;
 - (b). the roof type and wind load;
 - (c). the windows, shutters, and wind load;

- (d). the wind load of shelter building; and
- (e). the location of interior safe zones;
- v. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;
- vi. the determinations based upon an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:
 - (a). trees;
 - (b). towers;
 - (c). storage tanks;
 - (d). other buildings;
 - (e). pipe lines;
 - (f). chemical and biological hazards; and
 - (g). fuels;
- vii. the surge from the sea, lake and overland surge from hurricanes (SLOSH) modeling using the maximum's of the maximum envelope of waters (MOM) for the nursing facility's specific location and the findings for all categories of hurricanes. The nursing facility's plan shall include an evaluation of how this will or will not affect the nursing facility;
- s. the nursing facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;
- t. the nursing facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The nursing facility's plan shall include the following:
 - i. the areas being used as shelter or safe zones;
 - ii. the supply and emergency supply storage areas;
 - iii. the emergency power outlets;
 - iv. the communications center;
 - v. the location of the posted emergency floor plan, which shall be easily accessible to staff; and
 - vi. a pre-designated command post.

2. - 17.f. Repealed.

D. Unlicensed Sheltering Sites

1. Additional plan requirements for unlicensed sheltering sites shall include documentation of the following for review and approval:
 - a. a detailed floor plan of the sheltering site, which shall include the bed layout of the sleeping area, and copies of any contracts or documentation related to the unlicensed shelters;
 - b. required approvals from the OSFM and the OPH as a shelter site;
 - c. a covered area at the entrance of the building to afford protection from the weather;
 - d. adequate parking area for transportation needs;
 - e. adequate driveway(s) to allow for easy ingress and egress of transportation;
 - f. that building and equipment are maintained in good repair and free of hazards;
 - g. the accessibility for all occupants, including those in wheelchairs or on crutches in accordance with the Americans with Disabilities Act;

- h. the installment of, or a contract to provide, an alternate power source onsite which shall be sufficient to power HVAC, lighting, refrigeration, and adequate power outlets with a minimum fuel supply for 72 hours;
 - i. contract(s) for fuel supply deliveries;
 - j. a designated area for isolation;
 - k. an operational HVAC that maintains a comfortable temperature;
 - l. adequate ventilation, i.e., facility well ventilated and free of air hazards (e.g., smoke, fumes, etc.);
 - m. adequate space per person in sleeping area, a minimum of 60 square feet per person;
 - n. a kitchen area that meets OPH requirements for meal preparation or a food service contract to provide at least three meals daily per person onsite;
 - o. contract(s) for waste removal, including but not limited to bio-hazard;
 - p. adequate onsite or contracted laundry services that shall have separate areas for soiled and clean laundry;
 - q. adequate onsite or contracted number of working hand-washing stations, minimum one per 15 persons;
 - r. adequate onsite or contracted number of permanently fixed and/or portable working toilets, minimum one per 20 persons;
 - s. adequate onsite or contracted number of permanently fixed and/or portable working showers/bathing facilities, minimum one per 15 persons.

2. For the requirements in D.1.q, r, and s in this Subsection, an environmental waiver for the unlicensed shelter site may be granted, at the discretion of the department, if the department determines that the waiver does not jeopardize the health, safety, and welfare of the evacuated facility's residents. The facility must submit a request in writing which must include the following:

- i. which specific environmental requirement waiver is being requested and why;
- ii. how the facility plans to mitigate their inability to meet the requirement; and
- iii. an explanation as to why the environmental requirement waiver would not endanger the health, safety, and welfare of the evacuated facility's residents.

3. On an annual basis, the department, in conjunction with the OSFM and other entities, shall inspect and survey unlicensed sheltering sites identified in nursing home emergency preparedness plans. Any refusal by an unlicensed sheltering site to allow an inspection or survey of the site by the department may result in rejection of the unlicensed sheltering site, and the emergency preparedness plan as a whole. If such a refusal to allow an inspection or survey occurs when nursing home residents are being sheltered at the site, the facility shall cooperate with the department for orderly evacuation of residents and staff. The department may revoke the license of the nursing home that refuses to allow an inspection or survey.

4. If any unlicensed sheltering site is located outside of Louisiana, including nursing homes, the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

5. The local OEP of the parish in which an unlicensed sheltering site is located shall inspect the site prior to

October 15, 2022, and annually thereafter. The office shall inspect any new unlicensed sheltering site identified after May 31, 2023, in a nursing home emergency preparedness plan within 30 days of receiving the plan and annually thereafter, as required by statute. The local OEP may inspect the unlicensed sheltering site at such other times as the director of the local OEP deems necessary or appropriate.

E. Emergency Preparedness Notifications and Reports

1. A nursing facility shall enter current nursing facility information into the current department emergency preparedness webpage or electronic database for reporting.

a. The following information shall be entered or updated into the current department emergency preparedness webpage or electronic database for reporting before the fifteenth day of each month:

- i. operational status;
- ii. current census and number of licensed beds;
- iii. emergency contact and evacuation location(s);
- iv. emergency evacuation transportation needs

categorized by the following types:

(a). number of red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

(b). number of yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by a basic life support (BLS) ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

(c). number of green—residents who need no specialized transportation and can be transported by car, van, bus, or wheelchair accessible transportation.

b. A nursing facility shall also enter or update the nursing facility's information upon request, or as required following notification of an emergency declared by the secretary. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms, freezing temperatures, and other severe weather.

c. Upon notification of a declared emergency, and as required by the department, nursing facilities shall file an electronic report on the current department emergency preparedness webpage or electronic database for reporting.

i. the electronic report shall be filed as required by the department, but at least daily, throughout the duration of the emergency declaration.

ii. the electronic report shall include, but not be limited to, the following:

- (a). status of operation;
- (b). availability of beds;
- (c). generator status;
- (d). evacuation status;
- (e). shelter in place status;
- (f). utility status; and
- (g). other information requested by the

department.

iii. the electronic report shall not be used to request resources.

F. Emergency Plan Activation

1. Shelter in Place

a. A shelter in place notification shall be sent within one hour of the facility's decision to shelter in place to the local OEP where the provider is located and to the department.

b. A shelter in place notification shall be sent to the resident's family, or responsible representative as far in advance as possible, but at least within 12 hours of the determination.

2. Evacuation and Temporary Relocation

a. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency:

i. the nursing facility shall immediately give written notice to HSS by hand delivery, facsimile or electronically of the following information:

(a). the date and approximate time of the evacuation;

(b). the sheltering evacuation site(s) to which the nursing facility is evacuating; and

(c). a list of residents being evacuated, which shall indicate the evacuation site for each resident;

ii. the evacuation sites' local OEP shall be provided the following within one hour of the decision to evacuate:

(a). the contact name and the telephone number that the evacuation sites' local OEP can call for information regarding the nursing facility's evacuation;

(b). the number of residents being evacuated to that location(s);

(c). the date and approximate time that the nursing facility is evacuating, and date and approximate time of arrival to the location(s);

(d). the site place or location to which the nursing facility is evacuating, including the:

- (i). name of the site(s);
- (ii). address(es); and
- (iii). telephone number(s).

iii. an evacuation notification shall also be sent to the resident's family, or responsible representative, and made as far in advance as possible, but at least within 12 hours of the determination to evacuate or after evacuation when communication is available. The notifications shall include:

(a). a telephone number that the family, or responsible representative, can call for information regarding the nursing facility's evacuation;

(b). name of the site(s); and

(c). address(es).

iv. the nursing facility shall notify the department within one hour of its decision regarding whether the nursing facility's residents will return to its licensed location from an unlicensed sheltering site, be placed in alternate licensed nursing facility beds, or request an extension to remain at the unlicensed sheltering site;

v. the nursing facility shall notify the current HSS emergency preparedness manager, or designee, as well as, the local OEP of the parish(es) in which nursing facility residents will be relocated to. Included in this notice, the nursing facility shall provide HSS with a list of all residents'

names, dates of birth, and their locations within 48 hours of the decision to relocate from the unlicensed sheltering site.

vi. upon receipt of a nursing facility evacuation notification that includes unlicensed sheltering site(s), HSS and the OPH shall immediately conduct a site visit at the unlicensed sheltering site unless time, weather conditions, or other factors do not allow for such visit. The department may conduct onsite inspections of the unlicensed shelter site at any time deemed necessary or appropriate by the secretary of the department. If deemed to be necessary, HSS will conduct daily on-site visits while the unlicensed shelter site is occupied. The department's authority to conduct such visits will be in accordance with its authority to conduct onsite surveys of the nursing home, regardless of location.

3. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one 15 day extension, not to exceed a total of 20 days to remain at the unlicensed sheltering site.

a. By noon on the fifth day of evacuation, the nursing facility shall submit a written request for extension to HSS if it desires to remain at the unlicensed sheltering site. The request shall include the reasons that the facility is unable to return to their facility and why their residents cannot be placed in an alternate nursing facility(ies). The request shall also include a written plan with timeline to either return residents to the licensed location or be placed in an alternate nursing facility(ies) within the extension period requested, if such is granted.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility. If extension is not granted, the facility must cooperate with the department for an orderly evacuation of residents and staff to the alternate location.

c. This extension shall be granted only if essential care and services to residents are ensured to continue at the current sheltering facility.

d. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a nursing facility and HSS, and the local OEP shall be informed of the residents' new location(s).

G. Reopening of Nursing Facility and Repatriation of Residents

1. The evacuated nursing facility shall conduct and document an inspection of their entire facility for damages prior to submitting a written request to HSS to reopen at the licensed location. That request shall include:

- a. damage report;
- b. extent and duration of any power outages;
- c. re-entry census;
- d. staffing availability; and
- e. information regarding access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies, such as food, water, medical supplies, and medications.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be appropriate. The department may request additional information from the

nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

- a. approval of reopening without survey;
- b. surveys required before approval to reopen will be granted. This may include surveys by the OPH, OSFM, and HSS; or
- c. denial of reopening.

H. After Action Written Summary

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the nursing facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
 - i. - iii. Repealed.
 - b. plan provisions that were not followed;
 - c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
 - d. contingency arrangements made for those plan provisions not followed; and
 - i. - vi. Repealed.
 - e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes, and circumstances of the injuries and deaths.

2. - 5.e. Repealed.

I. Inactivation of License Due to Declared Disaster or Emergency

1. A nursing facility in an area or areas that has been affected by a declared disaster or emergency and included in an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. the nursing facility shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the nursing facility has experienced an interruption in the delivery of services at its licensed facility as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. pursuant to these provisions, an extension of the 60-day deadline may be granted at the discretion of the department;

b. the nursing facility resumes operating as a nursing facility in the same service area within two years of issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

i. a nursing facility may request one extension, not to exceed an additional one year for good cause shown

by the facility. This request for an extension may be granted at the sole discretion of the department;

c. the nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

d. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

e. Repealed.

2. Upon receiving a completed written request to inactivate a nursing facility license, if the department determines that all of the requirements have been met, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility, which has received a notice of inactivation of its license from the department, shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to HSS within two years of the executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request the scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

4. Upon receiving a completed written request to reinstate a nursing facility license, the department shall conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements provided for in Paragraph I.3 above, the department shall issue a notice of reinstatement of the nursing facility license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to inactivate the license.

5. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding, or replacement construction and has resumed operations as a nursing facility.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

J. Inactivation of License Due to Non-Declared Emergency or Disaster

1. A nursing facility in an area or areas that have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the nursing facility shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

i. the nursing facility has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. the nursing facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

iv. the nursing facility's initial request to inactivate does not exceed two years from the date of the non-declared emergency or disaster for the completion of repairs, renovations, rebuilding, or replacement of the facility; and

v. pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

b. the nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines;

c. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports, and;

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request to temporarily inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding, or replacement of the facility to the OSFM and the OPH, as required.

4. The nursing facility shall resume operating as a nursing facility in the same service area within two years from the non-declared emergency or disaster, unless an extension has been granted.

5. A nursing facility may request one extension, not to exceed an additional six months for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department.

6. Upon completion of repairs, renovations, rebuilding, or replacement of the facility, a nursing facility that has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to HSS;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

7. Upon receiving a completed written request to reinstate a nursing facility license, the department may conduct a licensing survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the

nursing facility at the time of the request to temporarily inactivate the license.

8. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

9. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

10. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

K. Temporary Inactivation of Licensed Nursing Facility Beds Due to Major Alterations

1. A nursing facility, which is undergoing major alterations to its physical plant, may request a temporary inactivation of a certain number of licensed beds provided that:

a. the nursing facility submits a written request to HSS seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

i. that the nursing facility has experienced or will experience a temporary interruption in the provision of services to its licensed bed capacity as a result of major alterations;

ii. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

iii. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

NOTE: Repealed.

iv. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

v. the number of licensed beds requested to be inactivated temporarily;

b. the nursing facility ensures the health, safety, and welfare of each resident during the major alterations;

i. Repealed.

c. the nursing facility continues to provide, and each resident continues to receive, the necessary care and services to attain or maintain the resident's highest practicable physical, medical and psychosocial well-being, in accordance with each resident's comprehensive assessment and plan of care; and

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a nursing facility, if appropriate the department shall issue a notice of temporary inactivation of a certain number of the nursing facility's licensed beds.

3. No change of ownership in the nursing facility shall occur until such nursing facility has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

a. - c. Repealed.

4. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a nursing facility, the department may conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the nursing facility licensed bed capacity.

5. The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

K.7. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:

Chapter 99. Nursing Facilities
Subchapter B. Physical Environment
§9911. General Provisions

A. - D. ...

E. No later than June 30, 2023, nursing facilities shall have a generator or other department approved alternate electrical power source in the event of the loss of primary electrical power. The department may grant a one-time extension, not to exceed six months, upon written application by a nursing facility that compliance has been delayed due to extraordinary and unforeseen circumstances. No extension shall be granted if the nursing facility fails to provide sufficient evidence of substantial compliance or good faith efforts to comply with the requirement deadline.

1. The generator or alternate electrical power source shall have a simultaneous capability of providing sufficient electrical power for all of the following:

a. life safety systems;

b. lighting in patient care areas;

c. medical equipment in patient care areas;

d. electrical components of the approved potable water system;

e. electrical components of the approved sewer systems;

f. operation of the nursing facility's medication dispensing and medication refrigeration systems;

g. operation of the nursing facility's dietary services and related refrigeration; and

h. operation of the nursing facility's laundry services.

2. For nursing facilities built or whose construction plans have been approved by the department:

a. prior to August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 50 percent of the air conditioning systems and 50 percent of the heating systems in the facility.

b. on or after August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 90 percent of the air conditioning systems and 90 percent of the heating systems in the facility.

3. The generator or alternate electrical power source shall be permanently installed onsite at the nursing facility and shall have fuel stored onsite at the nursing facility or delivered prior to an emergency event, in the following quantities:

a. for nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 48 hours.

b. for nursing facilities approved for construction and built on or after August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 72 hours.

4. Natural gas is an allowable fuel source and meets the onsite fuel requirement as long as there is an onsite propane tank sufficient in size to meet the fuel requirements, in the event a natural gas disruption occurs.

5. For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, the department may provide a waiver for the permanently installed generator or alternative electrical power source required by this Subsection if it is determined by the department that there is not sufficient physical space available or a governmental ordinance exists that makes it impossible to place a generator or alternative electrical power source and the fuel required by this Subsection on the premises of the nursing facility. Each nursing facility that receives a waiver pursuant to this Paragraph shall annually submit to the department for review and approval a plan to provide for the health and safety of the facility's residents in the event of power loss. The annual plan may incorporate, but is not limited to mobile generators, chillers, or evacuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016), amended LR 49:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Dr. Courtney N. Phillips
Secretary

2303#066

DECLARATION OF EMERGENCY

Department of Health Office of Public Health Emergency Medical Services Certification Commission

EMS Licensing Pre-Application Eligibility Determination
(LAC 46:XXXVIII.306)

The Louisiana Department of Health, Emergency Medical Services Certification Commission, pursuant to the authority granted in R.S. 40:1133.4, hereby adopts the following Emergency Rule. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.) generally, and R.S. 49:962 specifically.

The Louisiana Department of Health, Emergency Medical Services Certification Commission (EMSCC) finds it necessary to promulgate an Emergency Rule effective on March 15, 2023. This Emergency Rule is necessary to prevent imminent peril to the public health, safety, or welfare. Act 486 of the 2022 Regular Session of the Louisiana Legislature requires that certain professional licensing bodies, including the Louisiana Department of Health, Office of Public Health, Bureau of Emergency Medical Services ("BEMS"), allow potential licensees to obtain a pre-application determination as to whether their past criminal convictions would prevent eventual licensing. The Act is intended to increase the number of licensees by encouraging and allowing potential applicants with criminal convictions to determine their license eligibility before seeking or attaining required degrees or education, thereby helping to reduce the current shortages in certain professions. The Emergency Medical Services field in Louisiana is currently experiencing the exact type of shortage that the Act was intended to help alleviate. The shortage in the field currently rises to the level of a potential imminent peril to the public health. In order to help immediately effectuate the intent of the Act, the Emergency Medical Services Certification Commission has determined that an emergency rule is needed. The following Emergency Rule, effective March 15, 2023, shall remain in effect for a maximum of 180 days, or until the final Rule is promulgated, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXVIII. Emergency Medical Services Professionals

Subpart 1. Rules of Procedure

Chapter 3. Registration and Certification

§306. Pre-Application Eligibility Determination

A. An individual convicted of a crime may request at any time, including before obtaining any required education or training, a determination as to whether the individual's

criminal conviction(s) disqualify the individual from licensure or certification by the Bureau of EMS (“BEMS”).

1. The individual making the request shall provide to BEMS all pertinent information and documents pertaining to the conviction(s), including any information relevant to the factors provided in R.S. 37:2950. Any such request shall list and include all of the individual’s convictions, regardless of jurisdiction and regardless of subsequent pardon or expungement, through the date of the request. After initial receipt of the request, BEMS may require that the individual submit additional pertinent information or documents.

2. In addition to any available facility for uploading such a request through a user account created on the BEMS website (URL: <https://ldh.la.gov/subhome/28>), the request may be made in writing and mailed to BEMS at 7273 Florida Blvd., Baton Rouge, LA 70806.

3. The individual making the request shall also provide to BEMS the individual’s pertinent identifying information, including date of birth, social security number, and driver’s license number.

4. The individual making the request shall provide a valid email address to which BEMS may send correspondence related to the request, including the determination as to whether the individual is disqualified.

5. Within 45 days after receipt of the request and all pertinent information and documents, including additional information or documents requested by BEMS pursuant to Paragraph A.1. of this Section, or within 45 days of receipt by BEMS of any criminal background check provided or requested by the individual, whichever is later, BEMS shall send notification to the individual concerning whether, based on the criminal information submitted, the individual is disqualified from receiving or possessing a license from BEMS. This determination, which may be disseminated to the requesting individual by email, shall be one of the following:

a. the conviction(s) do not make the individual ineligible to be licensed (“not ineligible”). Such determinations include instances where licensing may be necessarily accompanied by concurrent initial probation, per the EMSCC Deferred Decision Matrix or EMS Certification Commission Review Panel, unless a requested hearing before the EMS Certification Commission determines otherwise;

b. the conviction(s) make the individual presumptively ineligible to be licensed, in which case the following information shall be provided to the individual:

- i. specific conviction(s) that constitute the basis for the presumptive ineligibility;
- ii. reasons the conviction(s) are directly related to the license, using the factors set forth in R.S. 37:2950;
- iii. right to submit within 60 days additional documentation or evidence relevant to each of the factors listed in R.S. 37:2950 concerning the conviction(s) upon which the presumptive ineligibility is based; and
- iv. date of eligibility to apply or reapply for a license.

6. An individual who is informed that the conviction(s) at issue make him presumptively ineligible is entitled to a hearing (“appeal”) before the EMS Certification Commission concerning such determination.

a. Such individual shall be placed on the agenda for a formal hearing at the next regularly scheduled meeting of the EMS Certification Commission, but may decline such a hearing if s/he does not wish to proceed. If the sixty-day period for providing additional documentation or evidence, as provided in Division A.4.b.iii of this Section, expires after the next scheduled meeting, the individual may request that the hearing be postponed until the subsequent regularly scheduled meeting.

7. A determination of “not ineligible” made pursuant to this Section is binding upon BEMS unless the individual is convicted of a subsequent crime between the inquiry period and the time of license application, has pending criminal charges at the time of license application, or has undisclosed criminal convictions not revealed at the time of inquiry.

B. The following information can be found on the BEMS website and/or on the EMS license application:

1. the process by which BEMS investigates affirmative criminal background disclosures;
2. the deferred decision matrix used by BEMS regarding the criminal history of applicants;
3. additional details regarding the process by which potential applicants may obtain a determination regarding their license eligibility as it relates to criminal convictions.

C. When determining whether a conviction directly relates to the EMS profession, the EMS Certification Commission shall consider:

1. the nature and seriousness of the offense;
2. the nature of the specific duties and responsibilities of licensed EMTs, Advanced EMTs, Paramedics, and Emergency Medical Responders.
3. the amount of time since the conviction;
4. facts relevant to the circumstances of the underlying offense, including any aggravating or mitigating circumstances, or social conditions surrounding the commission of the offense; and
5. evidence of rehabilitation or treatment undertaken by the applicant since the conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.4

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, Emergency Medical Services Certification Commission, LR 49:

Public Comments

Interested persons may submit written comments to Susan Bailey, Director, Bureau of Emergency Medical Services, Office of Public Health, Louisiana Department of Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Ryan Brown
EMS Certification Commission Chair

2303#048

DECLARATION OF EMERGENCY

**Department of Treasury
State Bond Commission**

Application and Closing Fees (LAC 71:III.1901)

The Louisiana State Bond Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953.1, and pursuant to the authority set forth in La. R.S. 39:1405.1, to amend LAC 71:III.1901 regarding the application and closing fee for the not to exceed \$1.7 billion of LCDA (Louisiana Utilities Restoration Corporation Project/ELL) System Restoration Bonds. This Emergency Rule is necessary to reduce the closing fee for the aforementioned entity in order to provide the citizens of Louisiana further relief in light of recent storms.

The State Bond Commission hereby finds that the following circumstances constitute immediate peril to the public health, safety, or welfare [R.S. 49:953.1(A)(1)(a)]. Due to recent storms that have devastated Louisiana (Hurricanes Laura, Delta, Zeta, Ida, and Winter Storm Uri), Entergy Louisiana, LLC customers could be facing a significant increase in their utility bills over the next fifteen years as Entergy Louisiana, LLC continues to make restoration efforts to its damaged infrastructure. These storms brought unprecedented damage to many areas of the state. Were the Bond Commission to collect the full fee in accordance with the fee schedule in LAC 71:III.1901, Entergy Louisiana, LLC customers would likely see even greater increases in their bills. Furthermore, the Louisiana Utilities Restoration Corporation was created in 2007, long after the adoption of the Bond Commission fee schedule. Thus, a \$1.7 billion bond issuance was not contemplated at the time the Bond Commission fee schedule was adopted. Accordingly, were the Bond Commission to levy a closing fee on this particular bond issuance; its fee would be over \$601,000. Such an amount would only add to the financial hardships facing many Louisiana citizens still suffering from these recent storms. Moreover, LURC has previously issued bonds not to exceed \$3.2 billion dollars just last year, in which they incurred a \$350,000 fee. Therefore, this Emergency Rule is necessary to provide further relief to the citizens of Louisiana who are already struggling with higher insurance premiums and utility costs.

This Emergency Rule was adopted on February 16, 2023, and shall be effective on February 16, 2023. This Emergency Rule shall remain in effect for 180 days, unless renewed by the State Bond Commission, or until permanent rules are promulgated in accordance with the law.

Title 71

TREASURY—PUBLIC FUNDS

Part III. Bond Commission—Debt Management

Chapter 19. Fee Schedule

§1901. Fee Schedule

- A. ...
- B. General Government Issues*

General Government Application Fee		\$100**
Closing Fees	Par	Percentage
First	\$500,000	0.065%
Next	\$4,500,000	0.060%
Next	\$5,000,000	0.055%
Next	\$10,000,000	0.050%
Next	\$30,000,000	0.045%
Next	\$50,000,000	0.035%
Certified Copy Fee	No charge for one copy \$5 for each additional copy	

- C. Private Purpose Bonds***

Private Purpose Application Fee		\$1,500**
Closing Fees	Par	Percentage
First	\$5,000,000	0.125%
Next	\$20,000,000	0.110%
Next	\$25,000,000	0.105%
Next	\$50,000,000	0.100%
Over	\$100,000,000	0.090%
Annual Agenda Subscription Fee	\$100.00 Private Sector \$50.00 Public Sector	

* To be levied on debt instruments with maturities in excess of 12 months excluding budgetary loans made under the provisions of R.S. 39:745, 17:89, 33:9901.

** Application fee will be credited toward the closing fee when bonds are issued, sold or delivered.

*** Private purpose bonds are defined as bonds the proceeds of which are used primarily for the benefit of a private company or enterprise or the payment on such bonds, are paid from revenues derived from private enterprise or concern, regardless of the issuer or the tax exempt status of the debt.

D. Notwithstanding the Bond Commission fee schedule provided for in Subsections B and C of this Section, total fees for the not to exceed \$1.7 billion of LCDA (Louisiana Utilities Restoration Corporation Project/ELL) system restoration bonds listed as agenda item No. 42 and approved at the February 16, 2023, Bond Commission meeting shall be \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1405.1.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 27:1706 (October 2001), amended LR 49:

Lela Folse
Director

2303#009

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2023 Recreational Greater Amberjack Season Modification

Louisiana's recreational greater amberjack season was previously scheduled to open on May 1, 2023. The regional administrator of NOAA Fisheries has informed the secretary that the 2023 recreational season for the harvest of greater amberjack in the federal waters of the Gulf of Mexico will remain closed from May 1, 2023 through July 31, 2023 and will open from August 1, 2023 through October 31, 2023. Action by the Gulf of Mexico Fisheries Management Council established these emergency measures in order to prevent overfishing of greater amberjack while new harvest regulations are being established. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

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 in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA fisheries that the seasons have been modified in adjacent federal waters, the secretary hereby declares:

The season for the recreational harvest of greater amberjack in Louisiana state waters, previously scheduled to open on May 1, 2023, shall remain closed until 12:01 a.m. on August 1, 2023, at which time it will open and remain open until 11:59 p.m. on October 31, 2023 at which time it will close. The season for the recreational harvest of greater amberjack will then remain closed until the regularly scheduled opening of the 2024 season, currently scheduled for May 1, 2024. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

Jack Montoucet
Secretary

2303#022

Rules

RULE

Office of the Governor Real Estate Commission

Investigations and Hearings (LAC 46:LXVII.Chapter 41)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Real Estate Commission has amended LAC 46:LXVII.Chapter 41. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 41. Investigations and Hearings

§4101. Complaints; Adjudicatory Procedure

A. A complaint filed with the commission alleging one or more violations of the Louisiana Real Estate License Law or this Subpart shall bear the signature of the complainant or that of his or her legal representative. The commission shall not be required to take any action relating to an unsigned or anonymous complaint.

B. The commission conducts adjudicatory proceedings according to the Louisiana Real Estate License Law (R.S. 37:1430 et seq) and the Administrative Procedure Act (R.S. 49:950 et seq).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3010 (October 2011), amended LR 49:481 (March 2023).

§4103. Addition of Respondents to Investigations

Repealed.AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:48 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3010 (October 2011), amended LR 49:481 (March 2023).

§4105. Executive Director May Authorize

Investigations

A. The commission's executive director may issue written authorization, upon documented probable cause, to investigate apparent violations of the Louisiana Real Estate License Law or this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000), amended LR 37:3010 (October 2011), amended LR 49:481 (March 2023).

§4107. Adjudicatory Proceedings

Repealed.AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:49 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:3010 (October 2011), amended LR 49:481 (March 2023).

§4109. Appellate Proceedings

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development Real Estate Commission, LR 26:49 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3011 (October 2011), amended LR 49:481 (March 2023).

§4111. Stay of Enforcement

A. The filing of a petition for judicial review by a respondent licensee does not itself stay enforcement of an order issued by the commission. A stay of enforcement shall be granted only when ordered by a court of appropriate jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), repromulgated by the Office of the Governor, Real Estate Commission, LR 37:3010 (October 2011), amended LR 49:481 (March 2023).

§4113. Costs of Adjudicatory Proceedings

A. Following a finding that a respondent has committed one or more violations alleged in any adjudicatory proceeding, the commission may assess the respondent with the administrative costs of the proceeding, as reasonably determined by the commission. Payment of the assessed costs shall be a condition of satisfying any order issued by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 26:50 (January 2000), amended by the Office of the Governor, Real Estate Commission, LR 37:3011 (October 2011), amended LR 49:481 (March 2023).

Bruce Unangst
Executive Director

2303#004

RULE

Department of Health Bureau of Health Services Financing

Free-Standing Birth Centers—Licensing Standards
(LAC 48:I.Chapter 67)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 67 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48
PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 67. Free-Standing Birth Centers

Subchapter A. General Provisions

§6703. Definitions

* * *

Certified Nurse Midwife (CNM)—an advanced practice registered nurse as defined by R.S. 37:913, or current law.

* * *

Emergent—a medical condition that, if not stabilized, could reasonably be expected to result in the loss of the person's life, serious permanent disfigurement, or loss or impairment of the function of a bodily member or organ.

* * *

Line of Credit—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the provider has available funds as needed to continue the operations of the agency and the provision of services to clients. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of FSBC licensure, the line of credit shall not be a loan, credit card or a bank balance.

* * *

Transfer Agreement—a written agreement made with at least one receiving hospital in the community for the timely transport of emergency clients to a licensed hospital that will provide obstetric/newborn acute care should an emergency arise which would necessitate hospital care and services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2180.21-2180.28, R.S. 37:1270 and R.S. 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2107 (August 2022), amended LR 49:482 (March 2023).

§6705. General Requirements

A. - J. ...

K. Each FSBC shall have requirements and protocols for assessing, transferring, and transporting clients to a licensed hospital, and arrangements with a local ambulance service for the transport of emergency clients to a licensed hospital. Arrangements may include an annual, written notification to a local ambulance company advising of the FSBC's operational status. The written notification shall, at a minimum, include the FSBC's name, address, and telephone number.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2108 (August 2022), amended LR 49:482 (March 2023).

§6709. Initial Licensure Application Process

A. ...

B. The initial licensing application packet shall include:

1. - 4. ...

5. proof of each insurance coverage as follows:

a. - b. ...

c. professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified healthcare provider with the Louisiana Patient's Compensation Fund (PCF). If the FSBC is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate; and

i. Repealed.

d. ...

6. proof of financial viability which entails:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$25,000; or

b. verification of sufficient assets equal to \$25,000 or the cost of three months of operation, whichever is less;

B.7. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2109 (August 2022), amended LR 49:482 (March 2023).

§6715. Changes in Licensee Information or Personnel

A. - H. ...

1. An on-site physical environment survey by the HSS, and an on-site inspection by the OPH and the OSFM shall be required prior to the issuance of the new license.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2111 (August 2022), amended LR 49:482 (March 2023).

§6717. Renewal of License

A. The FSBC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include the:

1. ...

2. non-refundable license renewal/delinquent fee;

3. - 5. ...

6. proof of each insurance coverage as follows:

a. - b. ...

c. professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified healthcare provider with the PCF. If the FSBC is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate; and

i. Repealed.

d. ...

7. proof of financial viability that entails:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$25,000; or

b. verification of sufficient assets equal to \$25,000 or the cost of three months of operation, whichever is less; and

A.8. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2111 (August 2022), amended LR 49:482 (March 2023).

Subchapter B. Administration and Organization

§6735. Governing Body

A. - C. ...

D. The governing body of an FSBC shall:

1. ...
2. review and approve the FSBC's annual budget;
 - a. - b. Repealed.
3. designate a person to act as the administrator and delegate enough authority to this person to manage the day-to-day operations of the FSBC;
 4. annually evaluate the administrator's performance;
 5. have the authority to dismiss the administrator;
 6. formulate and annually review, in consultation with the administrator, written policies and procedures concerning the FSBC's philosophy, goals, current services, personnel practices, job descriptions, fiscal management, and contracts:

a. the FSBC's written policies and procedures shall be maintained within the FSBC and made available to all staff during hours of operation;

7. determine, in accordance with state law, which licensed healthcare practitioners are eligible candidates for appointment to the FSBC staff;

a. Repealed.

8. ensure and maintain quality of care, inclusive of a quality assurance/performance improvement process that measures client, process, and structural (e.g. system) outcome indicators to enhance client care;

9. ensure that birthing procedures shall not be performed in areas other than the birthing rooms;

10. ensure that birthing procedures are initiated in accordance with acceptable standards of practice;

11. meet with designated representatives of the department whenever required to do so;

12. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the FSBC; and

13. ensure that pursuant to R.S. 40:1191.2, prior to the final disposition of a miscarried child, but not more than 24 hours after a miscarriage occurs in an FSBC, the FSBC shall notify the client, or if the client is incapacitated, the spouse of the client, both orally and in writing, of both of the following:

a. the parent's right to arrange for the final disposition of the miscarried child using the notice of parental rights form as provided for in R.S. 40:1191.3; and

b. the availability of a chaplain or other counseling services concerning the death of the miscarried child, if such services are provided by the FSBC.

14. - 14.b. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2116 (August 2022), amended LR 49:483 (March 2023).

Subchapter C. Admissions, Transfers and Discharges

§6743. Prohibitions to Admission or Continued Care in an FSBC

A. The FSBC shall not knowingly accept or thereafter maintain responsibility for the prenatal or intrapartum care of a woman who:

1. - 16. ...

17. has a parity greater than five, with poor obstetrical history;

A.18. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2117 (August 2022), amended LR 49:483 (March 2023).

§6745. Admissions and Assessments

A. ...

B. An FSBC shall ensure that each client has the appropriate pre-natal and postpartum assessments completed, inclusive of the FSBC's ability to provide services needed in the postpartum period in accordance with the prescribed plan of care, and discharge plans to home or another licensed facility setting. The FSBC shall ensure that any length of client care does not exceed 23 hours post-delivery.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2117 (August 2022), amended LR 49:483 (March 2023).

§6747. Required Newborn Care

A. Each delivery shall be attended by two qualified personnel currently trained in:

1. the use of emergency equipment;

2. adult cardiopulmonary resuscitation equivalent to American Heart Association Class C Basic Life Support; and

3. Neonatal Resuscitation Program endorsed by the American Academy of Pediatrics/American Heart Association.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2118 (August 2022), amended LR 49:483 (March 2023).

§6751. Required Physician Consultation, Postpartum Period

A. The licensed healthcare practitioner shall obtain medical consultation or refer for emergent medical care any woman who, during the postpartum period:

1. - 7. ...

B. The licensed healthcare practitioner shall obtain medical consultation or refer for emergent medical care any infant who:

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2118 (August 2022), amended LR 49:483 (March 2023).

Subchapter D. Service Delivery

§6757. Perinatal Services

A. - C. ...

D. Except for the requirements of §6747.A. specific to deliveries, at least one licensed healthcare practitioner shall be immediately available in the FSBC until all clients are assessed as stable, and shall have been trained in:

1. ...

2. adult cardiopulmonary resuscitation equivalent to American Heart Association Class C Basic Life Support; and

3. Neonatal Resuscitation Program endorsed by American Academy of Pediatrics/American Heart Association.

4. Repealed.

E. - G.5. ...

H. There shall be enough staff assigned to the postpartum care area to meet the needs of the clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40: 2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2119 (August 2022), amended LR 49:484 (March 2023).

§6759. Transfer Agreements and Client Transfers

A. ...

B. If the FSBC is not able to secure a written transfer agreement, the licensed healthcare practitioner shall be responsible for the safe and immediate transfer of the patients from the FSBC to a hospital when a higher level of care is indicated. Transportation to a local hospital shall be mediated by ambulance when emergency consultation is needed.

C. - C.3. ...

D. The FSBC shall be located within 20 minutes' transport time to a general acute care hospital providing obstetric services 24 hours per day and seven days a week, with which the FSBC has a written transfer agreement. The FSBC shall maintain a contractual relationship with the general acute care hospital, including a written transfer agreement, which allows for an emergency cesarean delivery to begin within 30 minutes of the decision made by a licensed obstetrician at the receiving hospital that a cesarean delivery is necessary.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40: 2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2119 (August 2022), amended LR 49:484 (March 2023).

Subchapter E. Facility Responsibilities

§6767. General Provisions

A. - A.5. ...

B. An FSBC shall have qualified staff sufficient in number to meet the needs of clients and to ensure provision of services.

C. The FSBC shall develop and maintain documentation of an orientation program for all employees, either contract or staff that is sufficient in scope and duration to inform the individual about his/her responsibilities, how to fulfill them, review of policies and procedures, job descriptions, competency evaluations, and performance expectations. An

orientation program and documented competency evaluation and/or job expectations of assigned or reassigned duties shall be conducted prior to any assignments or reassignments.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2120 (August 2022), amended LR 49:484 (March 2023).

§6769. Staffing Requirements

A. Administrative Staff. The following administrative staff is required for all FSBCs:

1. a qualified administrator at each licensed geographic location who shall meet the qualifications as established in these provisions; and

2. other administrative staff as necessary to operate the FSBC and to properly safeguard the health, safety, and welfare of the clients receiving services.

3. Repealed.

B. - B.2. ...

3. The administrator shall meet the following qualifications:

a. possess a college degree from an accredited university; or

b. have three years of relevant work experience involving administrative duties in a healthcare facility.

B.4. - D.9. ...

E. Licensed Healthcare Practitioner Staff

1. The FSBC shall have an organized licensed healthcare practitioner staff, inclusive of one or more of the following, who shall attend each woman in labor from the time of admission through birth, and the immediate postpartum period:

E.1.a. - F.1. ...

2. The FSBC shall ensure that the delivery services are directed under the leadership of licensed healthcare practitioner(s) sufficient in number, to plan, assign, supervise, and evaluate delivery services, as well as to give clients the high-quality care that requires the judgment and specialized skills of licensed healthcare practitioners.

2.a. - 3....

4. A formalized program on in-service training shall be developed and implemented for all categories of the FSBC. Training shall be required on a quarterly basis related to required job skills.

a. Documentation of such in-service training shall be maintained on-site in the FSBC's files. Documentation shall include the:

i. training content;

ii. date and time of the training;

iii. names and signatures of personnel in attendance; and

iv. name of the presenter(s).

5. General staffing provisions for the delivery rooms shall be the following:

a. each delivery procedure shall be performed by a licensed healthcare practitioner; and

i. - iv. Repealed.

b. appropriately trained qualified personnel may perform assistive functions during each delivery procedure.

6. - 6.b.Repealed.

G. - G.4.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2120 (August 2022), amended LR 49:484 (March 2023).

§6773. Clinical Records

A. - F. ...

G. The following data shall be documented and included as part of each client’s basic clinical record:

1. - 16.d. ...

17. name(s) of the treating licensed healthcare practitioner(s);

G.18. - K.2. ...

L. All pertinent observations, treatments, and medications given to a client shall be entered in the staff notes as part of the clinical record. All other notes relative to specific instructions from the licensed healthcare practitioner shall be recorded.

M. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2122 (August 2022), amended LR 49:485 (March 2023).

Subchapter F. Safety, Sanitization and Emergency Preparedness

§6781. Infection Control

A. - G. ...

1. Employees with symptoms of illness that have the potential of being potentially contagious or infectious (i.e. diarrhea, skin lesions, respiratory symptoms, infections, etc.) shall be either evaluated by a physician or another qualified licensed healthcare practitioner and/or restricted from working with clients during the infectious stage.

H. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2124 (August 2022), amended LR 49:485 (March 2023).

Subchapter G. Physical Environment

§6793. General Requirements

A. - E. ...

F. Waivers

1. The secretary of the department or their designee may, within their sole discretion, grant waivers to building and construction guidelines. The facility shall submit a waiver request in writing to the HSS. The facility shall demonstrate how patient safety and the quality of care offered is not compromised by the waiver. The facility shall demonstrate their ability to completely fulfill all other requirements of the service. The department will make a written determination of the request. Waivers are not transferable in an ownership change, and are subject to review or revocation upon any change in circumstances related to the waiver. The facility does not have the right to an administrative appeal in regards to the denial or revocation of any waiver.

2. - 3. Repealed.

G. Facility within a Facility

1. If more than one healthcare provider occupies the same building, premises, or physical location, all treatment facilities and administrative offices for each healthcare facility shall be clearly separated from the other by a clearly defined and recognizable boundary.

2. There shall be clearly identifiable and distinguishable signs posted inside the building as well as signs posted on the outside of the building for public identification of the FSBC. Compliance with the provisions of R.S. 40:2007 shall be required.

3. An FSBC that is located within a building that is also occupied by one or more other businesses and/or other healthcare facilities shall have all licensed spaces and rooms of the FSBC contiguous to each other and defined by cognizable boundaries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2127 (August 2022), amended LR 49:485 (March 2023).

§6795. General Appearance and Space Requirements

A. - F. ...

G. The FSBC shall meet the following requirements including, but not limited to:

1. - 5. ...

6. each FSBC shall provide for a well-marked, illuminated entrance for drop off and/or pick up of clients before and after delivery services are complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2128 (August 2022), amended LR 49:485 (March 2023).

Dr. Courtney N. Phillips
Secretary

2303#055

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Assistive Technology Services
(LAC 50:XXI.2301)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.2301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 3. Adult Day Health Care Waiver

Chapter 23. Services

§2301. Covered Services

A. - A.3.b. ...

c. Support coordinators may assist participants to transition for up to six months while the participants still reside in the facility.

4. ...

a. Allowable expenses are those necessary to enable the individual to establish a basic household (excluding expenses for room and board) including, but not limited to:

i. ...

ii. specific set up fees or deposits;

a.iii. - e. ...

f. Funds are available for specific items up to the lifetime maximum amount identified in the federally-approved waiver document.

5. Assistive Technology. These services include the following:

a. an item, piece of equipment, or product system, acquired commercially, that is used to increase, maintain, or improve functional capabilities of participants; and

b. the assistance provided to the participant in the acquisition, set up, and use of an assistive technology device:

i. evaluating to determine if an assistive technology device is appropriate for the participant;

ii. purchasing the most appropriate assistive technology device for the participant; and

iii. costs associated with the delivery, set up, and training.

B. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:623 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended LR 25:1100 (June 1999), repromulgated LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2495 (September 2013), LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:2163 (December 2018), LR 49:486 (March 2023).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of

Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips
Secretary

2303#056

RULE

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Home and Community-Based Services Waivers

Community Choices Waiver

Home-Delivered Meals and Assistive Technology Services
(LAC 50:XXI.Chapter 83 and 9501)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services has amended LAC 50:XXI.Chapter 83 and §9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services
Waivers

Subpart 7. Community Choices Waiver

Chapter 83. Covered Services

§8307. Personal Assistance Services

A. - C. ...

D. PAS may be provided through the "a.m." and "p.m." delivery option defined as follows:

1. ...

2. a minimum of one hour and a maximum of two hours of PAS provided to assist the participant at the end of his/her day, referred to as the "p.m." portion of this PAS delivery method; and

3. - 4. ...

5. "a.m. and p.m." PAS cannot be "shared";

D.6. - K....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:320 (February 2013), LR 39:1778 (July 2013), LR 40:791 (April 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1898 (October 2018), LR 47:885 (July 2021), LR 49:486 (March 2023).

§8317. Home Delivered Meals

A. - C. ...

D. Medically tailored meals (MTMs) may be delivered to participants with chronic conditions when discharging from the hospital and/or nursing facility. In addition, participants will receive nutritional guidance to support healthy food choices for their third meal and snacks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3522 (December 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 49:487 (March 2023).

§8331. Assistive Technology

A. Assistive technology services include the following:

1. an item, piece of equipment or product system, acquired commercially, that is used to increase, maintain or improve functional capabilities of participants; and
2. the assistance provided to the participant in the acquisition, set up and use of an assistive technology device:
 - a. evaluating to determine if an assistive technology device is appropriate for the participant;
 - b. purchasing the most appropriate assistive technology device for the participant; and
 - c. costs associated with the delivery, set up, and training.

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 49:487 (March 2023).

Chapter 95. Reimbursement

§9501. Reimbursement and Rate Requirements

A. - A.6. ...

B. The following services shall be reimbursed at the authorized rate or approved amount of the assessment, inspection, installation/fitting, maintenance, repairs, adaptation, device, equipment, or supply item and when the service has been prior authorized by the plan of care:

1. - 5. ...
6. monitored in-home caregiving (MIHC) assessment;
7. certain nursing, and skilled maintenance therapy procedures; and
8. assistive technology.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508, 508 (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014), LR 42:897 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1902 (October 2018), LR 47:886 (July 2021), LR 49:487 (March 2023).

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

Dr. Courtney N. Phillips
Secretary

2303#057

RULE

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

**Inpatient Hospital Services
Coverage of Genetic Testing of Critically Ill Infants
(LAC 50:V.119)**

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:V.119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 1. General Provisions

§119. Coverage of Genetic Testing of Critically Ill Infants

A. Pursuant to Act 501 of the 2022 Regular Session of the Louisiana Legislature, effective for dates of service on or after January 1, 2023, the Medicaid Program shall provide reimbursement to inpatient hospitals for rapid whole genome sequencing testing of a Medicaid enrolled infant who meets all of the following criteria:

1. is one year of age or younger;
2. has a complex illness of unknown etiology; and
3. is receiving inpatient hospital services in an intensive care unit or in a pediatric care unit.

B. For the purposes of this Section, rapid whole genome sequencing testing includes individual sequencing, trio sequencing of the parents of the infant, and ultra-rapid sequencing.

C. Reimbursement. Reimbursement will be made as an add-on service in addition to the hospital payment for the inpatient hospital stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:487 (March 2023).

Dr. Courtney N. Phillips
Secretary

2303#058

RULE

Department of Insurance Office of the Commissioner

Regulation 31—Holding Company (LAC 37:XIII.Chapter 1)

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., has amended Regulation 31—Holding Company. The purpose of the amendment to Regulation 31 is to add provisions for the continuity of essential services and functions provided by affiliates when an insurer is placed into receivership as provided in Act 713 of the 2022 Regular Legislative Session and to implement the revisions to the NAIC Insurance Holding Company System Model Regulation (#450) related to transactions subject to notice regarding agreements for cost sharing services and management services and group capital calculations. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 1. Regulation Number 31—Holding Company

§128. Group Capital Calculation

A. The lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

1. has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;

2. has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

3. has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

4. the holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and

5. the non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

B. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if:

1. the insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than

\$1,000,000,000; and all of the following additional criteria are met:

a. has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

b. does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and

c. the holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to Subsection A and 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:

1. any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in R.S. 22:611 et seq. and R.S. 22:631 et seq. or a similar standard for a non-U.S. insurer; or

2. any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in §1305 and §1307 of Regulation 43; or

3. any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

D. A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:

1. with respect to an insurance holding company system described in R.S. 22:691.6(M)(2)(d):

a. the non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

b. where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international

capital standard. This will serve as the documentation otherwise required in Subsection D.1.a.

2. the non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

E. A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:

1. a list of jurisdictions that “recognize and accept” the group capital calculation pursuant to R.S. 22:691.6(M)(2)(d), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under R.S. 22:691.6(M)(2)(d). To assist with a determination under R.S. 22:691.6(M)(3), the list will also identify whether a jurisdiction that is exempted under either R.S. 22:691.6(M)(2)(c) or (d) requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

2. for a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Subsection D.1.b will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

3. if the lead state commissioner makes a determination pursuant to R.S. 22:691.6(M)(2)(d) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

4. upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

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, Office of the Commissioner, LR 49:488 (March 2023).

§129. Transactions Subject to Prior Notice—Notice Filing

A. ...

B. Agreements for cost sharing services and management services shall at a minimum and as applicable:

1. identify the person providing services and the nature of such services;

2. set forth the methods to allocate costs;

3. require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

4. prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

5. state that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

6. define records and data of the insurer to include all records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate;

7. specify that all records and data of the insurer are and remain the property of the insurer and;

a. are subject to control of the insurer;

b. are identifiable; and

c. are segregated from all other persons’ records and data or are readily capable of segregation at no additional cost to the insurer;

8. state that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

9. include standards for termination of the agreement with and without cause;

10. include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in §129.B.11 through §129.B.15 of this regulation;

11. specify that, if the insurer is placed in supervision, seizure, conservatorship or receivership pursuant to R.S. 22:2001-2044 and R.S. 22:731-737:

a. all of the rights of the insurer under the agreement extend to the receiver or commissioner to the extent permitted by R.S. 22:691.7; and

b. all records and data of the insurer shall be identifiable and segregated from all other persons’ records and data or readily capable of segregation at no additional cost to the receiver or the commissioner;

c. a complete set of records and data of the insurer will immediately be made available to the receiver or the commissioner, shall be made available in a usable format and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner’s request, and the cost to transfer data to the receiver or the commissioner shall be fair and reasonable; and

d. the affiliated person(s) will make available all employees essential to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or commissioner;

12. specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to R.S. 22:2001-2044 and R.S. 22:731-737;

13. specify that the affiliate will provide the essential services for a minimum period of time after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to R.S. 22:2001-2044 and R.S. 22:731-737, as ordered or directed by the receiver or commissioner. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, commissioner or supervising court;

14. specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding supervision, a seizure, conservatorship or receivership pursuant to R.S. 22:2001-2044 and R.S. 22:731-737, and will make them available to the receiver or commissioner as ordered or directed by the receiver or commissioner for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, commissioner, or supervising court; and

15. specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to R.S. 22:2001-2044 and R.S. 22:731-737, and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under §129.B.11 through §129.B.14 of this regulation will extend to such guaranty association(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27, R.S. 22:731-737, and R.S. 22:2001-2044.

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), amended LR 49:489 (March 2023).

James J. Donelon
Commissioner

2303#020

RULE

Department of Insurance Office of the Commissioner

Regulation 42—Group Self-Insurance Funds (LAC 37:XIII.Chapter 11)

Editor's Note: This Rule is being repromulgated to correct a submission error. The original Rule may be viewed on pages 267-270 of the February 20, 2023 Louisiana Register.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has amended Regulation 42—Group Self-Insurance Funds. The Department of Insurance has amended Regulation 42 to update statutory references and revise language to align with current law.

The purpose of the amendment of Regulation 42 is to make changes to bring Regulation 42 into alignment with

current law. Definitions have been updated. The requirements for an application to create a group self-insurance fund have been revised. The language regarding filing and use of rates has been updated. The procedure for addressing fund insolvencies has been updated. Language regarding required examinations of group self-insurance funds has been added. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 11. Regulation Number 42—Group Self-Insurance Funds

§1109. Excess Insurance Requirements for Group Self-Insurance Funds

A. All funds shall maintain specific excess insurance or reinsurance in the amount of at least \$2,000,000 per occurrence and aggregate excess insurance or reinsurance of at least \$2,000,000.

B. ...

C. - E. Repealed.

F. The commissioner shall deny the use of a retention requested by a fund if he finds:

F.1. - G.2. ...

H. Repealed.

I. - L.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1200.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:1403 (December 1992), LR 49:269 (February 2023), LR 49:490 (March 2023).

James J. Donelon
Commissioner

2303#023

RULE

Department of Insurance Office of the Commissioner

Regulation 53—Basic Health Insurance Plan Pilot Program (LAC 37:XIII.Chapter 31)

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., has amended Regulation 53—Basic Health Insurance Plan Pilot Program. The purpose of the amendment to Regulation 53 is to modify terminology relative to accident and health insurance and insurance producers and to update statutory references that have been redesignated. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 31. Regulation 53—Basic Health Insurance Plan Pilot Program

§3105. Definitions

A. For the purposes of this regulation:

Accidental Injury—bodily injury sustained as the result of an unforeseen event and which is the direct reason for receiving care and treatment (independent of disease, bodily infirmity or any other cause). Such care shall occur while coverage under the pilot is in force. It does not include injuries for which benefits are provided under any workers' compensation, employers' liability, or for which another party is liable under automobile, property and casualty, and other coverage.

Admission—begins the first day an insured becomes a registered hospital inpatient and continues until insured is discharged from the facility.

Adult—an individual who is greater than 24 but less than 65 years of age.

Applicant—an individual who applies for coverage under the LA Health Plan.

Authorized Carrier—the health insurance carrier or health maintenance organization licensed and in compliance with the Louisiana Insurance Code certified by the department to offer the LA Health Plan.

Benefit Payment—the amount the authorized carrier will pay for covered services. See §§3127-3133 of this regulation.

Benefit Period—one year, also referred to as year or calendar year. The benefit period does not begin before the insured's effective date. The benefit period does not continue after the insured's coverage ends.

Clinic—a facility for the diagnosis, care and treatment of outpatients.

Commissioner—the Louisiana Commissioner of Insurance.

Co-Payment—the cost-sharing fee charged to an insured under LA Health as specified in the contract between the authorized carrier for LA Health and the insured.

Department—the Louisiana Department of Insurance.

Dependent—

a. the spouse and all unmarried children under the age of 24;

b. children include natural children, legally adopted children and step-children. Also included are children (or children of a spouse) for whom an insured has legal responsibility resulting from a valid court decree. Foster children that an insured expects to raise to adulthood and that live with an insured in a regular parent-child relationship are considered children;

c. students who are unmarried children who have not yet attained the age of 24 and who are enrolled as fulltime students and who are dependent upon the primary insured;

d. mentally retarded or physically handicapped children remain covered to age 21 at which time they are eligible for their own individual coverage;

e. a child's coverage ends when any of the following occurs:

i. marriage or attaining age 21 (whichever comes first);

ii. termination of an insured's coverage under the LA Health Plan; or

iii. if a child over age 21 no longer qualifies as a full-time student.

Effective Date—the date an applicant becomes eligible for coverage under an authorized carrier for the LA Health Plan.

Hospital—an institution, licensed by the state, which:

a. provides inpatient services and is compensated by or on behalf of its patients;

b. primarily provides medical and surgical facilities to diagnose, treat and care for the injured or sick;

c. has a staff of physicians licensed to practice medicine by the Louisiana State Board of Medical Examiners;

d. provides nursing care by registered nurses or:

NOTE: The term *hospital* does not mean:

1. an extended care facility, nursing home, community based care, or group home;

2. a place of rest;

3. a facility for the aged;

4. a custodial institution whose primary purpose is to furnish food, shelter, training, or unskilled or nonmedical services; or

5. an institution for exceptional or handicapped children. licensed practical nurses on duty 24-hours-a-day.

Insurance Producer or Producer—an individual who is licensed by the commissioner as an insurance producer pursuant to the provisions of R.S. 22:1541-1566.

Insured—an individual domiciled in this state who is eligible to receive benefits from an authorized carrier under the LA Health Plan.

LA Health—the Louisiana Basic Health Insurance Plan Pilot Program.

Louisiana Insurance Code—Title 22 of the Louisiana Revised Statutes of 1950.

Mental and Nervous Disorders—includes (whether organic or nonorganic, whether of biological, nonbiological, genetic, chemical, or nonchemical origin, and irrespective of cause, basis or inducement) mental disorders, mental illnesses, psychiatric illnesses, mental conditions and psychiatric conditions. This includes, but is not limited to, psychoses, neurotic disorders, schizophrenic disorders, affective disorders, personality disorders and psychological or behavioral abnormalities associated with transient or permanent dysfunction of the brain or related neurohormonal systems. This is intended to include disorders, conditions, and illnesses listed in Diagnostic and Statistical Manual of Mental Disorders (DSM-IIIIR).

Minor Dependent—a dependent under the age of 24.

Non-Smoker—an individual who has not smoked cigarettes, cigars, pipes or other substances within the past year.

Participating Hospital—a hospital located in Louisiana which has concluded a written agreement with, and in form approved by, an authorized carrier under the LA Health Plan.

Participating Provider—a licensed health care provider who has concluded an agreement with, and in form approved by, an authorized carrier under the LA Health Plan to serve those insured by LA Health.

Pilot Plan—a plan that provides an insured with health insurance under the LA Health program and is governed by R.S. 22:2241-2247 and authorized by the commissioner.

Pilot Program—the program of health insurance which is authorized by R.S. 22:2241-2247.

Provider—includes any discipline licensed by the state of Louisiana to provide and be directly reimbursed for

services covered by the LA Health Plan including, but not limited to, the following:

- a. doctor of medicine (M.D.) legally entitled to practice medicine and perform surgery by the Louisiana State Board of Medical Examiners;
- b. doctor of chiropractic (D.C.) legally entitled to practice chiropractic services;
- c. doctor of podiatric medicine (D.P.M.) legally entitled to practice podiatry;
- d. all providers shall be licensed by the state of Louisiana.

Semiprivate Room—a hospital room which has 2, 3, or 4 beds.

Service Area—that part of the state of Louisiana in which the authorized carrier is applying to offer or is offering the pilot plan.

Skilled Nursing Care—care required, while recovering from an illness or injury, which is received in a skilled nursing facility. This care requires a level of care or services less than that in a hospital, but more than could be given in the patient's home or in a nursing home not certified as a skilled nursing facility.

Smoker—an individual who has smoked cigarettes, cigars, pipes or other substances within the past year or who is currently smoking cigarettes, cigars, pipes or other substances.

Utilization Review—a function performed by an authorized carrier under the LA Health Plan or an entity selected by the carrier to review and approve whether the services provided, or to be provided, are medically necessary including, but not limited to, whether acute hospitalization, length of stay, outpatient care, or diagnostic services are appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:490 (March 2023).

§3113. Authorization of Pilot Plan

A. - B.5. ...

C. The LA Health Plan shall not be issued or delivered to an applicant for the plan until a copy of the form is filed and approved by the commissioner. The commissioner shall review these forms in accordance with the Louisiana Insurance Code.

D. ...

E. The commissioner, in accordance with the Louisiana Insurance Code, may make, or cause to be made, an examination of the books and records of the authorized carrier of the LA Health Plan as the commissioner deems necessary to ensure compliance with these regulations and the pilot plan agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3115. Revocation of an Authorized Carrier's Authority

A. ...

1. the authorized carrier's plan does not comply with R.S. 22:2241-2247 or the Louisiana Insurance Code;

2. an authorized carrier becomes subject to suspension or revocation of its certificate or authority under the Louisiana Insurance Code;

A.3. - D.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3119. Premium Taxes

A. Premium taxes required under R.S. 22:842 shall be imposed on an authorized carrier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3121. Guaranty Association

A. All applicable assessments for the Louisiana Life and Health Insurance Guaranty Association shall be imposed on an authorized carrier in accordance with R.S. 22:2081-2099.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3123. Health Insurance Producers

A. For purposes of serving a LA Health Plan policy or soliciting prospective insureds for such a policy, insurance producers licensed for the line of accident and health or sickness shall be deemed to be servicing and soliciting within the scope of their license, pursuant to R.S. 22:1541-1547 and 22:255 of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3125. Eligibility

A. Eligibility for coverage and the effective date for an insured shall be determined by the authorized carrier after an applicant has returned the application for coverage to the authorized carrier and has been approved by said carrier. Eligibility for the LA Health Plan is limited to Louisiana residents with income levels below 250 percent of the federal poverty level. Individuals with major medical accident and health insurance coverage, individuals who are eligible for coverage under the Medicaid or Medicare programs, and those who have voluntarily canceled their accident and health insurance coverage during the last six months are not eligible under the LA Health Plan. The only exception to this requirement is for those individual eligibles

who are without coverage because their coverage furnished in accordance with R.S. 22:1046, group health continuation coverage, has expired; or for those individual eligibles with significantly reduced coverage through benefit riders or limitations.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:492 (March 2023).

§3127. Benefits

A. ...

B. No requirement of the Louisiana Insurance Code relating to minimum required policy benefits, other than the minimum standards contained in this regulation or in R.S. 22:2241-2247, shall apply to the LA Health Plan, its insureds, or the authorized carrier.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:493 (March 2023).

§3141. Premium Maximums, Method for Calculating

A. Premiums charged for the LA Health pilot plans shall be based on the average standard rate charged by the five largest health and accident insurers offering individual coverage in the state, as identified by the Louisiana Health Insurance Association's annual survey in accordance to R.S. 22:1213.E.3. Annual survey results may be obtained from the department. For the purpose of calculating the maximum premiums as established in §3141.B of this regulation, insurers shall use the premiums identified in the Louisiana Health Insurance Association's Plan "A" and shall use the strict average of male and female rates.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:493 (March 2023).

§3145. General Provisions

A. - D. ...

E. An authorized carrier may change the amount of monthly premium for the LA Health Plan in compliance with the Louisiana Insurance Code. Payment by the insured of the new rate is sufficient to indicate acceptance of the new rate.

F. The LA Health Plan shall be governed by the laws and regulations of the state of Louisiana and specifically those of the LA Health Plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:2241-2247, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 20:1012 (September 1994), amended LR 49:493 (March 2023).

James J. Donelon
Commissioner

2303#021

RULE

Department of Insurance Office of the Commissioner

Regulation 124—Catastrophe Claims Process Disclosure Form-Guide (LAC 37:XIII.Chapter 191)

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., has promulgated Regulation 124—Catastrophe Claims Process Disclosure Form-Guide. Regulation 124 is necessary to implement the provisions of Acts 2022, No. 80 of the Regular Session of the Louisiana Legislature, which require the commissioner of insurance to create rules and regulations related to the issuance of a catastrophe claims process disclosure form-guide pursuant to the particulars set forth in R.S. 22:1897.

Regulation 124 addresses the disclosure form-guide that property and casualty insurers shall provide to its policyholders who have asserted a property insurance claim arising out of an event declared by the governor to be a state of emergency. Regulation 124 also identifies the deadline for, the permissible methods of, and the type and quality of documentary evidence needed to prove delivery of the disclosure form-guide to a policyholder in accordance with R.S. 22:1897. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 191. Regulation 124—Catastrophe Claims Process Disclosure Form-Guide

§19101. Authority

A. Regulation 124 is promulgated on behalf of the Department by the Commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, and as specifically required in accordance with R.S. 22:1897.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:493 (March 2023).

§19103. Purpose

A. The purpose of Regulation 124 is to implement the provisions of Acts 2022, No. 80 of the Regular Session of the Louisiana Legislature, which mandate that the Department promulgate rules and regulations for a catastrophe claims process disclosure form-guide that includes, but is not limited to, the particulars specified in R.S. 22:1897(A)(1) – (12).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:493 (March 2023).

§19105. Scope and Applicability

A. Regulation 124 applies to all property and casualty insurers settling a property insurance claim arising out of a state of emergency declared by the governor pursuant to R.S. 29:724.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:493 (March 2023).

§19107. Definitions

A. These terms when used in this Chapter shall have the following meanings:

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Disclosure Form-Guide—the catastrophe claims process disclosure form referenced in R.S. 22:1897.

Governor—the governor of the state of Louisiana.

Insurer(s)—property and casualty insurer(s) licensed to conduct business in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19109. Disclosure Form-Guide

A. Whenever a state of emergency is declared by the governor in accordance with R.S. 29:724, an insurer must provide a disclosure form-guide to all policyholders asserting a claim for damages occasioned by the disaster or catastrophic event made the subject of the governor’s emergency declaration.

B. The disclosure form-guide was created by the department in accordance with the particulars set forth in R.S. 22:1897(A)(1)-(12) and thereafter issued by bulletin to all property and casualty insurers licensed in this state.

C. The disclosure form-guide has been uploaded to the department’s website, at www.ldi.la.gov, and insurers are authorized to access and download it as needed to comply with Regulation 124 and with the statutory requirements set forth in R.S. 22:1897.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19111. Date and Method of Delivery

A. The insurer shall send the disclosure form-guide to the policyholder on the date that the adjuster commences an initial investigation of the claim.

B. The insurer may deliver the disclosure form-guide to the policyholder by United States mail, electronic delivery, or hand-delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19113. Proof of Timely Delivery

A. Delivery by Mail. If the disclosure form-guide is sent to a policyholder via United States mail, proof of such mailing shall be sufficient evidence to establish delivery of the disclosure form-guide, provided it reflects the date of the mailing and the policyholder.

B. Electronic Delivery. If the disclosure form-guide is sent to a policyholder via email, the email delivery receipt or, if none, a copy of the as-sent email, shall be sufficient evidence to establish delivery of the disclosure form-guide,

provided the delivery receipt or email reflects the date of the electronic mailing and the policyholder.

C. Hand-Delivery. If the disclosure form-guide is hand-delivered to a policyholder, the representative of the insurer perfecting delivery must complete and sign a Certificate of Hand-Delivery, verifying pertinent details related to the delivery of the disclosure form-guide, including the date and location of the delivery, the name of the person accepting the delivery, and the name of the policyholder. Appendix A sets forth the Certificate of Hand-Delivery form insurers must use when opting to hand-deliver the disclosure form-guide to a policyholder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19115. Severability Clause

A. The provisions of this Subpart are severable. If any provision or item of this Subpart, or application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Subpart, which are to be given effect without the invalid provision, item, or application of the Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19117. Effective Date

A. Regulation 124 shall become effective upon publication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

§19119. Appendix A—Certificate Of Hand-Delivery

CATASTROPHE CLAIMS PROCESS DISCLOSURE FORM-GUIDE

I hereby certify, under penalty of perjury, that on the ____ day of _____, 20____, I appeared at:

(Physical address): _____

and personally hand-delivered a true and complete copy of the Catastrophe Claims Process Disclosure Form-Guide to:

(Name of recipient): _____

Delivery of this disclosure form-guide was made in connection with the following policy of insurance:

(Policy number): _____

(Policyholder): _____

(Printed Name): _____

(Signature): _____

(Date signed): _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:11, 22:1897, and the Administrative Procedure Act, R.S. 49:950, et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:494 (March 2023).

James J. Donelon
Commissioner

2303#037

RULE

Department of Public Safety and Corrections Corrections Services

Equal Employment Opportunity (LAC 22:I.201)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §201, Equal Employment Opportunity (Includes Americans with Disabilities Act).

The revisions are in accordance with the provisions of ACT 103 of the 2022 Regular Session. Several definitions have been revised for compliance with Americans with Disabilities Act (ADA) and ACT 103. A provision was added regarding employee voluntary self-identification of disability, as well as, provisions regarding training in accordance with ACT 103. Also revised Section 203 Request for Accommodation form and Section 205 Medical Inquiry form. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 2. Adult Services

§201. Equal Employment Opportunity (Includes Americans with Disabilities Act)

A. Purpose—to establish the secretary's commitment to equal employment opportunities and to establish formal procedures regarding reasonable accommodation for all employees, applicants, candidates for employment (including qualified ex-offenders) and visitors.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, regional wardens, wardens, director of Probation and Parole, director of Prison Enterprises, employees, applicants, candidates for employment (including ex-offenders) and visitors. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to assure equal opportunities to all employees, applicants, candidates for employment (including ex-offenders) and visitors without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability or age and ensure compliance with the requirements of the Americans with Disabilities Act as amended.

1. Exceptions:

a. where age, sex or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations;

b. where the implications of nepotism restrict such employment or employment opportunity; and

c. preferential hiring will be given to veterans in accordance with Chapter 22 of the Civil Service rules.

2. Equal opportunities will be provided for employees in areas of compensation, benefits, promotion, recruitment, training and all other conditions of employment. Notices of equal employment opportunities will be posted in prominent accessible places at each employment location.

3. Equal access to programs, services and activities will be provided to all visitors. Advance notice of a requested accommodation shall be made during normal business hours to ensure availability at the time of the visit.

4. If any employee is made aware of or has reason to believe that a visitor to the unit is deaf or hard of hearing, the employee is required to advise the person that appropriate auxiliary aids and services will be provided. The employee should then direct the visitor to the unit ADA coordinator or designee. Likewise, such information must be forthcoming in response to any request for auxiliary aid or services.

5. Harassment, discrimination, or retaliating against an individual related to exercising or aiding in the exercise of ADA rights or for having a relationship or association with another individual with a known disability is prohibited.

D. Definitions

Age Discrimination in Employment Act (ADEA)—a federal law to protect individuals 40 years of age and over from arbitrary discrimination in employment practices, unless age is a bona fide occupational qualification. The state of Louisiana has passed similar legislation and the term ADEA will refer to both federal and state prohibitions against age discrimination in this regulation.

Americans with Disabilities Act (ADA)—a comprehensive federal law which requires the state to provide equal access for people with disabilities to programs, services and activities of the department, as well as to employment opportunities.

Applicant—a person who has applied for a job and whose qualification for such is unknown.

Auxiliary Aids and Services (AAS)—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

Candidate—a person who has successfully passed the required test and/or meets the Civil Service minimum qualifications for the job sought.

Disability—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment, or being regarded as having such impairment.

a. *Impairment*—any physiological, mental or psychological disorder or condition, including those that are episodic or in remission, that substantially limits one or more major life activities when active.

b. Major Life Activities:

i. generally, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others and working; and

ii. the operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Effective Communication—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

Equal Employment Opportunity (EEO)—the operation of a system of human resources administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability or age (except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to the proper and efficient operation of the department).

a. The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

Essential Functions—the fundamental and primary job duties of a position. Considerations in determining whether a function is essential includes such factors as the written job description; whether the reason the position exists is to perform that function; the limited number of employees available to perform that function; and the degree of expertise required to perform the function.

Ex-Offender—those offenders who are no longer in the physical custody of the DPS and C or no longer under the supervision of the Division of Probation and Parole.

Family and Medical Leave—leave for which an employee may be eligible under the provisions of the Family and Medical Leave Act of 1993.

HDQ ADA Director—the department representative responsible for facilitating the appeals process relative to any grievances filed regarding a request for accommodation.

Qualified Individual—

a. Under Title I of the ADA, an individual with a disability who meets the requisite skill, experience, and education requirements for the position and who can perform the essential functions of the position held or applied for, with or without reasonable accommodation(s).

b. Under Title II of the ADA, an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the department, with or without reasonable accommodation(s).

Reasonable Accommodation—

a. Under Title I, a modification or adjustment to the work environment that will enable a qualified individual with a disability to:

i. participate in the testing, application and/or interview process;

ii. perform the essential functions of the job; or

iii. provide equal opportunity to the benefits and privileges of employment.

b. Under Title II, a modification that permits an individual with a disability to effectively communicate with the department and/or ensure equal opportunity relative to department's programs, services, activities and facilities.

Requestor—a person who requests an accommodation for a disability.

Seniority—a calculation of the number of years of service to the department and used in comparison to another employee's or applicant's number of years of service to the department. Seniority may be used as a factor in employment decisions but may never be used as a substitute for age discrimination.

Substantially Limits—an impairment that prevents the ability of an individual to perform one or more major life activities as compared to most people in the general population when taking into consideration factors such as the nature, severity, duration and long-term impact of the condition. Such consideration must be regardless of any mitigating measures such as modifications, auxiliary aids or medications used to lessen the effects of the condition (except for use of ordinary eyeglasses or contact lenses).

Undue Hardship—an accommodation that would be unduly costly, extensive, substantial or disruptive, in light of factors such as the size of the agency, the resources available and the nature of the agency's business operations.

Unit ADA Coordinator—the department representative responsible for facilitating the interactive evaluation process relative to any request for accommodation.

Visitor—for the purpose of this regulation, includes any non-departmental employee who is authorized to be on institutional grounds (i.e., volunteers, contractors, official guests, etc.).

E. Procedures

1. Coordination of ADA Matters

a. The secretary will establish and designate a headquarters ADA director. This employee is charged with reviewing, recording and monitoring ADA matters for the department and will also advise and make recommendations to the secretary or designee regarding such matters as appropriate.

b. Each unit head will designate a primary unit ADA coordinator to coordinate unit ADA matters. All units will prominently post the name and telephone number of the unit ADA coordinator.

2. Initiation of Requests for Accommodation

a. A qualified requestor with a known disability of a long term nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the requestor or others and does not create undue hardship on the department or its employees.

NOTE: If a requestor is an employee, applicant or a candidate for employment, the requestor must be able to perform the essential functions of the job with the accommodation.

b. The ADA does not require that a request for accommodation be provided in any particular manner; therefore, regardless of the form of the request, the department is deemed to have knowledge of the request.

c. If an employee, applicant or candidate for employment informs anyone in his chain of command, human resources personnel, or the unit ADA coordinator that he has difficulty performing his job duties or participating in a program or service due to a medical condition, the employee, applicant or candidate for employment is deemed to have made a request for accommodation.

d. If a visitor informs an employee that he cannot participate in the visiting process or any other program or service that the visitor is entitled to participate in, the visitor is deemed to have made a request for accommodation.

e. Once any request for accommodation has been received, either verbally or in writing, the person receiving the request should immediately relay the request to the unit ADA coordinator or designee.

f. An employee, applicant, candidate for employment (including ex-offenders) or visitor may complete a request for accommodation form. The requestor completing the form must forward it to the unit ADA coordinator for processing.

3. Accommodation Review Process

a. Upon receipt of the completed request for accommodation the unit ADA coordinator shall seek to determine the following:

i. if the medical condition is of a temporary or long-term nature;

ii. if additional medical information is needed from the requestor's physician or through a second opinion. At this point of the process, the unit ADA coordinator may inform the requestor that his doctor must complete an essential function form to determine the following:

NOTE: The Index of Essential Job Functions contains the Essential Functions Form for each job category used by the department. The index is maintained in each unit Human Resources Office.

(a). what specific symptoms and functional limitations are creating barriers;

(b). if the limitations are predictable, subject to change, stable or progressive;

(c). how the limitations impact the requestor's ability to perform the job, and for visitors, how the limitations impact the requestor's ability to fully participate in the activities and services to which the requestor is entitled;

iii. if the condition impairs a major life activity.

b. If questions remain, staff may contact the requestor's treating physician directly.

c. The unit ADA coordinator shall ensure that a formal request is submitted on a request for accommodation form and provide assistance as needed.

d. Once the initial information is gathered, a dialogue between the requestor and unit ADA coordinator regarding resolution of the problem shall begin.

e. The discussion may include the following matters.

i. If the problem is of a temporary nature, use of FMLA or sick leave, Workman's Compensation or a temporary halt of some job duties may resolve the problem.

ii. If a second medical opinion is needed, this is to be performed at the department's cost with a physician of the department's choosing.

iii. If the medical condition is deemed to be a qualified disability, this decision shall be documented.

NOTE: Due to the nature of a disability, the disability may progress and require additional modifications at a later date.

iv. The goal is to reach a mutually acceptable accommodation, if possible. The secretary or designee shall make the final decision on what the actual accommodation will be.

f. An exception to the need to make an accommodation includes, but is not limited to the following:

i. not a qualified disability;

ii. threat to one's self or others. Considerations are as follows:

(a). duration of the risk involved;

(b). nature and severity of the potential harm;

(c). likelihood that potential harm will occur;

(d). imminence of the potential harm;

(e). availability of any reasonable accommodation that might reduce or eliminate the risk;

iii. undue hardship. The decision to use this exception may be made by the headquarters ADA director only after consultation with the undersecretary. A written description of the problem with the requested accommodation and the difficulty anticipated by the unit should be sent to the headquarters ADA director. Considerations are as follows:

(a). scope of the accommodation;

(b). cost of the accommodation;

(c). budget of the department;

(d). longevity of the accommodation;

iv. alteration would fundamentally change the nature of the program, service or activity.

4. Decision

a. Consideration should be given on a case-by-case basis.

b. The granting of leave can be an accommodation.

c. Once the decision to accommodate or not is made, the requestor shall be informed in writing of the decision of whether or not an accommodation will be made, the reason for the decision and the accommodation to be made, if applicable, including any specific details concerning the accommodation. The requestor must also be informed of the right to appeal the decision to the headquarters ADA director.

i. For each decision, a copy of the packet of information containing the decision, all information used to reach the decision and all attempts to resolve the request shall be forwarded to the headquarters ADA director. The unit ADA coordinator shall ensure that all requests for accommodation are properly and timely entered into the department's ADA database within five days of receiving the request.

d. The original of the packet of information concerning the request with the decision shall be maintained in a confidential file for three years after the requestor has left the department's employ or notification has been received that a requestor no longer wishes to be afforded visitor status.

5. Appeal
a. The requestor has the right to appeal the unit's decision for the following reasons only:

- i. the finding that the medical condition is not a qualifying disability;
- ii. the denial of an accommodation; or
- iii. the nature of the accommodation.

b. The requestor shall forward the appeal of the unit's decision to the headquarters ADA director.

c. At the discretion of the headquarters ADA director, additional information or medical documentation may be requested.

d. After consultation with the undersecretary, the headquarters ADA director shall issue a written appeal decision to the requestor, a copy of which shall also be sent to the appropriate unit head and unit ADA coordinator.

e. No additional appeal will be accepted as the headquarters ADA director's decision shall be final.

6. Recordkeeping

a. The headquarters ADA director shall maintain records of all requests for accommodation made throughout the department.

b. To ensure uniform and consistent compliance with the provisions of this regulation, the headquarters ADA director shall maintain and track statistics concerning all requests for accommodation from employees, applicants, candidates for employment and visitors and the nature and outcome of the accommodations requested.

c. If a pattern becomes apparent following review of the statistics, the headquarters ADA director will seek to remedy and/or correct any problems noted and report same to the secretary.

7. Essential Job Functions

a. General Requirements

i. Employment candidates must complete an essential job functions statement at the time of interview for employment and/or return to employment. Employees may be required to complete an up-to-date essential functions form as appropriate and when deemed necessary by the unit head in order to ensure that the fundamental mission of the department is sustained.

ii. The index of essential job functions contains the essential functions form for each job category used by the department. The index is maintained in each unit human resources office.

b. Employee and Unit Specific Requirements. Employees may be required to complete an up-to-date essential job functions statement and medical inquiry form in the following or similar circumstances:

- i. exhaustion of sick leave and if applicable, exhaustion of FMLA entitlement;
- ii. expressed inability to participate in a mandatory work-related activity (i.e., training) and/or to perform essential job functions; and/or
- iii. appearance of the inability to perform essential job functions.

iv. The medical inquiry form must include a prognosis, whether the condition is temporary or permanent, when the condition began, the expected date of return to duty, whether the employee is able to perform the essential functions of the job with or without accommodation and a description of the accommodation needed.

NOTE: In certain situations, a second opinion by an independent third party may be appropriate. This opinion will be at the unit's expense.

8. Conciliation Options for EEO and ADA Concerns

a. Should a requestor feel that he has experienced discrimination in any manner or not be satisfied with the results of the request for accommodation, he may seek conciliation through Corrections Services' grievance process, through the EEOC for employment related complaints and/or the U.S. Department of Justice (USDOJ) for issues not related to employment.

b. Requestors are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a requestor from filing with the appropriate federal agency prior to exhaustion of the department's internal process(es).

9. Departmental Conciliation of EEO and ADA Matters

a. The headquarters Human Resources Section shall coordinate the department's response(s) to complaints and charges of discrimination regarding equal employment opportunity matters. Complaints/charges may be addressed through the internal grievance procedure when such a grievance has been filed and heard at the appropriate unit levels.

b. For formal charges generated by the EEOC or the USDOJ, the unit head and the applicable unit's attorney will develop the department's response and conciliation opinion (if applicable.) Any unit receiving a "notice of charge of discrimination" document from the EEOC or similar notice from the USDOJ shall forward the notice to the headquarters legal services upon receipt.

10. Employment Applications of Ex-Offenders

a. All applications for employment received from persons who are ex-offenders will be reviewed by a committee appointed by the secretary. The committee shall be composed of the chief of operations or designee, assistant secretary or designee and the headquarters human resources director or designee. Consideration will be given to the unit head's recommendation, the ex-offender's crime, sentence, institutional record and length of time free from other convictions. The committee's recommendations will then be submitted to the secretary or designee for review with the unit head.

b. Ex-offenders will not be eligible for employment in positions which require an employee to carry a firearm in the performance of duty. This restriction is based on applicable Civil Service job qualifications and state and federal law.

11. Employee Voluntary Self-Identification

a. All employees, at the time of employment and every five years thereafter, shall complete a voluntary self-identification of disability form for effective data collection and analysis of the percentage of individuals with disabilities employed by the department. This form only requests disclosure regarding whether an employee has a disability without reference to, or identification of, the actual impairment, disability, or medical condition.

12. Training

a. The department shall provide comprehensive annual training for all departmental personnel regarding this regulation.

b. All supervisor shall receive a minimum of one hour of education and training on the ADA within 90 days of hire or appointment to a supervisory position, and every three years thereafter.

c. ADA coordinators shall receive a minimum of one hour of education and training on the ADA within 90 days of hire or appointment to the role of ADA agency coordinator and every three years thereafter.

13. Additional information pertaining to EEO, ADA and ADEA is available in any human resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1308 (June 2000), amended LR 35:2194 (October 2009), LR 42:2191 (December 2016), LR 49:495 (March 2023).

§203. Request for Accommodation

REQUEST FOR ACCOMMODATION FORM

SECTION 1: REQUESTOR INFORMATION

Requestor's Name: _____

Requestor is (check only one): Employee Job Applicant Visitor / Public

Requestor's Email Address: _____

Requestor's Phone #: _____

If Requestor is an employee, also provide: Job Title: _____

Division/Unit: _____ Supervisor's Name: _____

CONFIDENTIALITY STATEMENT:
A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

SECTION 2: REQUESTED ACCOMMODATION (Attach a separate sheet if additional space is needed)

A. Please describe the nature of your disability and the functional limitations resulting therefrom.

B. Check the type of accommodation requested. Use the blank space provided to the right to further explain reason for the requested accommodation.

	Accommodation Type:	Reason for Accommodation Request:
1.	<input type="checkbox"/> Application/Testing Process Explain the specific application/testing requirement for which accommodation is requested: (→)	
2.	<input type="checkbox"/> Participating in a Job Interview Identify the Date/Time/Location of the job interview for which an accommodation is requested: (→)	
3.	<input type="checkbox"/> Performance of Essential Functions of Your Job Explain the job duties for which accommodation is requested: (→)	
4.	<input type="checkbox"/> Benefits/Privileges of Employment Explain the benefits or privileges of employment for which accommodation is requested: (→)	
5.	<input type="checkbox"/> Pregnancy, Childbirth or Related Condition Explain how pregnancy, childbirth or a related condition affects your ability to perform your job: (→)	
6.	<input type="checkbox"/> Effective Communication Identify the Date/Time/Location for which an auxiliary aid is requested: (→)	
7.	<input type="checkbox"/> Access to Programs, Services or Facilities Identify the specific program, service or facility for which access is needed: (→)	

C. Describe the accommodation(s) requested. (Identify specific auxiliary aid requested, if applicable)

Requestor's Signature: _____ Date: _____

SECTION 3: TO BE COMPLETED BY AGENCY ADA COORDINATOR

a. Process Tracking:

1. Date the Request for Accommodation was prepared/signed by Requestor: _____
2. Date the Request for Accommodation was received by ADA Coordinator: _____
3. Date of initial contact with Requestor (initiate interactive process): _____
4. Date(s) of follow-up contact with Requestor: _____
5. Date the Request for Accommodation was discussed with Appointing Authority: _____
6. If applicable, date the alternative accommodation(s) was discussed with Requestor: _____
7. Date Requestor was notified of final accommodation determination: _____

CONFIDENTIALITY STATEMENT:
A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

8. Date Requestor was notified of internal grievance procedure: _____
- b. Is there an equally effective accommodation(s), other than the one requested, that would satisfy the request? (Consult with www.askjan.org or Louisiana Rehabilitation Services, if necessary) Yes No

If Yes, please identify: _____

- c. Was an accommodation granted? Yes (Proceed to section d. below) No (Proceed to section e. below)
- d. Accommodation Granted:

Was the accommodation granted the same as the one requested? Yes No

If an alternative, equally effective accommodation was granted, explain the reason this option was selected rather than the one requested. (Reason for alternative accommodation should be fully documented.)

- e. Denial of Accommodation:

Check reason for denial **and** provide further explanation below. (Denials should be fully documented.)

ADA Title I (for employees / applicants)

- Requestor is not a "qualified individual" (See Definition in agency policy)
- Accommodation would pose an undue hardship to the agency
- Accommodation would not eliminate direct threat of substantial harm to safety of individual or others

ADA Title II (for visitor / public)

- Requestor is not a "qualified individual" (See Definition in agency policy)
- Accommodation would fundamentally alter the nature of the agency's service, program or activity
- Accommodation would not eliminate direct threat of substantial harm to safety of individual or others

ADA Coordinator's Signature: _____ Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:225, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1311 (June 2000), amended LR 49:499 (March 2023).

§205. Medical Inquiry Form

**MEDICAL INQUIRY FORM
 RESPONSIVE TO ACCOMMODATION REQUEST**

FOR COMPLETION BY EMPLOYEE

Employee's Name: _____

CONFIDENTIALITY STATEMENT:
 A request for accommodation, including medical and other relevant information, is privileged and may only be released as appropriate to individuals with a business need to know.

Authorization for Release of Medical Information

I authorize my Healthcare Provider to release medical information that is specifically related to and necessary for my employer to determine whether I have a disability for which an accommodation(s) may be needed. I authorize my Healthcare Provider to speak directly to my Agency ADA Coordinator in regards to my medical condition and its effects upon my ability to perform the essential functions of my job. I understand that I may refuse to sign this Authorization. However, I understand that my failure to permit these disclosures may impact my employer's ability to fully address my request for accommodation.

Employee's Signature: _____ Date: _____

FOR COMPLETION BY HEALTHCARE PROVIDER

SECTION 1: Questions to determine whether employee has a disability

For reasonable accommodation under the Americans with Disabilities Act (ADA), an employee has a disability if he/she has an impairment that substantially limits one or more major life activities or has a record of such an impairment. The following information may help to determine whether an employee has a disability:

- Does the employee have a physical or mental impairment?
 Yes (proceed to section A. below) No (discontinue completion of form)

A. What is the impairment or the nature of the impairment? _____

B. Does the impairment substantially limit a major life activity as compared to the general population?
 Yes No

C. What major life activity(s) and/or major bodily function(s) is limited?

Major Life Activities:

- | | | | | |
|--|--|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> Bending | <input type="checkbox"/> Eating | <input type="checkbox"/> Lifting | <input type="checkbox"/> Seeing | <input type="checkbox"/> Standing |
| <input type="checkbox"/> Breathing | <input type="checkbox"/> Hearing | <input type="checkbox"/> Performing Manual Tasks | <input type="checkbox"/> Sitting | <input type="checkbox"/> Thinking |
| <input type="checkbox"/> Caring for Self | <input type="checkbox"/> Interacting with Others | <input type="checkbox"/> Reaching | <input type="checkbox"/> Sleeping | <input type="checkbox"/> Walking |
| <input type="checkbox"/> Concentrating | <input type="checkbox"/> Learning | <input type="checkbox"/> Reading | <input type="checkbox"/> Speaking | <input type="checkbox"/> Working |
| <input type="checkbox"/> Other: _____ | | | | |

Major Bodily Functions:

- | | | | | |
|---|--|--|--|--|
| <input type="checkbox"/> Bladder | <input type="checkbox"/> Circulatory | <input type="checkbox"/> Hemic | <input type="checkbox"/> Neurological | <input type="checkbox"/> Respiratory |
| <input type="checkbox"/> Bowel | <input type="checkbox"/> Digestive | <input type="checkbox"/> Immune | <input type="checkbox"/> Normal Cell Growth | <input type="checkbox"/> Special Sense |
| <input type="checkbox"/> Brain | <input type="checkbox"/> Endocrine | <input type="checkbox"/> Lymphatic | <input type="checkbox"/> Operation of an Organ | Organs & Skin |
| <input type="checkbox"/> Cardiovascular | <input type="checkbox"/> Genitourinary | <input type="checkbox"/> Musculoskeletal | <input type="checkbox"/> Reproductive | |
| <input type="checkbox"/> Other: _____ | | | | |

D. Describe any functional limitations caused by the impairment: _____

SECTION 2: Questions to help determine whether an accommodation is needed.

An employee with a disability is entitled to an accommodation only when the accommodation is needed because of the disability. The following information may help determine whether the requested accommodation is needed because of the disability:

A. What job duties is the employee unable to perform or having difficulty performing?

B. How does the employee's functional limitation(s) interfere with his/her ability to perform required job duties?

Health Care Provider's Signature: _____ **Date:** _____

Health Care Provider's Name (Printed): _____

Practice Specialty: _____

Clinic Name: _____

Address: _____

Telephone #: _____ Fax #: _____

RETURN COMPLETED FORM DIRECTLY TO [INSERT NAME], AGENCY ADA COORDINATOR

By Fax to: (225) 342-XXXX; or, email to: firstname.lastname@la.gov

AUTHORITY NOTE: Promulgated in accordance with R.S. 16:225, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1312 (June 2000), amended LR 49:500 (March 2023).

James M. Le Blanc
Secretary

2303#019

RULE

Department of Public Safety and Corrections Corrections Services

Offender Mail and Publications (LAC 22:I.313)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of §313, Offender Mail and Publications.

The Department of Public Safety and Corrections, Corrections Services, proposes that facility staff shall verify the sender of all privileged mail in order to ensure that the mail was sent by the identified sender's office and is not fraudulently labeled as privileged mail, as well as, minor technical revisions. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§313. Offender Mail and Publications

A. Purpose. To state the secretary's policy regarding offender mail privileges, including publications, at all adult institutions.

B. Applicability. Deputy secretary, undersecretary, chief of operations, regional wardens, and wardens. Each warden is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its content to all offenders and affected employees.

C. Notice. Staff at each reception and diagnostic center or unit handling initial reception and diagnostic functions shall inform each offender in writing promptly after arrival of the department's rules for handling of offender mail, utilizing the notification of mail handling form. This form shall be filed in the offender's master record.

1. The current offender population in DPS and C facilities is required to complete the notification of mail handling form upon the issuance of this revision to Section 313 of this Part.

D. Policy. It is the secretary's policy that offenders may communicate with persons or organizations subject to the limitations necessary to protect legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of offenders, maintenance of internal/external security of an institution or maintenance of an environment free of sexual harassment), to prevent the commission of a crime, and to protect the interests of crime victims.

E. Definitions

DPS and C Facility—includes, for the purpose of this regulation, state operated prison facilities, and state privately operated prison facilities.

E-mail—a document created or received on an electronic mail system, including any attachments, such as word processing and other electronic documents, which may be transmitted with the message. *E-mail* is correspondence to or from an offender in an electronic format that is provided through the department's contractor for offender services.

Farm Mail Correspondence—offender to offender mail when housed at the same institution.

Indigent Offenders—those who do not have sufficient funds in the appropriate account(s) at the time of their request for indigent services and/or supplies to fully cover the cost of the requested services or supplies.

Nudity—pictorial depiction of genitalia or female breasts (with the nipple or areola exposed).

Privileged Correspondence (includes mail to or from)—

- a. identifiable courts;
- b. identifiable prosecuting attorneys;
- c. identifiable probation and parole officers, parole board and pardon board;
- d. state and local executive officers;
- e. identifiable attorneys;
- f. secretary, deputy secretary, undersecretary, assistant secretary, chief of operations and other officials and administrators of grievance systems of the department;
- g. local, state or federal law enforcement agencies and officials.

Publication—book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, magazine/newspaper clipping, article printed from the internet, plus other materials addressed to a specific offender such as advertising brochures, flyers and catalogs.

Sexually Explicit Material—any book, pamphlet, magazine, or printed matter however reproduced, which contains any picture, photograph, drawing or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, sadomasochistic abuse, bestiality and homosexuality. Explicit sexual material also includes that which contains detailed verbal descriptions or narrative accounts of sexually explicit conduct. A publication will not be prohibited solely because it contains pictorial nudity where such publication has a medical, educational or anthropological purpose.

F. Offender Correspondence. Offenders may write and receive letters and e-mails subject to the following provisions.

1. Frequency. There shall be no limit placed on the number of letters or e-mails an offender may write or receive at personal expense and no limit placed on the length, language or content except when there is reasonable belief that limitation is necessary to protect public safety or institutional order, including restrictions relative to what may be reasonably stored in space provided and security. Offenders in segregation can write and receive letters on the same basis as offenders in general population.

2. Timely handling. All mail, incoming and outgoing, shall be handled without unjustified delay. Letters should generally not be held more than 48 hours and packages shall not be held more than 72 hours. This does not prohibit the holding of mail for offenders who are temporarily absent from the institution and does not include weekends and holidays or emergency situations. When mail is received for an offender who has been transferred to another institution or released, the institution where the mail is received should attempt to forward the mail to him. The collection and distribution of mail is never to be delegated to an offender. Mail will be given directly to the receiving offender by an employee.

3. Correspondence. An offender may write to anyone except:

a. a victim of any criminal offense for which the offender has been convicted or for which disposition is pending, or an immediate family member of the victim, except in accordance with specific procedures established by department regulations or as established by the warden in conjunction with the Crime Victims Services Bureau;

b. any person under the age of 18 when the person's parent or guardian objects verbally or in writing to such correspondence;

c. any person whom the offender is restrained from writing to by court order;

d. any person who has provided a verbal or written request to not receive correspondence from an offender;

e. any other person, when prohibiting such correspondence is generally necessary to further the substantial interests of security, order or rehabilitation.

4. Costs of Correspondence

a. Each offender shall pay personal mailing expenses, except an indigent offender. An indigent offender shall have access to postage necessary to send two personal letters per week, postage necessary to send out approved legal mail on a reasonable basis and basic supplies necessary to prepare legal documents. A record of such access shall be kept and the indigent offender's account shall reflect the cost of the postage and supplies as a debt owed in accordance with department regulations. Stationery, envelopes and stamps shall be available for purchase in the canteen.

b. E-mail shall only be available to offenders who have electronic postage capabilities through the department's contractor for offender services.

5. Outgoing General Correspondence and Farm Mail

a. Review, Inspection and Rejection. Outgoing general correspondence and farm mail shall not be sealed by the offender and may be read and inspected by staff. Outgoing e-mail may also be read by staff. The objectives to be accomplished in reading outgoing mail differ from the objectives of inspection. In the case of inspection, the objective is primarily to detect contraband. The reading of mail and e-mail is intended to reveal, for example, escape plots, plans to commit illegal acts, or plans to violate institutional rules or other security concerns. Outgoing general correspondence and farm mail may be restricted, confiscated, returned to the offender, retained for further investigation, referred for disciplinary proceeding or forwarded to law enforcement officials, if review discloses correspondence or materials which contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or department rules;

iv. information which, if communicated, would create a clear and present danger of violence and physical harm to a human being;

v. letters or materials written in code or a foreign language when the offender understands English (unless the warden or designee determines that the recipient is not fluent in English);

vi. mail which attempts to forward unauthorized correspondence to a third party;

vii. threats to the safety and security of staff, other offenders, the public, facility order, discipline, or rehabilitation (including racially inflammatory material);

viii. sexually explicit material;

ix. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Notice of Rejection. The offender sender shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the incoming/outgoing general correspondence, farm mail and e-mail notice of rejection. Any further delay in notification shall be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the administrative remedy procedure.

c. Limitations on Restrictions. Any restrictions imposed on outgoing general correspondence and farm mail shall be unrelated to the suppression of expression and may not be restricted solely based on unwelcome or unflattering opinions. Communication of malicious, frivolous, false, and/or inflammatory statements or information, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest or offender shall be rejected. This shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.

d. Procedures for Mailing. Outgoing general correspondence and farm mail shall be inserted into the envelope and left unsealed by the offender. All outgoing correspondence shall include:

i. a complete legible name and address of the party the correspondence is being sent to;

ii. the offender's name, DOC number, housing unit, and the name and mailing address of the institution which shall be written or typed on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing general correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution;

iii. outgoing e-mails shall be processed electronically and scanned for contents and phrases.

6. Incoming General Correspondence

a. Review, Inspection, and Rejection. All incoming general correspondence and e-mails must contain the return address of the sender, the name and DOC number of the offender and the name and mailing address of the facility. All incoming general correspondence shall be opened and inspected for contraband, cash, checks, and money orders and is subject to being read. Any stick on label or stamp may be removed if it appears to contain contraband. All incoming general correspondence may be rejected if such review discloses correspondence or material(s) which would reasonably jeopardize legitimate penological interests, including, but not limited to, material(s) which contain or concern:

i. the transport of contraband in or out of the facility;

ii. plans to escape;

iii. plans for activities in violation of facility or department rules;

- iv. plans for criminal activity;
- v. violations of this regulation or unit rules;
- vi. letters or materials written in code;
- vii. threats to the safety and security of staff, other offenders, or the public, facility order, or discipline, or rehabilitation, (including racially inflammatory material);
- viii. sexually explicit material;
- ix. greeting cards and post cards;
- x. decorative stationary or stationary with stickers;
- xi. other general correspondence for which rejection is reasonably related to a legitimate penological interest.

b. Incoming general correspondence containing any of the foregoing may be restricted, confiscated, returned to the sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

c. Notice of Rejection. The offender shall be notified within three working days, in writing, of the correspondence or e-mail rejection and the reason therefore on the incoming/outgoing general correspondence, farm mail and e-mail notice of rejection. Any further delay in notification shall be based on ongoing investigation which would be compromised by notification. Rejections are appealable through the administrative remedy procedure.

7. Monetary Remittances

a. Incoming. Funds may only be sent to the facility and processed for hobbycraft purchases properly supported by a hobbycraft agreement in accordance with established policy and procedures.

b. For hobbycraft purchases, money from permissible sources may be accepted in the following forms:

- i. postal, bank or commercially issued money orders;
- ii. bank cashier checks;
- iii. cash;
- iv. personal checks.

c. All other offender funds shall be processed through the department's contractor for offender services in accordance with established policy and procedures.

d. Upon discovery of cash, multiple party checks, personal checks not for hobbycraft purchases or any other funds received in the mail for an offender, the offender shall be sent a monetary remittances notice of rejection within three working days describing the contents of the mail, the date of its receipt and advising that he has seven working days to provide return postage. If return postage is not provided within seven working days, the postage will be provided by the unit. The offender's banking account will be charged if funds are available. If funds are not available, a debt owed will be established pursuant to department regulations.

8. Identification of Privileged Correspondence. It is the responsibility and duty of institutional staff to verify the legitimacy of the official listed on the envelope. For purposes of this regulation, "identifiable" means that the official or legal capacity of the addressee is listed on the envelope and is verifiable. If not, then the letter is to be treated as general correspondence and an appropriate inquiry made into the offender's intent in addressing the envelope as privileged mail.

a. Facility staff shall verify the sender of all privileged mail in order to ensure that the mail was sent by the identified sender's office and is not fraudulently labeled as privileged mail.

9. All outgoing privileged correspondence shall include:

a. a complete legible name and address of the party the correspondence is being sent to;

b. the offender's name, DOC number, housing unit, and the address of the institution on the upper left hand corner of the envelope. Drawings, writing, and marking on envelopes, other than return and sending address, are not permitted. All outgoing privileged correspondence shall be stamped in the mailroom to indicate it originates in a correctional institution;

c. outgoing privileged correspondence may be posted sealed, and will not be opened and inspected without express authorization from the warden or deputy warden as specified in Paragraph F.11 of this Section.

10. Incoming Privileged Correspondence

a. All incoming privileged correspondence must contain the return address of the sender and the name and DOC number of the offender and the name and mailing address of the facility. All incoming privileged correspondence shall be opened in the presence of the offender to whom it is addressed and inspected for the presence of cash, checks, money orders and contraband and to verify as unobtrusively as possible, that the correspondence does not contain material that is not entitled to the privilege. When the material is inspected and it is found to be bound or secured in any manner that would prevent the thorough inspection of the document, the offender shall have the option of allowing staff to take the document apart for adequate inspection or returning the material to the sender to require that the material be returned in a loose manner to allow for proper inspection. Additionally, offenders receiving legal material in the form of a compact disc shall have the option of paying for copies to be made by the facility or returning the disc to the sender in order to require that the material be converted to paper copies. Payment for paper copies of legal material from a compact disc shall be in accordance with established policy and procedures.

b. Incoming privileged mail may be opened and inspected outside the offender's presence in the circumstances outlined in Paragraph F.11 of this Section.

i. Inspection and Rejection. When, in the course of inspection, cash, checks, or money orders are found, they shall be removed and forwarded to the business office who will verify the legitimacy of the transaction in accordance with established policy and procedures.

ii. If material is found that does not appear to be entitled to the privilege or if any of the circumstances outlined in Paragraph F.11 of this Section exist, the mail may be restricted, confiscated, returned to sender, retained for further investigation, referred for disciplinary proceedings or forwarded to law enforcement officials.

iii. Notice of Rejection. The offender shall be notified within three working days, in writing, of the correspondence rejection and the reason therefore on the privileged correspondence notice of rejection describing the reason for the rejection and advising that he has seven

working days to determine the disposition of the correspondence. Rejections are appealable through the administrative remedy procedure.

iv. Accidental Opening. If privileged correspondence is opened accidentally, outside the presence of the offender, the envelope shall be immediately stapled or taped closed and the envelope marked "accidentally opened" along with the date and employee's initials. An unusual occurrence report shall be completed.

11. Mail Precautions

a. The wardens and deputy wardens are authorized to open and inspect incoming and outgoing privileged mail outside the offender's presence in the following circumstances:

i. letters that are unusual in appearance or appear different from mail normally received or sent by the individual or public entity;

ii. letters that are of a size or shape not customarily received or sent by the individual or public entity;

iii. letters that have a city and/or state postmark that is different from the return address;

iv. letters that are leaking, stained, or emitting a strange or unusual odor or have a powdery residue;

v. when reasonable suspicion of illicit activity has resulted in a formal investigation and such inspection has been authorized by the secretary or designee.

12. Offender Organizations. Offender organizations must pay the postage costs for all of their outgoing mail. All outgoing mail must be approved by the offender organization sponsor.

G. Procedures for Publications

1. Publications (see definition in Subsection E) may be read and inspected to discover contraband and unacceptable depictions and literature. Unless otherwise provided by the rules of the institution, all printed matter must be received directly from the publisher. Multiple copies of publications for any one individual offender are not allowed. Samples inserted in publications will be removed prior to delivery.

2. Newspaper and magazine clippings (xerox copies allowed) as well as articles printed from the internet are considered publications for the purpose of review pursuant to this regulation. However, they are not required to originate from the publisher. A limit of five clippings/articles may be received within a piece of regular correspondence and the quantity received may be further limited by what can be reasonably reviewed for security reasons in a timely manner. Multiple copies of the same clippings/articles for any one individual offender are not allowed. Inclusion of clippings/articles in regular correspondence may delay the delivery.

3. Refusal of Publications. Printed material shall only be refused if it interferes with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of offenders, maintenance of internal/external security of an institution or maintenance of an environment free of sexual harassment), or if the refusal is necessary to prevent the commission of a crime or to protect the interests of crime victims. This would include but not be limited to the following described categories:

a. security issues:

i. maps, road atlas, etc. that depict a geographic region that could reasonably be construed to be a threat to security;

ii. writings that advocate, assist or are evidence of criminal activity or facility misconduct;

iii. instructions regarding the ingredients or manufacturing of intoxicating beverages or drugs;

iv. information regarding the introduction of, or instructions in the use, manufacture, storage, or replication of weapons, explosives, incendiaries, escape devices or other contraband;

v. instructs in the use of martial arts;

vi. racially inflammatory material or material that could cause a threat to the offender population, staff, and security of the facility;

vii. writings which advocate violence or which create a danger within the context of a correctional facility;

b. sexually explicit material:

i. it is well established in corrections that sexually explicit material causes operational concerns. It poses a threat to the security, good order and discipline of the institution and can facilitate criminal activity. Examples of the types of behavior that result from sexually explicit material include non-consensual sex, sexual molestation of other offenders or staff, masturbation or exposing themselves in front of staff and inappropriate touching or writing to staff or other forms of sexual harassment of staff and/or offenders;

ii. sexually explicit material can portray women (or men) in dehumanizing, demeaning and submissive roles, which, within an institutional setting, can lead to disrespect and the sexual harassment of female (or male) correctional staff. Lack of respect and control in dealing with offenders can endanger the lives and safety of staff and offenders;

iii. the viewing of sexually explicit material undermines the rehabilitation of offenders as it can encourage deviant, criminal sexual behavior. Additionally, once sexually explicit material enters an institution, it is impossible to control who may view it. When viewed by an incarcerated sex offender, it can undermine or interrupt rehabilitation efforts;

iv. publications that depict nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one time issues will not be allowed;

c. when screening publications for acceptability, the following categories shall be utilized:

i. category 1—presumption of non-acceptability;

ii. category 2—those that need to be reviewed on a case-by-case basis prior to allowing them to be delivered to the recipient and subject to review by the regional warden;

iii. category 3—presumption of acceptability;

d. publications can be added, deleted or moved from one category to another at the discretion of the secretary at any time;

e. when an institution receives a Category 2 publication which has not already been ruled on by the regional wardens, the mailroom shall send the offender a notice of pending review of publication and forward the

publication to the regional warden who shall determine acceptability. When an institution suspends delivery of an issue of a Category 3 publication, the regional warden is notified. The mailroom will send the offender a notice of pending review of publication. The regional wardens shall determine if the publication should be moved to Category 2. When magazines are received that are not currently listed, the regional warden shall be notified;

f. procedures when publication is refused. The offender shall be notified within three working days of the refusal and the reason therefore on the publications notice of rejection describing the reason for the rejection and advising that he has seven working days to determine the publication's disposition. Rejections are appealable through the administrative remedy procedure. The institution should retain possession of the disputed item(s) until the exhaustion of administrative and judicial review.

H. Procedures for Photographs, Digital or Other Images

1. Offenders shall not be allowed to receive or possess photographs or digital or other images that interfere with legitimate penological objectives (including but not limited to deterrence of crime, rehabilitation of offenders, maintenance of internal/external security of an institution, or maintenance of an environment free of sexual harassment), or to prevent the commission of a crime or to protect the interests of crime victims. This includes photographs, digital or other images which expose the genitals, genital area (including pubic hair), anal area or female breasts (or breasts which are designed to imitate female breasts). These areas must be covered with garments which cannot be seen through.

2. Lingerie will not normally be acceptable whether transparent or not. Swimwear will only be acceptable if the overall context of the picture is reasonably related to activities during which swimwear is normally worn. Suggestive poses alone may be sufficient cause of rejection regardless of the type of clothing worn.

3. Each institution shall develop a procedure that serves to reasonably restrict an offender's possession of multiple copies of the same photograph or digital or other image.

4. Hard backed and laminated photographs or digital or other images that are subject to alteration or modification may be rejected.

5. The term "photograph" includes other images such as those created by a digital imaging device or e-mails.

6. The offender shall be notified within three working days, in writing, of the photograph rejection and the reason therefore on the photographs notice of rejection describing the reason for the rejection and advising that he has seven working days to determine the photograph's disposition. Rejections are appealable through the administrative remedy procedure.

I. Procedures for Death Row Offenders Correspondence

1. Pursuant to the provisions of Act No. 799 of the 2012 Regular Session, the following procedures provide for the review and inspection of incoming and outgoing correspondence of death row offenders to ensure no

contractual arrangements are being contemplated or in effect that would allow the offender to profit from his crimes of notoriety.

a. All incoming and outgoing general correspondence, including packages, shall be inspected.

b. Incoming and outgoing privileged mail shall be inspected outside the offender's presence when there is reasonable suspicion that contraband is being sent to the offender or from the offender, or the offender is contemplating a contractual arrangement that would result in his receiving any type of profits or proceeds relative to his criminal acts. The warden or deputy warden shall authorize such inspection.

c. In the event it is determined that the offender is contemplating or has established a contractual arrangement, the information shall be immediately reported by the warden to the secretary who shall notify the attorney general's office pursuant to established procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A), *Guajardo v. Esteile*, 580 F.2d 748 (5th Cir.1978).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:4 (January 1979), amended LR 10:803 (October 1984), LR 11:360 (April 1985), amended by the Department of Public Safety and Corrections, Corrections Services, LR 33:851 (May 2007), LR 38:830 (March 2012), LR 39:2281 (August 2013), LR 41:2665 (December 2015), LR 43:1187 (June 2017), LR 49:502 (March 2023).

James M. Le Blanc
Secretary

2303#018

RULE

Department of Wildlife and Fisheries Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board

Louisiana Outdoors Forever Program
(LAC 76:I.Chapter 9)

The Department of Wildlife and Fisheries has adopted rules governing implementation of the Louisiana Outdoors Forever Program. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Act No. 714 of the 2022 Regular Session of the Louisiana Legislature established the Louisiana Outdoors Forever Program within the Department of Wildlife and Fisheries to provide funding for outdoor conservation projects. The law established a Project Selection Board to make final determinations regarding selection of projects and a Technical Advisory Board to evaluate and assess project applications in accordance with program criteria. This Rule establishes application procedures, project selection criteria, and other administrative regulations governing the program. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 9. Louisiana Outdoors Forever Program

§901. Program Overview

A. The purpose of this program is to provide funding for outdoor conservation projects in the state of Louisiana. The Louisiana Outdoors Forever Program (“Program”) is established within the Department of Wildlife and Fisheries (“LDWF”).

B. The program’s Project Selection Board shall govern the program and make all final determinations regarding the selection of projects for funding under the Program.

C. The program’s Technical Advisory Board shall review and evaluate applications in accordance with the criteria established herein and provide their assessments to the Project Selection Board for consideration and funding.

D. The Louisiana Outdoors Forever Fund shall fund administration of the program and the conservation projects selected for funding under the program. Once projects are selected, all correspondence, reimbursements, and reporting will be coordinated through LDWF. The Department of Wildlife and Fisheries shall be responsible for administrative implementation of the program, including correspondence with prospective and selected applicants, disbursement of funds, and performance monitoring, and may charge direct administrative costs incurred associated with the program to the Louisiana Outdoors Forever Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1934.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board, LR 49:507 (March 2023).

§903. Applicant and Program Eligibility

A. State agencies, political subdivisions of the state, including local government authorities, and nongovernmental organizations working in coordination with public agencies are eligible to apply to the program for funding.

B. The following types of projects are eligible for funding:

1. land conservation of important natural areas, including fish and wildlife habitat;
2. water quality projects related to land conservation or land management, including those lands that protect drinking water supplies;
3. working land, farms, and forested land;
4. recreational properties related to important natural areas and public use;
5. historic properties adjacent to or integral to habitat restoration or enhancement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1934.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board, LR 49:507 (March 2023).

§905. Application Process

A. The Project Selection Board will solicit grant submission cycles each year, contingent upon availability of funding. The program has a two-phase approach to the grant process; a pre-application and a full application.

B. Pre-Application Process

1. Pre-application serves as the basis for determining project eligibility. All eligible projects will be invited to submit a full application. Full applications are fundamentally comprised of weighted grading criteria, which shall accumulate a total score reviewable by Technical Advisory Board. Scored and ranked full applications will be submitted to the Project Selection Board.

2. Upon the direction of the Project Selection Board, LDWF shall publish a request for proposals on its website www.wlf.louisiana.gov/page/louisiana-outdoors-forever for a period of 60 days.

3. Pre-application submissions shall be submitted via online application forms prescribed by LDWF and available at www.wlf.louisiana.gov/page/louisiana-outdoors-forever. Pre-applications can be a maximum of seven pages. All pre-applications must include the following:

a. Cover Letter—This official letter is the instrument demonstrating support and authority to submit a pre-application, signed by a ranking authorizing representative of the entity (board chairperson, parish president, commissioner, mayor, etc.). It must be on official letterhead.

- b. project title;
- c. project category/categories;
- d. project location;
- e. project map;
- f. project description including benefits related to project category and surrounding community/state;
- g. generalized project budget worksheet;
- h. responses to each of the evaluation criteria:
 - i. total project cost;
 - ii. total funding requested;
 - iii. match commitment(s)—including type, status—committed or potential, and source;
 - iv. accordance/non-conflict with existing state, local, and federal plans (list which plan(s));
 - v. timeline—time to complete, time to realization of conservations benefits, and whether the project could be completed by the close of this funding cycle;
 - i. estimated or actual appraisal (if applicable, in addition to the seven-page limit on letters of maximum);
 - j. optional documentation (not counted towards the seven page limit on pre-applications);
 - i. letter of support;
 - ii. letter of financial commitment from sponsors and partners;

4. Pre-Application Evaluation Criteria

a. Pre-applications will be reviewed by the Technical Advisory Board on the below evaluation criteria. Applicants that meet the criteria will be invited to complete a full application. Applicants should be sure their pre-

application contains enough information for reviewers to consider all criteria.

Applicant Partner (mark affiliation):	
Local governing authority	
Political subdivision of the state	
State agency	
Non-government organization working with public agency	
Local governing authority	

Project Category (mark all that apply):	
Land conservation of important natural areas, including fish and wildlife habitat	
Water quality projects related to land conservation or land management, including those lands that protect drinking water supplies	
Conservation project on working land, farms, and forested land	
Conservation project on recreational properties related to important natural areas and public use	
Conservation project on historic properties adjacent to or integral to habitat restoration or enhancement	
Considerations	
Is the total cost outlined in the pre-application? (Y/N)	
Does the pre-application describe funding or other type of match? (Y/N)	
Does the pre-application describe how the project will provide benefits into the future? (Y/N)	
Does the project align with any state plan? (Y/N)	
Is the project contiguous with other conservation properties? (Y/N)	
Is the project in an underserved area or an area of designated need? (Y/N)	
Does the proposal contain a schedule for timely completion? (Y/N)	
Is there a plan for maintenance and management of the project (sustainability through time)? (Y/N)	

C. Full Application Process

1. Applicants who submit a complete and accurate pre-application that clearly meets the expectations set forth in the evaluation criteria will receive an invitation to complete a full application.

2. The application serves as a mechanism in gathering more detailed project elements, detailed surveys and reviews, and items that only apply to applicants who are invited to submit a full application.

3. Items submitted in the pre-application may not be revised, updated or amended, due to the competitive nature of the program. If an item must be revised, the Technical Advisory Board will determine if a Project Agreement Amendment or a resubmission of a new pre-application would be required.

4. All applications shall contain the following items:

a. responses to each of the evaluation criteria: applicants should provide further details on how the proposed project meets the evaluation criteria;

b. application cover letter: this official letter is the instrument denoting support and authority to submit an application, signed by a ranking authorizing representative of the entity (board chairperson, commissioner, mayor, etc.). It must be on official letterhead;

c. detailed project budget worksheet: this budget shall include all items depicted in the pre-application stage, although a higher level of detail is required. It should show units of measure/piece count estimates, cost per unit, proper names of materials, etc.;

d. project description: this is a detailed narrative describing the entire scope of the project, including location vicinity map, acreage, purpose, need, and all Louisiana Outdoors Forever funded project elements. Applicants should focus on describing the elements and activities receiving funding, rather than convincing narrative content. Applicants should also describe the ability of the project to be scaled up or down;

e. project implementation schedule: a schedule outlining the timeline and occurrence of each major project milestone and limited to a project period;

f. landowner letter of support: a letter by willing seller or contract of sale will be accepted in lieu of the landowner letter of support.

5. Applications shall contain the following items if applicable:

a. photos and photo key map: applicants should submit various photos of the key components of the project receiving funding. If photos supplied were taken on the project site, a map of the project site must be included showing the relative location of each photograph taken. Each location is to be numbered corresponding to the photograph's number, and an arrow pointing in the direction of viewing from the photographer's perspective. No more than two photos per page are to be uploaded to the online application;

b. project plans: proposed project plans should be included when relevant;

6. project specific items: These items are not required for a project to be considered by the Technical Advisory Board for the scoring and ranking phase of the application process. If a project is approved by the project by the Project Selection Board, the applicant will receive a pre-approval and is given 12 months to submit needed or requested documents to LDWF. These documents must be in line with the pre and full application in order to receive a final approval;

a. environmental review documents: the environmental review ensures that any impact upon any assisted site is in accordance with State and Federal regulations;

b. site engineering plans (if engineering is a part of the proposed project): site engineering plans depicting locations of elements within the site and distances to scale, and uploaded to the application where requested, will be required for building or site development projects;

c. evidence of property ownership: the acquisitive deed whereby the landowner acquired ownership of the property on which the project will take place, and evidence of payment of ad valorem taxes for the past three years. Legal title opinion preferred;

d. full narrative appraisal: a full narrative appraisal prepared by a licensed MAI appraiser (if applicable, i.e. projects which include an acquisition of real property interests);

e. partnership commitment: any application that is part of another grant award that has not been received at the time of application submission will receive a pre-approval letter if their projected is approved by the Project Selection Board until they produce the approved grant agreement.

7. The Technical Advisory Board can mandate an applicant include any project specific item they deem

necessary to ensure a project meets the claimed benefits of the pre and full application.

8. Applications must be submitted by midnight on the prescribed deadline date. All applications are reviewed by the Technical Advisory Board to verify application completeness. Applicants who are unable to meet all requirements for a complete application by the deadline may be granted an extension by the Technical Advisory Board.

9. All complete applications approved by the Project Selection board will be contacted by LDWF to schedule a mandatory Financial Workshop to explain and review the reimbursement process and documentation required for reporting, monitoring and reimbursements. Upon attending the financial workshop, both parties will sign a project agreement and a notice to proceed will be issued by the department.

10. Any application containing a Project Specific Item that was part of the full application package but received a pre-approval letter will have 12 months to submit those items to the department. Upon receipt and approval by the department, LDWF will schedule a mandatory Financial Workshop with grantees to explain and review the reimbursement process and documentation required for reporting, monitoring and reimbursements. Upon attending the financial workshop, both parties will sign a project agreement and a notice to proceed will be issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1934.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board, LR 49:507 (March 2023).

§907. Evaluation Criteria Scoring

A. All applications will be reviewed in light of the questions below.

1. Question 1—Project Needs and Benefits (max 50 points). Does this project provide specific and clearly identified needs and benefits? Project benefits considered can include the following:

a. Outdoor Recreational Opportunity

i. Criteria Question: Does this project provide new or enhanced recreational access to parks/green space/natural environment (for fishing, hiking, hunting, canoeing, or other?)

ii. Criteria Details: Applicant should list any new or enhanced recreational access provided by this project.

iii. Criteria Question: Will this project provide outdoor nature-based recreational opportunities?

iv. Criteria Details: Applicant must list all nature-based outdoor recreation opportunities provided by the acquisition or development of this property.

b. Cultural and Historical Value

i. Criteria Question: Does this project provide conservation on or adjacent to a historical site or site of cultural significance?

ii. Criteria Details: Applicant must describe how the project provides conservation on or near the historical site or site of cultural significance.

iii. Criteria Question: Does this project include the acquisition or stewardship of land with a cultural or historical value?

iv. Criteria Details: Applicant must demonstrate how the property has local, regional or state-wide cultural and/or historical value and describe how this project adds to or enriches that value.

c. Water Quality

i. Criteria Question: Does this project provide improvement of impaired water quality or protection of water quality in healthy waters that meet or exceed water quality standards, including drinking water supplies?

ii. Criteria Details: Applicant should describe how the project provides improvement of water quality or protection.

d. Ecological Value

i. Criteria Question: Does this project provide enhancement or conservation of important natural areas, including fish and wildlife habitat and corridors?

ii. Criteria Details: Applicant must describe how the project provides enhancement or conservation of important natural areas.

iii. Criteria Question: Does the project provide conservation of soil, water, or other natural resources on working lands?

iv. Criteria Details: Applicant must demonstrate how the project provides conservation of soil, water, or other natural resources related to working lands.

v. Criteria Question: Does this project include the acquisition or stewardship of land with a significant ecological, conservation, restoration, or natural resource sustainability value?

vi. Criteria Details: Applicant must demonstrate the significant ecological value of the project including, but not limited to, native plant and animal species of a conservation concern; and/or the critical importance of the habitat, particularly those that include a stream buffer.

e. Contiguous

i. Criteria Question: Is the proposed project contiguous with other conservation properties (including but not limited to local, state or federal parks and forests, conservation easements, scenic rivers or other important properties)?

ii. Criteria Details: Applicants project should demonstrate that the project is contiguous with other conservation properties.

f. Future Benefits

i. Criteria Question: Does this project satisfy specific and clearly identified benefits into the future and how they meet the desired project category?

ii. Criteria Details: Describe how elements within your proposal meet a project category from the program. Clearly identify your project's anticipated lifespan and how it will yield benefits for Louisiana into the future.

g. Stewardship

i. Criteria Question: Will this project promote the stewardship of natural resources?

ii. Criteria Details: Applicant must demonstrate how this project will promote effective conservation and sustainable practices, protect the scenic or unique natural features present and visibility of such, assist the property in remaining relevant to the community, and encourage visitation and participation by providing a safe recreational experience for future generations.

2. Question 2—Partnerships (max 10 points)
 - a. Criteria Question: Is there a measurable value added to this project through cooperation with external partners?
 - b. Criteria Details: Applicant must describe the contribution of all partnerships and provide documentation of close participation of all entities. Applicant must identify the scope and participation level of each entity, including donations, cash or materials, volunteer/staff hours or professional services provided.
 - c. Required Documents: Letters of commitment must be uploaded for each partnership. Letters of commitment must specify the value of each partnership.
 - d. Note: Any cash, donations, etc. detailed in commitment letters must be included in the Project Budget Worksheet.
3. Question 3—Underserved Area or Area of Designated Need (max 10 points)
 - a. Criteria Question: Does this project satisfy specific and clearly identified needs within an underserved area or area of designated need?
 - b. Criteria Details: The pre-application should describe if and how the project will benefit an underserved area or area of designated need.
4. Question 4—Funding or Matching Funds (max 10 points)
 - a. Criteria Question: What amount or percentage of matching funds or in-kind match will be provided?
 - b. Question Details: Applicant must identify the amount or percentage of matching funds or in-kind match that they will provide, including the source of funds.
 - c. All matching funds or in-kind match must be included and highlighted as such in the Project Budget Worksheet. Written documentation of monetary investments or in-kind match must be provided in the form of letters of contribution.
5. Question 5—Local, State, Regional, or Federal Plans (max 5 points)
 - a. Criteria Question: Does this project coincide with, build upon or add value to any existing local, state, regional, or federal plan?
 - b. Criteria Details: Applicant must cite the relevant local, state, regional, or federal plan and the project’s alignment to the plan.
6. Question 6—Timely Completion (max 5 points)
 - a. Criteria Question: What is the estimated schedule for completion?
 - b. Criteria Details: Any application that is postured to be ready to begin may be assigned points for having a high likelihood of timely completion.
7. Question 7—Economic Development/Benefits (max 5 points)
 - a. Criteria Question: Will this project create opportunities to enhance the local, regional and/or statewide economy?
 - b. Criteria Details: Applicant must demonstrate how the project will benefit the local, regional, and/or statewide economy. The applicant may provide the following to show the positive impact of this project beyond the local or host community: current comprehensive plan; parish or local stakeholder work plans; resource inventory; NRI data; current recreation master plan; current county or regional

master plan; current trail system plan; State Comprehensive Outdoor Recreation Plan; current capital improvements plan, current regional water plan and/or land use management plan; recorded public hearing minutes; supporting documentation from the Chamber of Commerce; letters from local business(es) or economic development organizations; etc.

c. The information provided should describe job creation, ecosystem services, recreational use income, enhancements to rural economies as quantified by agricultural economics, and other related economic benefits expected to result from this project, if applicable.

NOTE: The purpose of this question is to advance local, regional, or statewide significant economic impacts, in order to continue to sustain the local, regional, or statewide economic base, as well as diversify those respective drivers. Applicants may submit local, regional, or statewide planning documents as proof.

8. Question 8—Maintenance (max 5 points)

a. Criteria Question: What is the maintenance and management plan for the project?

b. Criteria Details: Describe the maintenance and management plan in place for the project, or how a plan will be developed before project completion. The information provided should showcase sustainability through time. Maintenance plans may include but are not limited to RMS level or other site specific conservation plans.

c. Criteria Question: Do you have a plan and budget to maintain, manage, and secure this property for multiple years of commitment beyond the project completion date?

d. Criteria Details: Applicant must provide an approved applicable maintenance, management, and security plan that shows multi-year of commitment beyond the project completion date. These commitments must address monetary support as well as address a credible timeline.

Scoring Criteria	Points
Project Needs and Benefits	50
Partnerships	10
Underserved Areas or Areas of Designated Need	10
Funding or Matching Funds	10
Local, State, Regional, or Federal Plans	5
Timely Completion	5
Economic Development/Benefits	5
Maintenance	5
Total	100

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1934.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board, LR 49:509 (March 2023).

§909. Grant Recipient Requirements

A. Term

1. Grant recipients will have up to 24 months to complete the approved project from the date of the mutually signed project agreement and the issuance of a notice to proceed. Any variance or extensions must be formally requested via a project agreement amendment, extension request, or change of scope request. All formal requests will be reviewed by the Technical Advisory Board and approved by the Chairperson of the Project Selection Board. No reimbursable costs shall be incurred beyond 24 months after the notice to proceed has been issued, or the period for

which an amendment or extension has been granted, whichever is later.

B. Reporting Requirements

1. Quarterly Progress Reports

a. Once a project agreement is signed, the grantee shall report on the progress of the project, on a quarterly basis as follows:

- i. period beginning January 1, ending March 31: report is due April 30;
- ii. period beginning April 1, ending June 30: report is due July 31;
- iii. period beginning July 1, ending September 30: report is due October 31;
- iv. period beginning October 1, ending December 31: report is due January 31.

b. Grantees are required to submit quarterly progress reports to LDWF to ensure that LDWF is aware of the project's progress. Quarterly progress reports can be accessed and filled out on www.wlf.louisiana.gov/page/louisiana-outdoors-forever. The progress report shall summarize the work accomplished to date, any issues arising with the project, an estimated percentage of project completion, and an estimate of funds to be expended over the next quarter. Photos or other documents are required in communicating the status of the project.

2. Final Reports

a. Grantees must inform LDWF that their project is complete by submitting a final report and mark it as "final" prior to the expiration of the project period. The final report serves as notice that the grantee has completed the project in compliance with applicable regulations and must include:

- i. digital images of all completed project elements which received funding;
- ii. indication that the project is complete, accessible, and open to the public, if applicable;
- iii. documentation that all corrective items identified during the final on-site inspection have been completed. This may require an additional final inspection prior to close out;
- iv. official As-built drawings in .pdf format;
- v. for acquisitions only—An updated property deed with required protective language and recording stamp from the local jurisdiction's parish clerk's office;
- vi. final reimbursement request marked as "Final";
- vii. authorizing officer's signature.

b. LDWF staff will inspect all completed projects. Final payments shall not be made until final documentation is received and approved, and the project has been inspected and verified as complete.

C. Reimbursement Requests

1. Payment of grant funds is on a reimbursement basis. Accurate and comprehensive documentation of project costs is critical. Applicants will be required to submit to LDWF a reimbursement request as well as detailed documentation (e.g. proof-of-purchase, proof-of-payment, force account details, etc.) prior to reimbursement. All reporting responsibilities in addition to reimbursement requests shall be adhered to throughout the entirety of the project.

2. Grantees may request reimbursements at any time, although it is recommended that requests are submitted at least quarterly. LDWF will generally make payment in less than 30 days after a reimbursement request has been approved. Reimbursement requests are based on actual project expenditures that align with the grantee's project agreement, including the approved project application scope and budget.

3. Adequate supporting documentation for all expenses is required with each request, including but not limited to:

- a. proof of payment, including payment for match items;
- b. invoices;
- c. donation and in-kind documentation;
- d. documentation of procurement/bidding process;
- e. photos (optional);
- f. additional supporting documentation to process a reimbursement as needed.

4. Partial Billings. A partial billing is considered to be a request made before the project is completed. Total partial billings may not exceed 90 percent of the total grant amount. 10 percent of the total approved grant amount held as a retainer.

5. Final Billing. Final billing shall be made when the project's scope of work is complete, all required documentation has been submitted and approved, and the project is open to the public, if applicable. Grantees must submit a final reimbursement request and identify any remaining unneeded surplus balance via an attached memo. project agreement amendment requests submitted to LDWF in an effort to utilize surplus funds shall not be considered for approval. Only those items as submitted in the original budget and scope are eligible for reimbursement, per the project agreement. Once a project has been closed, remaining funds are no longer obligated and LDWF cannot make additional payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1934.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Louisiana Outdoors Forever Program Project Selection Board and Technical Advisory Board, LR 49:510 (March 2023).

Jack Montoucet
Secretary

2303#044

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Licenses and Fees

(LAC 76:I.323, 325, 329, 331, 333, 335; 76:V.113, 303, 317 and 501; 76:VII.161, 341, 365, 403, 407, 515, and 525)

The Wildlife and Fisheries Commission has modified its rules by repealing or amending existing regulations that establish licenses or fees that are in conflict with the license framework established in law by Act 356 of the 2021

Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter G. Wild Louisiana

§323. Wild Louisiana Stamp and Print Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:359 (March 1993), repromulgated LR 19:513 (April 1993), LR 19:660 (May 1993), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:512 (March 2023).

§325. Wild Louisiana Stamp Artist Agreement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:360 (March 1993), repealed by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:512 (March 2023).

Subchapter I. Special Licenses and License Fee Waivers

§329. Outdoor Press Licenses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:109 and R.S. 56:647.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1103 (May 2005), repromulgated LR 31:1346 (June 2005), repealed LR 49:512 (March 2023).

§331. Special Disability Fishing and Hunting Licenses

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses and in lieu of basic hunting, deer, turkey, and duck hunting licenses, and WMA access permit, the department may issue a Disabled/Special Needs Hunting and Fishing license to residents who qualify as developmentally disabled as defined in R.S. 28:751 and who meet all other legal requirements to obtain a hunting license. Developmentally disabled may include, but is not limited to mental retardation, cerebral palsy, downs syndrome, spina bifida, and multiple sclerosis.

A.1. - A.4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:3000(J)(1).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), amended LR 49:512 (March 2023).

§333. Charitable Organizations, Youth Groups and Schools; Fee Waivers

A. In lieu of recreational basic fishing and recreational saltwater fishing licenses the secretary may issue a letter of waiver of fees for fishing to members of bona fide charitable organizations, youth groups or schools. For the purpose of hunting, the secretary may issue a letter of waiver of license fees for hunting to members of bona fide charitable organizations, youth groups or schools who meet all other legal requirements to obtain a hunting license, which will include basic hunting, deer, turkey, Louisiana duck license and WMA access permit.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:641.2 and R.S. 56:3000(J)(1).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), amended LR 49:512 (March 2023).

§335. Conferences; Fee Waivers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:104, R.S. 56:109 and R.S. 56:302.2.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1104 (May 2005), repromulgated LR 31:1346 (June 2005), repealed LR 49:512 (March 2023).

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§113. Fox/Coyote Hunting Preserve, Purchase and Sale of Live Foxes and Coyotes, Permitting Year-round Coyote Trapping

A. - B. ...

C. Licenses, Permits and Fees. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56.

D. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:262.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:205 (February 1991), amended LR 49:512 (March 2023).

Chapter 3. Wild Birds

§303. Nonresident Preserve Hunting License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:631 (September 1988), repealed LR 49:512 (March 2023).

§317. Nonresident Duck Stamp Fee Increase

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:1168 (September 1997), repealed LR 49:512 (March 2023).

Chapter 5. Licenses and License Fees

§501. Nonresident Hunting License Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 27:214 (February 2001), repealed LR 49:512 (March 2023).

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§161. Freshwater Mussel Harvest

A. - F.3.h. ...

G. Reporting

1. Harvesters are required to submit monthly reports on forms furnished by the department whether they fished or not. These reports must be postmarked no later than the fifteenth day of the month following the month of harvest.

2. Mussel buyers must contact the department either in the region where they will be conducting buying

operations, or at the department's toll-free telephone number, and provide information as to which site these operations are to be set up. This notification is to be made on the day previous to setting up these operations. The buyer must also notify the department within 24 hours when buying activities at that location have been completed. Mussel buyers may not conduct buying activities outside of designated and/or approved sites.

3. a. Mussel buyers are limited to setting up buying operations at department approved sites in or nearby to these cities.

- i. Bogalusa
- ii. Columbia
- iii. Coushatta
- iv. Delhi
- v. Kinder
- vi. Ferriday
- vii. Leesville
- viii. Livingston
- ix. Minden
- x. Port Barre
- xi. Ramah
- xii. Simmesport
- xiii. Tioga

b. Additional buyer's sites may be set up at department discretion to facilitate harvest.

4. Each permittee harvesting mussels for sale is responsible for department notification. The permittee shall notify the department at a designated telephone number (1-800-442-2511) at least four hours prior to harvesting any mussels. The permittee shall provide, at the time of notification, the parish and area to be fished. Such notification will be on a daily basis, unless the harvester fishes in the same area during a Monday through Friday period. However, even if harvesting in the same location for an extended period, weekly notification will be required. The permittee will be given a confirmation number at the time of initial notification.

5. Each permittee must again notify the department at 1-800-442-2511 immediately prior to selling any mussels. The permittee must report their confirmation number and the name and mussel buyer's permit number of the individual who will be purchasing mussels obtained under the permit.

H. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:450.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 19:510 (April 1993), amended LR 21:193 (February 1995), LR 22:374 (May 1996), LR 23:1327 (October 1997), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 49:512 (March 2023).

Chapter 3. Saltwater Sport and Commercial Fishery

§341. Spotted Seatrout Management Measures

A. Commercial Season; Quota; Permits

1. - 2. ...

3. Permits

a. The commercial taking of spotted seatrout is prohibited except by special nontransferable Spotted Seatrout Permit issued by the Department of Wildlife and Fisheries. This permit, along with other applicable licenses, authorizes the bearer to sell his spotted seatrout catch.

A.3.b. - C. ...

AUTHORITY NOTE: Promulgated in accordance with Act Number 157 of the 1991 Regular Session of the Louisiana Legislature, R.S.56:6(25)(a); R.S. 56:306.5, R.S. 56:306.6, 56:325.1(A) and (B); R.S. 56:325.3; R.S. 56:326.3; Act 1316 of the 1995 Regular Legislative Session; and Act 1164 of the 2003 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:199 (February 1992), amended LR 22:238 (March 1996), LR 24:360 (February 1998), LR 26:2333 (October 2000), LR 30:1509 (July 2004), LR 30:2498 (November 2004), repromulgated LR 32:125 (January 2006), amended LR 32:1071 (June 2006), LR 37:355 (January 2011), LR 49:513 (March 2023).

§365. Shrimp Records and Labeling

A. Shrimp Records, Shrimp Packaging

1. Wholesale/retail seafood dealers, retail seafood dealers, restaurants and retail grocers shall maintain records in accordance with R.S. 56:306.5 and 56:506. In addition to the requirements therein, wholesale/retail seafood dealers when selling or otherwise transferring shrimp shall specify on each invoice of sale or transfer required to be delivered to retail dealers, restaurants and/or retail grocers the specific country of origin of the shrimp being sold or transferred. All purchase and sales records of wholesale/retail seafood dealers, which are required to be maintained by law, shall specify the country of origin of all shrimp acquired and sold or transferred. All purchase records of retail dealers, restaurants and retail grocers which are required to be maintained by law, shall specify the country of origin of shrimp acquired or purchased. Shrimp from different countries shall be recorded separately on all records.

2. All records for shrimp, which are harvested from Louisiana waters or which are landed in Louisiana from a harvesting vessel, shall indicate such shrimp are a "Product of Louisiana" or "Louisiana Shrimp" or "Louisiana (and shrimp species)."

3. No wholesale/retail seafood dealer, retail seafood dealers or restaurants shall possess, package, process, sell, barter, exchange or attempt to sell, barter, trade or exchange shrimp from a foreign country which is commingled with shrimp caught in the United States or which is represented to be a product of the United States.

B. Violations of the provisions of this Section shall constitute a Class 4 violation as defined in R.S. 56:34.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:506.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 28:2571 (December 2002), amended LR 49:513 (March 2023).

Chapter 4. License and License Fees

§403. Gulf Seafood Traversing and Offloading Permit

A. The Department of Wildlife and Fisheries is authorized to issue a Gulf Seafood Traversing and Offloading permit ("traversing permit") upon application to its Commercial License Section at the Baton Rouge office. Application for permits must be made in person or as provided by Section 415 of this Part.

B. The traversing permit shall be valid for the calendar year of issue (January 1 through December 31).

C. A traversing permit shall be in lieu of a commercial fisherman's license, vessel license, and any applicable commercial gear license for fishing gear aboard the vessel. Each gear used in the waters of the federal exclusive

economic zone (EEZ) shall be properly licensed. For licensing purposes, trammel nets, strike nets, and seines are required to be licensed as gill nets when used in the EEZ.

D. - H.9....

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:303(G)(1), R.S. 56:305(B), and R.S. 56:320.2(E).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:240 (March 1996), amended LR 26:2333 (October 2000), LR 38:2944 (November 2012), LR 49:513 (March 2023).

§407. Three-Day Basic and Saltwater Nonresident Recreational Fishing License Fees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(28).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 24:710 (April 1998), amended LR 27:215 (February 2001), repealed LR 49:514 (March 2023).

Chapter 5. Oysters

§515. Oyster Lessee Out-of-State Landing Program

A. - C. ...

D. Records and Reporting. The permittee shall maintain an up-to-date daily record of the number of sacks of oysters landed under the permit on forms provided by the department for that purpose. The permittee shall submit to the department a monthly record of the number of sacks of oysters landed under the permit and the name and Food and Drug Administration interstate certified shellfish shipper's number of the business to whom the oysters were sold no later than 15 days following the last day of the month on forms provided by the department for that purpose, even if no landings occurred. Failure to submit monthly records or incomplete records to the department before the reporting deadline shall result in suspension or revocation of the permit, at the discretion of the department.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:424(B, G), and R.S. 56:425.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 22:120 (February 1996), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:1624 (July 2005), LR 34:889 (May 2008), LR 49:514 (March 2023).

§525. Commercial Oyster Seed Ground Vessel Permit

A. Policy. For license year beginning 2009 any oysters taken for commercial purposes from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground permit issued exclusively by the department. The permit does not grant any rights to the oyster resource or any rights to harvest oysters from the waters of the state and shall not be sold, exchanged, or otherwise transferred. No new applications for vessel permits shall be accepted after December 31, 2009. The permit shall be valid for up to one calendar year beginning on January 1 and ending on December 31 of the same year, but may be made available for purchase beginning on November 15 for the immediately following license year.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:610(L), R.S. 56:6, R.S. 56:23, and R.S. 56:433.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2681 (December 2008), amended LR 38:1998 (August 2012), LR 49:514 (March 2023).

Jack Montoucet
Secretary

2303#011

RULE

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

Menhaden Season
(LAC 76:VII.307)

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.307) by adding provisions that prohibit the waste of fishery resources and abandonment of menhaden purse seine gear during fishing operations or while at sea. This Rule has been amended as a result of previous incidents of menhaden purse seine gear being intentionally released at sea and remaining unrecovered. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, R.S. 56:409.1 and R.S. 30:2531.3. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§307. Menhaden Season

A. - E.1. ...

F. No menhaden purse seine gear shall be abandoned while on the water or during the course of fishing operations. In the event that gear is released, such gear shall be marked in an appropriate manner to facilitate retrieval and effectively warn of navigational hazards caused by the released gear. Such gear shall be retrieved from the water within 48 hours of release. Failure to retrieve the gear within the prescribed period shall be considered abandonment of the gear.

1. All reasonable attempts shall be made to retrieve menhaden and any bycatch from the environment in the event that menhaden purse seine gear is lost, damaged, released, or abandoned.

2. Any unintentional or intentional release of purse seine gear or menhaden by the commercial reduction menhaden fishery into the waters of Louisiana shall be reported to the Enforcement Division within two hours of such release.

3. Violations of this Subsection shall be considered waste of a fishery resource and subject to civil fine and restitution for the value of the wasted fish. Failure to retrieve menhaden purse seine gear from the waters within 48 hours of release of such gear shall constitute a commercial littering violation pursuant to R.S. 30:2531.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:313, R.S. 56:315, R.S. 56:326.3, and R.S. 56:409.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), LR 19:58 (January 1993), LR 19:1179 (September 1993), LR 48:1588 (June 2022), LR 49:514 (March 2023).

Jack Montoucet
Secretary

2303#010

RULE

Workforce Commission Office of Workers' Compensation

Medical Treatment Guidelines
(LAC 40:I.2001-2011, 2019-2021, 2111, 2311, 2315-2325)

The Workforce Commission has amended certain portions of the *Louisiana Administrative Code, Title 40, Labor and Employment*, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 20, Chapter 21, Subchapter A, Section 2111, and Chapter 23 regarding medical treatment guidelines. The purpose of this amendment is to update the medical treatment guidelines in accordance to a reoccurring maintenance schedule and add consistency throughout the guidelines. This Rule is promulgated by the authority delegated to the deputy assistant secretary by R.S. 36:304(B) and vested in the assistant secretary of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.7. This Rule is hereby adopted on the day of promulgation.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 20. Spine Medical Treatment Guidelines

Subchapter A. Cervical Spine Injury

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

§2001. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation (OWCA) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana's Workers' Compensation Act as injured workers with cervical spine injuries. Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1119 (June 2014), LR 49:515 (March 2023).

§2003. General Guideline Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers' Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must develop and implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regimens which employ functional, restorative, preventive and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration. Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1.

5. Active Interventions. Emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in

an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment within Four Weeks. If a given treatment or modality is not producing positive results within four weeks, treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected improvement of functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions. The decision and recommendation for operative treatment, and the appropriate informed consent should be made by the operating surgeon. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities and the patient should agree to comply with the pre- and post-operative treatment plan and home exercise requirements. The patient should understand the length of partial and full disability expected post-operatively.

10. Pharmacy-Louisiana Law and Regulation. All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month Time Frame. Injuries resulting in temporary total disability may require maintenance treatment and may not attain return to work in six months.

12. Return to Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic

problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner must provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, chiropractor or another professional. American Medical Association clarifies "disability" as "activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease" versus "impairment" as "a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease".

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. All recommendations are based on available evidence and/or consensus judgment. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. Per R.S. 1203.1, when interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient or Conflicting	

a. Consensus guidelines are generated by a professional organization that the guidelines are intended to serve. A committee of specialists and experts are selected by the organization to create an unbiased, vetted recommendation for the treatment of specific issues within

the realm of their expertise. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as “not recommended.”

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances: (a) A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1631 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1119 (June 2014), LR 49:515 (March 2023).

§2005. Initial Diagnostic Procedures

A. ...

1. History-taking and physical examination (Hx and PE). These are generally accepted, well-established and widely used procedures that establish the foundation/basis for and dictate subsequent stages of diagnostic and therapeutic procedures. List of medications patient is taking should be included in every history, including over the counter medicines as well as supplements. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following.

a. - a.i. ...

ii. Location of pain, nature of symptoms, and alleviating/exacerbating factors (e.g. sleep positions). Of particular importance, is whether raising the arm over the head alleviates radicular-type symptoms. The history should include both the primary and secondary complaints (e.g., primary neck pain, secondary arm pain, headaches, and shoulder girdle complaints). The use of a patient completed pain drawing, such as Visual Analog Scale (VAS) is highly recommended, especially during the first two weeks following injury to assure that all work related symptoms are being addressed;

a.iii. - b.vii. ...

c. Physical Examination should include accepted tests and exam techniques applicable to the area being examined, including:

i. general and visual inspection, including posture, stance, balance and gait;

1.c.ii. - 3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1632 (June 2011), amended by the

Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1120 (June 2014), LR 49:517 (March 2023).

§2007. Follow-Up Diagnostic Imaging and Testing Procedures

A. - C. ...

1. Imaging studies are generally accepted, well-established and widely used diagnostic procedures. In the absence of myelopathy, progressive neurological changes or incapacitating pain, imaging usually is not appropriate until conservative therapy has been tried and failed. Six to eight weeks of treatment are usually an adequate period of time before an imaging procedure is in order, but the clinician should use judgment in this regard. Early testing may be indicated for patients who demonstrate they cannot tolerate a trial of conservative therapy or who have a significant acute objective neurologic deficit that requires immediate imaging. When the findings of the diagnostic imaging and testing procedures are not consistent with the clinical examination, clinical findings should have preference. There is good evidence that in the over 40 asymptomatic population, the prevalence of disc degeneration is greater than 50 percent. Disc degeneration, seen as loss of signal intensity on MRI, may be due to age-related biochemical changes rather than structural deterioration, and may not have pathological significance. Disc bulging and posterior disc protrusion, while not rare, is more commonly symptomatic in the cervical spine than in the lumbar spine due to the smaller cervical spinal canal. Mild reduction in the cross-sectional area of the spinal cord may be seen without myelopathy in patients older than 40, therefore, clinical correlation is required. The studies below are listed in frequency of use, not importance.

a. ...

i. In general, the high field, conventional, MRI provides better resolution. A lower field scan may be indicated when a patient cannot fit into a high field scanner or is too claustrophobic despite sedation. Inadequate resolution on the first scan may require a second MRI using a different technique. All questions in this regard should be discussed with the MRI center and/or radiologist. Repeat MRI testing may be needed in cases that involve a change in exam or symptoms or for contemplated surgical intervention.

a.ii. - b. ...

c. Post-Fusion Patients—monitoring of fusion can be done with initial x-rays within the first few weeks after surgery. Then, x-rays every three months up to a year. CT scan or X-rays can be done at one year to assess for fusion.

d. Myelography is the injection of radiopaque material into the spinal subarachnoid space, with x-rays then taken to define anatomy. It may be used as a diagnostic procedure to obtain accurate information of characteristics, location, and spatial relationships among soft tissue and bony structures. Myelography is an invasive procedure with complications including nausea, vomiting, headache, convulsion, arachnoiditis, CSF leakage, allergic reactions, bleeding, and infection. Therefore, myelography should only be considered when CT and MRI are unavailable, for morbidly obese patients or those who have undergone multiple operations, and when other tests prove non-diagnostic or fail to delineate pathology suspected by clinical presentation. The use of small needles and a less toxic, water-soluble, nonionic contrast is recommended.

e. CT myelogram provides more detailed information about relationships between neural elements and surrounding anatomy and is appropriate in patients with multiple prior operations or tumorous conditions.

f. Single Photon Emission Computerized Tomography (SPECT). A scanning technique which may be helpful to localize facet joint pathology and is useful in determining which patients are likely to have a response to facet injection. SPECT combines bone scans and CT scans in looking for facet joint pathology.

g. Bone scan (radioisotope bone scanning) is generally accepted, well-established and widely used. Bone scanning is more sensitive but less specific than MRI. ^{99m}TcTechnetium diphosphonate uptake reflects osteoblastic activity and may be useful in diagnosing metastatic/primary bone tumors, stress fractures, osteomyelitis, and inflammatory lesions, but cannot distinguish between these entities. In the cervical spine, the usual indication is to evaluate for neoplastic conditions. Other indications include occult fracture or infection.

h. Other radioisotope scanning indium and gallium scans are generally accepted, well-established, and widely used procedures, usually to help diagnose lesions seen on other diagnostic imaging studies. ⁶⁷Gallium citrate scans are used to localize tumor, infection, and abscesses. ¹¹¹Indium-labeled leukocyte scanning is utilized for localizing infection or inflammation and is usually not used for the cervical spine.

i. Dynamic [digital] fluoroscopy dynamic [digital] fluoroscopy of the cervical spine measures the motion of intervertebral segments using a videofluoroscopy unit to capture images as the subject performs cervical flexion and extension, storing the anatomic motion of the spine in a computer. Dynamic Fluoroscopy may be used in state-designated trauma centers to evaluate the cervical spine. Its superiority over MRI has not been established. If performed, full visualization of the cervical spine (C1 - T1), in accordance with §2005.A.2. (Initial Diagnostic Procedures-Imaging), should be accomplished prior to the procedure. In the post-acute setting in some rare cases, Dynamic [Digital] Fluoroscopy may be used but is primarily an investigational tool and therefore, requires prior authorization in the post-acute setting. No studies have yet demonstrated predictive value in terms of standard operative and non-operative therapeutic outcomes.

2. - 2.a.i. ...

ii. In general, EMG and NCS are complementary to imaging procedures such as CT, MRI, and/or myelography or diagnostic injection procedures. Electrodiagnostic studies may provide useful, correlative neuropathophysiological information that would be otherwise unobtainable from the radiologic studies discussed above. Repeat testing may be necessary in cases where follow-up of an initial abnormal test is required to determine efficacy of a treatment or evaluate changes in a patient.

a.iii. - b.vi.(c). ...

vii. Specific Diagnostic Injections. In general, relief should last for at least the duration of the local anesthetic used and should significantly relieve pain and result in functional improvement. Refer to "Injections-Therapeutic" for information on specific therapeutic injections.

(a). Medial Branch Facet Blocks and Sacral Lateral Branch Blocks – If the block provides 80 percent or more pain reduction as measured by a numerical pain index scale within one hour of the medial branch blocks up to three levels per side, then rhizotomy of the medial branch nerves, up to four nerves per side, may be done without confirmation block. If the initial set of medial branch blocks provides less than 80 percent but at least 50 percent pain reduction as measured by a numerical pain index scale or documented functional improvement, the medial branch block should be repeated for confirmation before a rhizotomy is performed. If 50 percent or greater pain reduction is achieved as measured by the NPIS with two sets of medial branch blocks for facet joint pain, then rhizotomy may be performed.

(i). Frequency and maximum duration may be repeated once for comparative blocks. Limited to four levels.

2.b.vii.(b). - 3.e.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1634 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1121 (June 2014), LR 49:517 (March 2023).

§2009. Therapeutic Procedures—Non-Operative

A. - G.3.e.iii. ...

iv. Individuals should have met the following indications: pain of well-documented facet origin, unresponsive to active and/or passive therapy. It is generally recommended that this procedure not be performed until three months of active therapy and manual therapy have been completed unless severe pain or limitation of ROM preclude patient participation. All patients should continue appropriate exercise with functionally directed rehabilitation. Active treatment, which patients will have had prior to the procedure, will frequently require a repeat of the sessions previously ordered (Refer to Active Therapy).

v. Complications. Appropriate medical disclosures should be provided to the patient as deemed necessary by the treating physician.

vi. Post-Procedure Therapy. Active therapy. Implementation of a gentle reconditioning program within the first post-procedure week is recommended, barring complications. Instruction and participation in a long-term home-based program of ROM, cervical, scapular, and thoracic strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of four to ten visits post-procedure.

vii. Requirements for repeat RF neurotomy (or additional level RF neurotomies). In some cases pain may recur [ISIS]. Successful rhizotomy usually provides from six to eighteen months of relief.

(a). Before a repeat RF neurotomy is done, a confirmatory medial branch injection should be performed if the patient's pain pattern presents differently than in the initial evaluation. In occasional patients, additional levels of RF neurotomy may be necessary. The same indications and limitations apply.

3.f. - 13.a.i.(c). ...

(i). High velocity, low amplitude (HVLA) technique, chiropractic manipulation, osteopathic manipulation, muscle energy techniques, counter strain, and non-force techniques are all types of manipulative treatment. This may be applied by osteopathic physicians (D.O.), chiropractors (D.C.), physical therapists (P.T.), occupational therapists (O.T.), or physicians. Under these different types of manipulation exist many subsets of different techniques that can be described as a) direct- a forceful engagement of a restrictive/pathologic barrier, b) indirect- a gentle/non-forceful dis-engagement of a restrictive/pathologic barrier, c) the patient actively assisting in the treatment and d) the patient relaxing, allowing the practitioner to move the body tissues. When the proper diagnosis is made and coupled with the appropriate technique, manipulation has no contraindications and can be applied to all tissues of the body. Pre-treatment assessment should be performed as part of each manipulative treatment visit to ensure that the correct diagnosis and correct treatment is employed.

a.i.(c).(ii). - f.iv. ...

g. Intramuscular Manual Therapy: Dry Needling. IMT involves using filament needles to treat "Trigger Points" within muscle. It may require multiple advances of a filament needle to achieve a local twitch response to release muscle tension and pain. Dry needling is an effective treatment for acute and chronic pain of neuropathic origin with very few side effects. Dry needling is a technique to treat the neuro-musculoskeletal system based on pain patterns, muscular dysfunction and other orthopedic signs and symptoms.

i. - i.iv. ...

j. Superficial Heat and Cold Therapy (excluding Infrared Therapy) is a generally accepted treatment. Superficial heat and cold are thermal agents applied in various manners that lower or raise the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It includes application of heat just above the surface of the skin at acupuncture points. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm, and promote stretching/flexibility. Cold and heat packs can be used at home as an extension of therapy in the clinic setting. Continuous cryotherapy units with compression are allowable in post-surgical orthopedic patients.

i. -ii. ...

iii. Maximum Duration: 30 days

13.k. -14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1640 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1126 (June 2014), LR 49:518 (March 2023).

§2011. Therapeutic Procedures—Operative

A. - F.2.c.ii.(e).(iv). ...

3. Artificial Cervical Disc Replacement. This involves the insertion of an FDA approved prosthetic device into the cervical intervertebral space with the goal of maintaining physiologic motion at the treated cervical segment. The use of artificial discs in motion-preserving technology should be

based on the surgeon's skill and training. Artificial disc replacement has been found to be efficacious for both one and two level arthroplasty

4. - 7.c....

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1651 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1132 (June 2014), LR 49:519 (March 2023).

Subchapter B. Low Back Pain

§2019. Follow-Up Diagnostic Imaging and Testing

Procedures

A. - C.1.b. ...

c. Post-Fusion Patients—monitoring of fusion can be done with initial x-rays within the first few weeks after surgery. Then, x-rays every three months up to a year. CT scan or X-rays can be done at one year to assess for fusion.

d. Myelography is the injection of radiopaque material into the spinal subarachnoid space, with x-rays then taken to define anatomy. It may be used as a diagnostic procedure to obtain accurate information of characteristics, location, and spatial relationships among soft tissue and bony structures. Myelography is an invasive procedure with complications including nausea, vomiting, headache, convulsion, arachnoiditis, cerebral-spinal fluid (CSF) leakage, allergic reactions, bleeding, and infection. Therefore, myelography should only be considered when CT and MRI are unavailable, for morbidly obese patients or those who have undergone multiple operations, and when other tests prove non-diagnostic. The use of small needles and a less toxic, water-soluble, nonionic contrast is recommended.

e. CT Myelogram provides more detailed information about relationships between neural elements and surrounding anatomy and is appropriate in patients with multiple prior operations or tumorous conditions.

f. Single Photon Emission Computerized Tomography (SPECT). A scanning technique which may be helpful to localize facet joint pathology and is useful in determining which patients are likely to have a response to facet injection. SPECT combines bone scans & CT Scans in looking for facet joint pathology.

g. Bone Scan (Radioisotope Bone Scanning) is generally accepted, well-established, and widely used. Bone scanning is more sensitive but less specific than MRI. 99mTechnetium diphosphonate uptake reflects osteoblastic activity and may be useful in diagnosing metastatic/primary bone tumors, stress fractures, osteomyelitis, and inflammatory lesions, but cannot distinguish between these entities.

h. Other Radioisotope Scanning: Indium and gallium scans are generally accepted, well-established, and widely used procedures usually to help diagnose lesions seen on other diagnostic imaging studies. 67Gallium citrate scans are used to localize tumor, infection, and abscesses. 111Indium-labeled leukocyte scanning is utilized for localizing infection or inflammation.

i. Dynamic [Digital] Fluoroscopy: Dynamic [Digital] Fluoroscopy of the lumbar spine measures the motion of intervertebral segments using a videofluoroscopy unit to capture images as the subject performs lumbar

flexion and extension, storing the anatomic motion of the spine in a computer. Currently it is not recommended for use in the diagnosis of lumbar instability, since there is limited information on normal segmental motion for the age groups commonly presenting with low back pain, and diagnostic criteria for specific spinal conditions are not yet defined. No studies have yet demonstrated predictive value in terms of standard operative and non-operative therapeutic outcomes.

2. - 3.e.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1658 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1137 (June 2014), LR 46:1246 (September 2020), LR 49:519 (March 2023).

§2021. Therapeutic Procedures—Non-Operative

A. - H.13.b.viii.(d). ...

ix. Superficial Heat and Cold Therapy (excluding Infrared Therapy) is a generally accepted treatment. Superficial heat and cold are thermal agents applied in various manners that lower or raise the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It includes application of heat just above the surface of the skin at acupuncture points. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm, and promote stretching/flexibility. Cold and heat packs can be used at home as an extension of therapy in the clinic setting. Continuous cryotherapy units with compression are allowable in post-surgical orthopedic patients.

- (a). time to produce effect: Immediate;
- (b). frequency: two to five times per week;
- (c). maximum duration: thirty days

13.b.x. - 14.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1664 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1140 (June 2014), LR 46:1452 (September 2020), LR 49:520 (March 2023).

Chapter 21. Pain Medical Treatment Guidelines

Subchapter A. Chronic Pain Disorder Medical Treatment Guidelines

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

§2111. Therapeutic Procedures—Non-Operative

A. - C.19.c.ix.(b).(iv). ...

x. Superficial heat and cold therapy (including infrared therapy) is a generally accepted treatment. Superficial heat and cold therapies are thermal agents applied in various manners that lowers or raises the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm and promote stretching/flexibility. Cold and heat packs can be used at home as an extension of therapy in the clinic setting. At the time of the writing of this guideline, continuous

cryotherapy units with compression are supported by evidence only in post-surgical patients.

- (a). time to produce effect: immediate;
- (b). frequency: two to five times per week;
- (c). maximum duration: one month.

xi. - xvi. (a). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1692 (June 2011), amended LR 46:205 (February 2020), repromulgated LR 46:365 (March 2020), LR 46:797 (June 2020), LR 46:797 (June 2020), LR 49:520 (March 2023).

Chapter 23. Upper and Lower Extremities Medical Treatment Guidelines

Subchapter A. Lower Extremities

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

§2311. Therapeutic Procedures- Non-Operative

A. - G.15.a.i.(m).(iv). ...

(n). Superficial Heat and Cold Therapy is a generally accepted treatment. Superficial heat and cold therapies are thermal agents applied in various manners that lower or raises the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It may be used acutely with compression and elevation. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm and promote stretching/flexibility. At the time of the writing of this guideline, continuous cryotherapy units with compression are supported by evidence only in post-surgical patients.

- (i). Time to Produce Effect: Immediate.
- (ii). Frequency: Two to five times per week.

(iii). Maximum Duration: One month.

15.a.i.(o). - 16.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1801 (June 2011), LR 49:520 (March 2023).

§Subchapter B. Shoulder Injury Medical Treatment Guidelines

Editor's Note: Form LWC-WC 1009. Disputed Claim for Medical Treatment has been moved to §2328 of this Part.

§2315. Introduction

A. This document has been prepared by the Louisiana Workforce Commission, Office of Workers' Compensation and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Louisiana's Workers' Compensation Act as injured workers with shoulder injuries. Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Louisiana Workers Compensation Act. All medical care, services, and treatment owed by the employer to the employee in accordance with the Louisiana Workers' Compensation Act shall mean care, services, and treatment in accordance with these guidelines. Medical Care, services, and treatment that varies from these guidelines shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from these

guidelines is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care. To properly utilize this document, the reader should not skip nor overlook any sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1820 (June 2011), LR 49:520 (March 2023).

§2317. General Guideline Principles

A. The principles summarized in this section are key to the intended implementation of all Office of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. Application of Guidelines. The OWCA provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers' Compensation Act.

2. Education. Education of the patient and family, as well as the employer, insurer, policy makers and the community should be the primary emphasis in the treatment of workers' compensation injuries. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must develop and implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth education is currently a component of treatment regimens which employ functional, restorative, preventive and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. . Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. Informed Decision Making. Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision-making and achievement of functional goals. Patient education and informed decision-making should facilitate self-management of symptoms and prevention of further injury.

4. Treatment Parameter Duration. Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document. Such deviation shall be in accordance with La. R.S. 23:1203.1

5. Active Interventions. Emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. Active Therapeutic Exercise Program. Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. Positive Patient Response. Positive results are defined primarily as functional gains that can be objectively measured.

a. Objective functional gains include, but are not limited to, positional tolerances, range-of-motion (ROM), strength, and endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings.

8. Re-Evaluation of Treatment within Four Weeks. If a given treatment or modality is not producing positive results within four weeks, treatment should be either modified or discontinued. Reconsideration of diagnosis should also occur in the event of poor response to a seemingly rational intervention.

9. Surgical Interventions. Surgery should be contemplated within the context of expected improvement of functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions. The decision and recommendation for operative treatment, and the appropriate informed consent should be made by the operating surgeon. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities and the patient should agree to comply with the pre- and post-operative treatment plan and home exercise requirements. The patient should understand the length of partial and full disability expected post-operatively.

10. Pharmacy-Louisiana Law and Regulation: All prescribing will be done in accordance with the laws of the state of Louisiana as they pertain respectively to each individual licensee, including, but not limited to: Louisiana State Board of Medical Examiners regulations governing medications used in the treatment of non-cancer-related chronic or intractable pain; Louisiana Board of Pharmacy Prescription Monitoring Program; Louisiana Department of Health and Hospitals licensing and certification standards for pain management clinics; other laws and regulations affecting the prescribing and dispensing of medications in the state of Louisiana.

11. Six Month-Time Frame. Injuries resulting in temporary total disability may require maintenance treatment and may not attain return to work in six months.

12. Return To Work. Return to work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. An injured worker's return-to-work status shall not be the sole cause to deny reasonable and medically necessary treatment under these guidelines. Two good practices are: early contact with injured workers and provide modified work positions for short-term injuries. The practitioner must provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, occupational health nurse, physical therapist, occupational therapist, vocational rehabilitation specialist, chiropractor or another professional. American Medical Association clarifies "disability" as "activity limitations and/or participation restrictions in an individual with a health condition, disorder or disease" versus "impairment" as "a significant deviation, loss, or loss of use of any body structure or body function in an individual with a health condition, disorder or disease".

13. Delayed Recovery. Within the discretion of the treating physician, strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. The OWCA recognizes that 3 to 10 percent of all industrially injured patients will not recover within the timelines outlined in this document despite optimal care. Such individuals may require treatments beyond the limits discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

14. Guideline Recommendations and Inclusion of Medical Evidence. All recommendations are based on available evidence and/or consensus judgment. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. Per R.S. 1203.1, when interpreting medical evidence statements in the guideline, the following apply to the strength of recommendation.

Strong	Level 1 Evidence	We Recommend
Moderate	Level 2 and Level 3 Evidence	We Suggest
Weak	Level 4 Evidence	Treatment is an Option
Inconclusive	Evidence is Either Insufficient or Conflicting	

a. Consensus guidelines are generated by a professional organization that the guidelines are intended to serve. A committee of specialists and experts are selected by the organization to create an unbiased, vetted recommendation for the treatment of specific issues within the realm of their expertise. All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, regardless of the level of evidence or consensus statement attached to it. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as "not recommended."

15. Treatment of Pre-Existing Conditions The conditions that preexisted the work injury/disease will need to be managed under two circumstances: (a) A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1821 (June 2011), amended by the Louisiana Workforce Commission, Office of Workers Compensation, LR 40:1162 (June 2014), LR 49:521 (March 2023).

§2319. Initial Diagnostic Procedures

A. ...

1. History Taking and Physical Examination (Hx and PE) are generally accepted, well-established and widely used procedures that establish the foundation/basis for and dictates subsequent stages of diagnostic and therapeutic procedures. List of medications patient is taking should be included in every history, including over the counter medicines as well as supplements. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following:

1.a. - 7.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1822 (June 2011), LR 49:522 (March 2023).

§2321. Follow-Up Diagnostic Imaging and Testing Procedures

A. - C.1.j. ...

k. Diagnostic Arthroscopy (DA) allows direct visualization of the interior of a joint, enabling the diagnosis of conditions when other diagnostic tests have failed to reveal an accurate diagnosis; however, it should generally not be employed for exploration purposes only. In order to perform a diagnostic arthroscopy, the patient must have completed at least some conservative therapy without sufficient functional recovery and meet criteria for arthroscopic repair.

i. DA may also be employed in the treatment of acute joint disorders. In some cases, the mechanism of injury and physical examination findings will strongly suggest the presence of a surgical lesion. In those cases, it is appropriate to proceed directly with the interventional arthroscopy.

3 - 4.e.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1825 (June 2011), LR 49:522 (March 2023).

§2323. Specific Diagnosis, Testing and Treatment

A. - A.10.a.vii. ...

b. Specific Physical Exam Findings may include: Restricted active and passive glenohumeral ROM in multiple planes is the primary physical finding. It may be useful for the examiner to inject the subacromial space with lidocaine and then repeat ROM testing to rule out stiffness secondary to rotator cuff or bursal pathology. Lack of improvement of ROM usually confirms the diagnosis. Postural changes and secondary trigger points along with atrophy of the deltoid and supraspinatus muscles may be seen.

c. Diagnostic Testing Procedures:

i. Plain x-rays should be done to rule out concomitant pathology such as subluxation or tumor.

ii. Other diagnostic testing may be indicated to rule out associated pathology. Refer to Follow-up Diagnostic Procedures and to Specific Diagnosis, Testing, and Treatment. Dynamic sonography may be useful to specifically identify the movements most affected and rule out other pathology.

iii. Laboratory tests should be considered to rule out systemic diseases.

d. Non-operative Treatment Procedures: Address the goal to restore and maintain function and may include the following:

i. Therapeutic interventions are the mainstay of treatment. They should include ROM, active therapies, and a home exercise program. Passive as well as active therapies may be used for control of pain and swelling. Therapy should progress to strengthening and instruction in a home exercise program targeted to further improve ROM and strength of the shoulder girdle musculature. There is some evidence that a home exercise program will have similar results to fully-supervised physical therapy in non-workers compensation populations; however, to facilitate return to work, supervised therapy is generally recommended for at least several sessions to assure proper performance of home exercise and to evaluate continued progress. These sessions are in addition to any sessions already performed for the original primary related diagnosis. Refer to Therapeutic Procedures, Non-operative for all other therapies as well as a description of active and passive therapies.

(a). Time to Produce Effect: Four sessions.

(b). Frequency: Two times per week for the first two weeks and one time or less thereafter.

(c). Optimum Duration: 8 to 12 sessions.

(d). Maximum Duration: 20 sessions per year.

Additional follow-up visits may be justified to reinforce exercise patterns or to reach final functional goals if therapy to date has demonstrated objective functional gains.

ii. Return to work duties with increased ROM as tolerated are also helpful to increase function. Refer to Return to Work.

iii. Medications, such as NSAIDs and analgesics, may be helpful. Narcotics are indicated for post-manipulation or post-operative cases. Judicious use of pain medications to optimize function may be indicated. Refer to Medications.

iv. Subacromial bursal and/or glenohumeral steroid injections can decrease inflammation and allow the therapist to progress with functional exercise and ROM. There is strong evidence that intra-articular injection of a corticosteroid produces pain relief and increases ROM in the short-term for individuals with restriction of both active and passive ROM in more than one direction. There is good evidence that the addition of a physical therapy or home exercise program is more effective than steroid injections alone. Injections under significant pressure should be avoided as the needle may be penetrating the tendon and injection into the tendon can cause possible tendon breakdown, tendon degeneration, or rupture. Injections should be minimized for patients under 30 years of age. Steroid injections should be used cautiously in diabetic patients. Diabetic patients should be reminded to check their blood glucose level at least daily for 2 weeks after injections.

(a). Time to Produce Effect: One injection.

(b). Maximum Duration: Three injections in one year at least four to eight weeks apart, when functional benefits are demonstrated with each injection.

v. There is no clear long-term benefit for suprascapular nerve blocks, however, blocks may be appropriate for patients when pain is not well-controlled and injections improve function.

(a). Time to Produce Effect: One block should demonstrate increased ability to perform exercises and/or range-of-motion.

(b). Maximum Duration: Three per year.

vi. In cases that are refractory to conservative therapy lasting at least three to six months, and in whom ROM remains significantly restricted (abduction usually less than 90 degrees), the following treatment may be considered:

(a). Distension arthrography or "brisement" in which saline, an anesthetic and usually a steroid are forcefully injected into the shoulder joint causing disruption of the capsule. There is good evidence that distension arthrogram with steroid and saline improves function in patients with decreased passive ROM after three months of treatment. Early therapy to maintain ROM, and restore strength and function should follow distension arthrography. Return to work with restrictions should be expected within one week of the procedure; return to full-duty is expected within four to six weeks.

(b). Dynamic splinting may be appropriate for rare cases when a functional ROM has not been achieved with the treatment listed above.

vii. There is no evidence that hyaluronate injections are superior to physical therapy in this condition and are not recommended.

viii. Other therapies in Therapeutic Procedures, Non-operative, may be employed in individual cases.

e. Surgical Indications: Surgery may be considered when functional deficits interfere with activities of daily living and/or job duties after three to six months of active patient participation in non-operative therapy. For most individuals this constitutes limitations in the range of 130 degrees elevation and 120 degrees abduction; with significant functional limitations; however, individuals who must perform overhead work and lifting may require a greater ROM. Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities. The patient should also agree to comply with the pre- and post-operative treatment plan and home exercise requirements. The patient should understand the length of partial and full disability expected post-operatively.

f. Operative Procedures: Manipulation under anesthesia which may be done in combination with steroid injection, distension arthrography, or arthroscopy. Contraindications to closed manipulation under anesthesia include anti-coagulation or bleeding diatheses, significant osteopenia, or recent surgical repair of shoulder soft tissue, fracture or neurological lesion. Complications may include humeral fracture, dislocation, cuff injuries, labral tears or brachial plexus injury. Arthroscopic capsular release or open surgical release may be appropriate in rare cases with failure of previous methods and when the patient has demonstrated ability to follow through with required physical and occupational therapy. Other disorders, such as impingement syndrome, may also be treated at the same time. Radiofrequency is not recommended due to reported complications from chondrolysis.

g. Post-Operative Treatment. An individualized rehabilitation program based upon communication between the surgeon and the therapist using the treatments found in Therapeutic Procedures, Non-operative. Therapy may include the following:

i. Early therapeutic rehabilitation interventions are recommended to maintain ROM and should progress to strengthening exercises.

ii. Frequency: Suggested frequency pattern is three to five times per week for the first two weeks, three times per week for the following two weeks, then one to two times per week. The exact frequency per week will depend on the severity.

iii. Optimum Duration: Six to eight weeks with progression to home exercise and/or pool therapy.

iv. Maximum Duration: Up to 12 weeks. Additional follow-up visits may be justified to reinforce exercise patterns or to reach final functional goals if the therapy to date has demonstrated objective functional gains.

v. Return to work and restrictions after surgery may be made by an experienced primary occupational medicine physician in consultation with the surgeon or by the surgeon.

vi. Patient should be approaching MMI within 8 to 12 weeks post-operatively; however, co-existence of other pathology should be taken into consideration.

B. - F.16.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1828 (June 2011), amended LR 49:523 (March 2023).

§2325. Therapeutic Procedures—Non-Operative

A. - F.6.c.vii.(b). ...

viii. Topical Drug Delivery

(a). Description. Topical creams and patches may be an alternative treatment of localized musculoskeletal and neuropathic disorders and can be especially helpful in avoiding opioid use.

(b). Indications: neuropathic pain for many agents; episodic use of NSAIDs and salicylates for joint pain or musculoskeletal disorders. All topical agents should be used with strict instructions for application as well as maximum number of applications per day to obtain the desired benefit and avoid potential toxicity.

(c). Dosing and time to therapeutic effect: all topical agents should be prescribed with clear instructions for application and maximum number of applications per day to obtain the desired benefit and avoid potential toxicity. For most patients, the effects of long-term use are unknown. Thus, episodic use may be preferred for some agents.

(d). Side Effects. localized skin reactions may occur, depending on the medication agent used.

(e). Topical Agents

(i). Capsaicin. As of the time of this guideline writing, formulations of capsaicin have been FDA approved for management of pain associated with post-herpetic neuralgia. Capsaicin offers a safe and effective alternative to systemic NSAID therapy. Although it is quite safe, the local stinging or burning sensation that typically dissipates with regular use, usually after the first 7 to 10 days of treatment, limits effective use of capsaicin. Patients should be advised to apply the cream on the affected area with a plastic glove or cotton applicator and to avoid inadvertent contact with eyes and mucous membranes.

[a]. There is good evidence that low dose capsaicin (0.075 percent) applied four times per day will decrease pain up to 50 percent. There is strong evidence that a single application of eight percent capsaicin is more effective than a control preparation of 0.04 percent capsaicin for up to 12 weeks. However, there may be a need for frequent application, and it is not known whether subsequent applications of capsaicin are likely to be as effective as the first application. There is some evidence that in patients who are being treated with capsaicin 8 percent patches, two methods of pre-treatment are equally effective in controlling application pain and in enabling patients to tolerate the patch: topical four percent lidocaine cream applied to the area for one hour before placement of the capsaicin patch and 50 mg oral tramadol taken 30 minutes before patch placement.

(ii). Clonidine. There is good evidence that topical clonidine gel 0.1 percent is likely to alleviate pain from diabetic peripheral neuropathy in patients who display a nociceptive response to the application of 0.1 percent capsaicin applied to the pretibial area. It is likely that patients who do not display a pain response to pretibial capsaicin are not likely to have a clinically meaningful analgesic response to clonidine gel. It is unknown if this

screening test applies to other types of neuropathic pain. Clonidine gel may be used for neuropathic pain.

[a]. Lofexidine (Lucemyra) is now available and indicated for mitigation of opioid withdrawal symptoms to facilitate abrupt discontinuation in adults. This is necessary to block or reduce life threatening side effects of opioid withdrawal. This drug will be beneficial in drug treatment centers and for physicians finding necessity to abruptly stop opioid medication.

(iii). Ketamine and Tricyclics. Topical medications, such as the combination of ketamine and amitriptyline, have been proposed as an alternative treatment for neuropathic disorders including CRPS. A study using a 10 percent concentration showed no signs of systemic absorption. This low-quality study demonstrated decreased allodynia at 30 minutes for some CRPS patients. However, as of the time of this guideline writing, neither tricyclic nor ketamine topicals are FDA approved for topical use in neuropathic pain. Furthermore, there is good evidence that neither two percent topical amitriptyline nor 1 percent topical ketamine reduces neuropathic pain syndromes. Despite the lack of evidence, it is physiologically possible that topical tricyclics and a higher dose of ketamine could have some effect on neuropathic pain. Other less expensive topicals and compounds, including over-the-counter, should be trialed before more expensive compounds are ordered. The use of topical tricyclics and/or ketamine should be limited to patients with neuritic and/or sympathetically mediated pain with documented supporting objective findings such as allodynia and/or hyperalgesia. Continued use of these agents beyond the initial prescription requires documentation of effectiveness, including functional improvement, and/or decreased use of other medications, particularly decreased use of opioids or other habituating medications.

(iv). Lidocaine. As of the time of this guideline writing, formulations of lidocaine (patch form) have been FDA approved for pain associated with post-herpetic neuralgia. Evidence is mixed for long-term use of lidocaine topically. Physicians should always take into account the blood level that may be achieved with topical use as toxic levels have been reported and there is variability and systemic absorption among individuals. There is good evidence that lidocaine five percent plasters, applied for up to 12 hours to the lower extremities of patients with post-herpetic neuralgia and diabetic painful neuropathy, is non-inferior to pregabalin for the same indications. The topical lidocaine is associated with significantly fewer drug-related adverse events over four weeks of observation. There is some evidence that a five percent lidocaine patch may be used as a secondary option for patients with focal neuropathic pain. A 30 to 50 percent pain reduction may be achieved in those who tolerate the patch. Up to three patches may be used simultaneously for 12 hours per day. It should be applied only to intact skin. Metered dose eight percent pump sprays have also been used and usually require a three times per day reapplication. There is some evidence that the eight percent sprays are effective for short-term, two-week use. However, the effects of long-term use are unknown.

(v). Topical Salicylates and Nonsalicylates have been shown to be effective in relieving pain in acute musculoskeletal conditions and single joint osteoarthritis.

Topical salicylate and nonsalicylates achieve tissue levels that are potentially therapeutic, at least with regard to COX inhibition.

[a]. There is insufficient evidence to support the use of topical rubefacients containing salicylates for acute injuries or chronic conditions. They seem to be relatively well tolerated in the short-term, based on limited data. The amount and quality of the available data mean that uncertainty remains about the effects of salicylate-containing rubefacients.

[b]. There is good evidence that diclofenac gel (Voltaren, Solaraze) reduces pain and improves function in mild-to-moderate hand osteoarthritis. There is good evidence that topical diclofenac and ketoprofen are more effective than placebo preparations for purposes of relieving pain attributable to knee osteoarthritis. There is good evidence that topical NSAIDs probably reduce the risk of GI adverse effects by approximately one-third compared to oral NSAIDs. Topical diclofenac does not appear to affect the anti-platelet properties of aspirin unlike the oral version. The topical solution of two percent sodium diclofenac applied thrice a day is equal to 1.5 percent four times per day.

[c]. Diclofenac gel has been FDA approved for acute pain due to minor strains, pains, and contusions and for relief of pain due to osteoarthritis of the joints amenable to topical treatment, such as those of the knees, shoulders, and hands. It is likely that other NSAIDs would also be effective topically. Thus, topical NSAIDs are permitted when patients show functional improvement.

[d]. Other than local skin reactions, the side effects of therapy are minimal, although not non-existent. The usual contraindications to use of these compounds needs to be considered. Local skin reactions are rare and systemic effects are even less common. Their use in patients receiving warfarin therapy may result in alterations in bleeding time. Overall, the low level of systemic absorption can be advantageous. This allows the topical use of these medications when systemic administration is relatively contraindicated, such as is the case in patients with hypertension, cardiac failure, or renal insufficiency. Both topical salicylates and NSAIDs are appropriate for many chronic pain patients. However, in order to receive refills, patients should demonstrate increased function, decreased pain, or decreased need for oral medications.

(vi). Other Compounded Topical Agents. At the time of writing this guideline, no studies identified evidence for the effectiveness of compounded topical agents other than those recommended above. Therefore, other compounded topical agents are not generally recommended. In rare cases, they may be appropriate for patients who prefer a topical medication to chronic opioids or who have allergies or side effects from other more commonly used oral agents.

(vii). Prior authorization is required for all agents that have not been recommended above.

ix. Other Agents

(a). Glucosamine. There is good evidence that glucosamine does not improve pain related disability in those with chronic low back pain and degenerative changes on radiologic studies; therefore, it is not recommended for chronic lower spinal or non-joint pain. For chronic pain

related to joint osteoarthritis, see specific extremity guidelines. Glucosamine should not be combined with chondroitin as it is ineffective.

(b). Oral Herbals. There is insufficient evidence due to low quality studies that an oral herbal medication, Compound Qishe Tablet, reduced pain more than placebo. There is also insufficient evidence that Jingfukang and a topical herbal medicine, Compound Extractum Nucis Vomicae, reduced pain more than Diclofenac Diethylamine Emulgel. Further research is very likely to change both the effect size and our confidence in the results. Currently, no oral herbals are recommended.

(c). Vitamin D. A large beneficial effect of vitamin D across different chronic painful conditions is unlikely. Therefore, it is not recommended.

(d). Alpha-Lipoic Acid. An adequate meta-analysis shows that there is some evidence that alpha-lipoic acid at a dose of 600 mg per day may reduce the symptoms of painful diabetic neuropathy in the short term of three to five weeks. The effect of the intravenous route appears to be greater than that of the oral route, but the oral route may have a clinically relevant effect. Doses of 1200 or 1800 mg have not been shown to have additional therapeutic benefit. This medication may be used for neuropathic pain.

7. - 14.b.x.(d). ...

xi. Superficial Heat and Cold Therapy is a generally accepted treatment. Superficial heat and cold therapies are thermal agents applied in various manners that lower or raises the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. It may be used acutely with compression and elevation. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm and promote stretching/flexibility. At the time of the writing of this guideline, continuous cryotherapy units with compression are supported by evidence only in post-surgical patients.

(a). Time to Produce Effect: Immediate.

(b). Frequency: Two to five times per week.

(c). Maximum Duration: One month.

14.b.xii. -15.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 37:1850 (June 2011), LR 49:524 (March 2023).

Ava Cates
Secretary

2303#045

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Child Welfare

State Central Registry
(LAC 67.V.1103)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 3, Chapter 11, Section 1103 State Central Registry.

Section 1103 is being amended to allow DCFS to disclose information regarding perpetrators of child abuse and/or neglect listed on the SCR for any current or prospective employee or volunteer of a service provider who is obligated by contract with DCFS to conduct SCR checks prior to performing contracted duties in the Child Protective Services, Family Services or Foster Care programs within the Department. Section 1103 is also being amended to allow DCFS to disclose information on the SCR for any current or prospective employee or volunteer of a service provider who contracts with DCFS to provide Human Trafficking Advocacy services and the current or prospective employees or volunteers' duties will require them to be alone with children.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1103. State Central Registry

A. - F.2. ...

G. DCFS is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. - 13. ...

14. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the SCR for any current or prospective employee or volunteer of a service provider who is obligated by contract with DCFS to conduct SCR checks prior to performing contracted duties in the Child Protective Services, Family Services or Foster Care programs within the Department.

15. DCFS will disclose information regarding perpetrators of child abuse and/or neglect listed on the SCR for any current or prospective employee or volunteer of a service provider who contracts with DCFS to provide Human Trafficking Advocacy services. The SCR checks shall be limited to those current or prospective employees or volunteers whose duties will require them to be alone with children.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., 28 CFR 115.6., 42 USC 9858f and R.S. 40:2008.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), amended LR 45:1053 (August 2019), LR 46:14 (January 2020), effective February 1, 2020, LR 49:

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

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, April 25, 2023, to Mona Michelli, Deputy Assistant Secretary of Child Welfare, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9:00 a.m. on April 25, 2023, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/81426680229?pwd=bDNHcmNQeW4zRkFnTkhiZ1BkL0w1Zz09>; via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://stateofladcfs.zoom.us/j/81426680229?pwd=bDNHcmNQeW4zRkFnTkhiZ1BkL0w1Zz09>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Terri Porche Ricks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: State Central Registry

**Title 52
ETHICS**

Part I. Board of Ethics

**Chapter 20. Exemption Pursuant to the Provisions of
Section 1123(34)**

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

Other than publication cost of \$1,065 SGF, the proposed rule change will have no fiscal impact on state or local governmental units. DCFS will utilize existing staff to perform State Central Registry checks.

The department proposes to amend LAC 67:V, Subpart 3, Chapter 11, Section 1103 State Central Registry (SCR). The proposed rule is necessary to allow the department to disclose information regarding perpetrators of child abuse and/or neglect listed on the SCR for any current or prospective employee or volunteer of a service provider who is obligated by contract with DCFS to conduct SCR checks prior to performing contracted duties in the Child Protective Services, Family Services or Foster Care programs within the Department. The proposed rule is also necessary to allow the department to disclose information on the SCR for any current or prospective employee or volunteer of a service provider who contracts with the department to provide Human Trafficking Advocacy services and the current or prospective employees or volunteers' duties will require them to be alone with children.

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

Implementation of this proposed rule will have no effect on revenue collections of state or local governmental units. The proposed rule creates a new group of individuals that must submit to a SCR check. However, the department will not charge this group a fee to perform the check.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

There may be an economic cost to individuals included in the SCR given that it will limit their opportunity to find employment or volunteer. However, they have the right to appeal any investigative findings before it would impact their employability.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The implementation of this rule may reduce the number of available childcare workers or volunteers given that individuals included in the SCR will likely be unemployable

Myrna Brunson
Assistant Secretary
2303#065

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

Exemption Disclosure Statement (LAC 52:I.Chapter 20)

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 its Rules regarding the exemption disclosure statement pursuant to R.S. 42:1123(34).

§2001. Application

A. A member of a municipal or parish governing authority, an appointed member of a planning or zoning or appeals board or commission of a parish or municipality, or a member of such public official's immediate family or a legal entity they have an interest may make an application which is under the supervision or jurisdiction of his agency for the approval of the subdivision or resubdivision of property, and for the zoning of such property or for a building permit and any inspections performed pursuant thereto, provided the public servant recuses himself from acting in his official governmental capacity in matters concerning such application, and provides the written notice as required in §2003 is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2686 (December 2004), LR 49:

§2003. Reporting Requirements

A. Written notices filed pursuant to R.S. 42:1123(34) of the Code shall:

1. be filed with the board and with the public servant's governing authority or board or commission no later than 10 days prior to any hearing pertaining to such application or if no hearing is held at least 10 days prior to final action on such application; and

2. be in writing, on a form provided by the board or a form which is substantially similar to the form provided by the board, and shall contain the following;

a. name, address, and the office held by the public servant;

b. name and address, and relation to public servant, if the applicant is a member of the public servant's immediate family;

c. name and business address of the legal entity, if applicable;

d. name of municipality or parish;

e. description of the application being made;

f. date of hearing or final action regarding such application;

g. statement that:

i. the zoning of such subdivided property will not be less restrictive than the zoning of the original parcel;

ii. the property will be used for residential purposes only;

iii. application for the subdivision, resubdivision, or zoning of no more than 12 lots per calendar year and the construction of no more than 12 residential units per calendar year by the elected official, his immediate family members and any legal entity in which they own a controlling interest has been submitted; and

iv. no public funds will be used to construct any infrastructure for the use or benefit of such property;

h. signed certificate of accuracy that the information in the form is true and correct to the best of the public servant's knowledge, information, and belief and that no information required by R.S. 42:1123(34) has been deliberately omitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 30:2686 (December 2004), LR 49:.

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 April 10, 2023.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemption Disclosure Statement

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

The proposed rule provides amendments to codify the Board of Ethics rules to recent changes in statute. Act 340 of the 2021 Regular Session amended R.S. 42:1123(34), which requires amending the administrative rules. The proposed rule provides the changes to comply with the amended disclosure requirements. The only estimated cost to implement the proposed rule is \$320 in FY 22-23, which includes the cost to publish the Notice of Intent and the proposed rule in the State Register.

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

The proposed rule will have 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 will require directly affected persons to file a disclosure form with the Board of Ethics.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Administrator
2303#042

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Late Filings (LAC 52:I.1211)

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 suspension of late filing fees.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 12. Late Filings

§1211. Late Filing; Suspension

A. When the board suspends a late fee based on one or more conditions and the late filer does not comply with the condition, the failure to comply with the condition is called the "triggering event."

B. When a triggering event occurs, the portion of the late that was suspended shall be immediately due and owing. At that time, the staff shall send a demand letter to the late filer advising the late filer of the "triggering event" and that the suspended portion of the late fee is now due and owing, and failure to pay will result in collection procedures being pursued.

C. If a triggering event does not occur within eight years after the board suspended the late fee, the suspended portion of the late fee is waived in full.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 49:

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 April 10, 2023.

Kathleen M. Allen
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Late Filings

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

The proposed rule provides that if a filer is assessed a late fee that the Board of Ethics suspends in whole or in part based on future compliance with the filing requirements, and it has been more than eight years from the suspension, the suspended amount shall not be due and owing. This is because such a judgment would not be collectible within 10 years of the finality of the judgment. The Board agreed upon the period of eight years given the length of time since a prior violation and the time delays that would be needed to demand and execute a judgment on the suspended portion. The estimated cost to implement the proposed rule change is \$215 in FY 22-23, which includes the cost to publish the Notice of Intent and the proposed rule in the State Register.

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

The proposed rule could have an unknown impact on revenue collections to the state, as there is potential for collection of suspended late fees in future fiscal years beyond the scope of this impact statement.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action could result in directly affected persons having to pay late filing fees to the extent suspended fees are imposed or reassessed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Administrator
2303#041

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Civil Service
Board of Ethics**

**Spousal Income Disclosure Statement
(LAC 52:I.1319)**

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 disclosure forms filed pursuant to R.S. 42:1111(C)(5).

**Title 52
ETHICS**

Part I. Board of Ethics

Chapter 13. Records and Reports

§1319. Disclosures Filed Pursuant to R.S. 42:1111(C)(5)

A. Disclosures filed pursuant to R.S. 42:1111(C)(5) shall:

1. be in writing and on a form provided by the board or a form which is substantially similar to the form provided by the board;

2. contain the following:
 - a. name and mailing address of public servant and their spouse;
 - b. position held by the public servant and the name of the public servant's agency;
 - c. name and mailing address of public servant's spouse's employer;
 - d. date of public servant's spouse's employment;
 - e. date public servant began public service;
 - f. brief description of the nature of the contractual, business, or financial relationship between the public servant's spouse's employer and with the public servant's agency;
 - g. start date of relationship between public servant's spouse's employer and public servant's agency; and,
 - h. certification that:
 - i. the public servant's spouse is a salaried or wage earning employee;
 - ii. the public servant's spouse's compensation is substantially unaffected by a contractual or other business or financial relationship with the public servant's agency;
 - iii. neither the public servant nor the public servant's spouse are an owner, officer, director, trustee, or partner in the legal entity that has or is seeking to have the relationship with the public servant's agency;
 - iv. the public servant will recuse or disqualify themselves from participating in the transaction in accordance with R.S. 42:1112; and,
 - v. the public servant's spouse will comply with the disclosure requirements in La. R.S. 42:1114.
 - i. signature by the public servant and the public servant's spouse certifying that the information contained in the form is true and correct to the best of their knowledge, information and belief.
 - j. date of signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 49:

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 April 10, 2023.

Kathleen M. Allen
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Spousal Income Disclosure Statement

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

The proposed rule facilitates disclosure requirements and codifies the Board of Ethics rules to recent changes in statute. Act 272 of the 2021 Regular Session added R.S. 42:1111(C)(5), which allows a public servant's spouse to maintain their employment with a person that has a contractual, business or financial relationship with the public servant's agency provided certain stipulations are met. The proposed rule enables these provisions and filing requirements to comply with statute. The only estimated cost to implement the proposed rule is \$320 in FY 22-23, which includes the cost to publish the Notice of Intent and the proposed rule in the State Register.

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

The proposed rule will have 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 will require directly affected persons to file a disclosure form with the Board of Ethics.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Administrator
2303#043

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

Small Business Innovation Recruitment Fund Program
(LAC 13:I.Chapter 51)

Under the authority of R.S. 51:2402 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development hereby give notice of their intent to adopt rules for the Small Business Innovation Recruitment Fund Program.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

**Chapter 51. Small Business Innovation Recruitment
Fund Program**

§5101. Purpose

A. The purpose of this Chapter is to implement the Small Business Innovation Recruitment Fund Program as established by R.S. 51:2402.

B. This Chapter shall be administered to achieve the following purposes:

1. to recruit out of state small businesses that have received Phase II Small Business Innovation Research (SBIR) or Phase II Small Business Technology Transfer (STTR) federal grant funds to move to Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5103. Definitions.

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2402, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Applicant—a person requesting a grant award from LED under this program.

Business Operations—the location where significant administrative or managerial activities of a business are conducted and research and development work is performed.

Department—Louisiana Department of Economic Development.

Federal Notice of Award—a document issued by a federal agency evidencing approval of a Phase II SBIR or Phase II STTR application, including but not limited to amount of funding awarded, agreement number and topic number.

LED—Louisiana Department of Economic Development.

LED Grant Letter—a letter issued by LED to a person for a particular calendar year, setting forth the amount, terms and conditions of the grant.

Out of State Small Business—a business domiciled outside of Louisiana that qualifies as a small business according to the United States Small Business Administration's size standards.

Person—any natural person or legal entity including an individual, corporation, partnership, or limited liability company.

REAL—Regional Economic Alliance of Louisiana.

Recruitment Fund—Small Business Innovation Recruitment Fund.

Relocate—relocate business operations from an out of state location to Louisiana. The company shall be required to maintain a physical location in this state, be licensed to conduct business in this state and shall be required to file a Louisiana income tax return.

Secretary—Secretary of the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5105. General Principles

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

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

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

3. Applicants may apply for more than one program administered by LED, provided that:

a. separate applications are submitted per program; and

b. to the extent allowable under federal and state laws and regulations.

B. Program Issuance Cap

1. LED may issue no more than \$500,000 (five hundred thousand dollars) per fiscal year from the Recruitment Fund;

2. Unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund.

C. Applicant issuance cap.

1. LED may issue no more than \$100,000 (one hundred thousand dollars) total per applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5107. Eligibility Criteria

A. Applicants for the benefits of this program shall meet the following criteria:

1. the applicant shall be an out of state small business that has received a Phase II SBIR or Phase II STTR Federal Notice of Award within the two years immediately preceding submission of an application to this program;

2. the applicant shall have generated sales and revenue and shall provide documentation proving such;

3. the applicant shall have produced commercial products or conducted commercial services, and shall provide documentation proving such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5109. Application Procedure

A. LED will provide a standard application form which applicants will be required to use to apply for assistance under this program. The application form will contain, but not be limited to, the following:

1. out of state small business name;
2. contact person and their title;
3. out of state business physical address;
4. business phone number and email address;
5. brief description of the nature of the business;
6. number of existing employees and estimated jobs to be created or relocated in Louisiana;
7. out of state evidence of business registration;
8. information evidencing Phase II SBIR or Phase II STTR award, including name of issuing federal agency;
9. proposed Louisiana business location;
10. proposed relocation timeframe;
11. any additional information requested by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5111. Selection Criteria

A. LED will consider various factors when determining which applications will be funded. Among the factors which may be taken into consideration are the following:

1. nominations of eligible small businesses recommended by REAL;

2. disbursing of funding statewide;
3. number of employees to be relocated to Louisiana;
4. nature of industry;
5. nature of business entity created in Louisiana, i.e. whether original out of state entity is dissolved, or reorganized and merged into a new Louisiana entity, or whether registering as a foreign entity authorized to do business in Louisiana.
6. availability of funding; and
7. best interests of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§5113. LED Action—Grant Approval or Denial Provisions

A. In the event LED determines that an applicant is eligible, funding is available and a grant would be appropriate, a grant letter will be issued, specifying the amount, the terms and conditions of the grant.

B. Each grant awarded shall be divided into three equal amounts and disbursed over a period of three consecutive years as follows:

a. year one funding may be awarded based upon the application information provided but will not be disbursed until documentation has been provided that the applicant business has relocated to Louisiana. If the selected applicant fails to relocate or to provide evidence of such, the grant shall be forfeited, and the money shall be disbursed to another applicant;

b. year two funding shall be awarded contingent upon evidence of continued business operation;

c. year three funding shall be awarded contingent upon evidence of continued business operation;

d. if an applicant fails to continue business operations in the state in any given year, it may retain funding already disbursed, but the department reserves the right to withhold previously reserved, but not yet disbursed funding.

C. In the event LED determines that an applicant is not selected for an award, a denial letter will be issued by the secretary, specifying the basis for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2402.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the

proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on April 26, 2023 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.LeGrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on April 27, 2023 in the Griffon Conference Room at the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Brenda C. Guess
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Small Business Innovation Recruitment Fund Program**

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

The proposed rule establishes program guidelines for the Small Business Innovation Recruitment (SBIR) Program authorized by Act 477 of the 2022 Regular Session.

Beginning in FY 26, the Department of Economic Development (LED) expects to receive up to \$105,000 per year to administer the program. These funds should be sufficient to administer the program as outlined in law and proposed rules.

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

The program is expected to have a negligible impact on future revenue collections at both the state and local levels.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The program will directly benefit out of state businesses that are recipients of federal Phase II SBIR or Small Business Technology Transfer (STTR) grants who receive awards from the Louisiana Small Business Innovation Recruitment Fund Program, by providing them with additional grant funding from the State as a result of relocation to the state of Louisiana. These businesses will be subject to additional application and compliance requirements, but these requirements should not be significant and should be outweighed by the benefits received.

There is also an expectation that small businesses near the relocation would benefit from additional sales and services to those employed by the business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Program award recipients may enjoy competitive benefits over any competitors who do not receive awards, due to having additional funding. Employment may increase negligibly if award recipients hire additional personnel due to receiving award funding.

Anne G. Villa
Undersecretary
2303#046

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Horses Disqualified for a Foul (LAC 35:V.7907)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:V.7907. The proposed amendment, along with the proposed amendment to LAC 35:V.6335, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries.

Title 35

HORSE RACING

Part V. Racing Procedures

Chapter 79. Post to Finish

§7907. Horses Disqualified for a Foul

A. If a horse is disqualified for a foul, any horse or horses of the same ownership or interest, whether coupled as an entry or not, may also be disqualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:445 (December 1976), amended LR 3:41 (January 1977), LR 4:285 (August 1978), LR 49:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Horses Disqualified for a Foul

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

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed amendment, along with the proposed amendment to LAC 35:V.6335, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries.

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

The proposed rule change 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 administrative rule may result in an indeterminable economic benefit to licensed racetracks in Louisiana by allowing them to fill more horse races with less restrictive coupling rules, which may help increase pari-mutuel wagering activity at their properties. The proposed administrative rule may result in an indeterminable economic benefit to licensed owners, who would be able to enter their horses to compete in more races for possible purse winnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment as a result of the proposed rule changes is indeterminable.

Charles A. Gardiner, III
Executive Director
2304#007

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Owner's Entry of More Than One Horse (LAC 35:V.6335)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:V.6335. The proposed amendment, along with the proposed amendment to LAC 35:V.7907, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries.

**Title 35
HORSE RACING**

Part V. Racing Procedures

Chapter 63. Entries

§6335. Owner's Entry of More Than One Horse

A. Not more than two horses of the same ownership or interest may be entered in an overnight race, unless the race is divided. In divided races, the starters in the separate divisions shall be determined by lot. If a race is divided, an

additional conditional entry may be accepted from any interest.

B. In overnight races, the stewards may allow no more than two horses of the same ownership or interest to race as separate wagering interests, but in no case may two horses of the same ownership or interest start to the exclusion of a single entry should the number of entries exceed the starting gate capacity.

C. When making a double or joint entry in overnight races, the owner or trainer must express a preference to start should the number of entries exceed the starting gate capacity.

D. In stakes races, the stewards may allow two or more horses of the same ownership or interest to race as separate wagering interests.

E. The stewards may require horses entered in any race to be coupled for wagering interests if a majority of the stewards find it necessary in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission LR 2:437 (December 1976), amended LR 3:33 (January 1977), LR 4:280 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:3168 (December 2012), LR 49:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Owner's Entry of More Than One Horse

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

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed amendment, along with the proposed amendment to LAC 35:V.7907, loosens the restrictions on entries by allowing the uncoupling of same owner entries in order to help increase field

sizes in Louisiana horse races and to help Louisiana racing compete with multiple state racing jurisdictions that already allow uncoupling of same owner entries.

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

The proposed rule change 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 administrative rule may result in an indeterminable economic benefit to licensed racetracks in Louisiana by allowing them to fill more horse races with less restrictive coupling rules, which may help increase pari-mutuel wagering activity at their properties. The proposed administrative rule may result in an indeterminable economic benefit to licensed owners, who would be able to enter their horses to compete in more races for possible purse winnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment as a result of the proposed rule changes is indeterminable.

Charles A. Gardiner, III
Executive Director
2304#006

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Optometry Examiners**

**Continuing Education
(LAC 46:LI.301)**

In accordance with the provisions of R.S. 37:1048 and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Optometry Examiners proposes to amend current standards for continuing education. The proposed amendments to LAC 46:LI.301 is in response to the necessity of distance learning options following the Covid-19 pandemic and advancements in technology, and in consideration of other public health emergencies, including the necessity to provide adequate access to optometry services and to increase ADA accessibility. These amendments will broaden the options available to optometrists licensed in Louisiana regarding the continuing education courses they are able to take to meet the requirements for licensure renewal. These amendments will provide a national standard for continuing education in Louisiana and allow the free market system to determine where an optometrist receives education.

These amendments to LAC 46:LI.301 will increase access to continuing education for licensed optometrists in Louisiana. These amendments adopt the Council on Optometric Practitioner Education (COPE the only national continuing education accreditation source for optometric education) standards for continuing education that will increase the amount of approved continuing education providers and provide distance learning options with advancements in technology to increase ADA accessibility.

There will be a reduction in the expenses that optometrists incur when taking continuing education because they won't be required to travel across the state or out of state for most of their continuing education. The impact of this amendment

will ultimately offer improved eye care to consumers based on increasing access to continuing education courses that licensed optometrists can take to meet the requirements for license renewal. These amendments will provide standards and oversight by the Council on Optometric Practitioner Education (COPE) the only national continuing education accreditation source for optometric education. COPE education courses are presently excluded if not from an approved source. These amendments will now include additional educational sources that were previously excluded such as the National Optometry Association the largest minority association in the nation, Vision Expo East, Vision Expo West and most private CE providers. These amendments will increase the TPA courses available to optometrists in Louisiana from under 75 to over 1200 in most years.

The current rule is very narrowly written in scope and requires the majority of the continuing education to be obtained in person. This requires optometrists to travel to get their continuing education hours which costs a significant amount of money, and to take time away from their optometric practices and families. During the COVID-19 pandemic, distance learning options for optometric continuing education increased dramatically and advancements in technology now allows interactive/synchronous distance learning to be of equal quality to in person/classroom education along with ADA increased accessibility. In addition, the utilization of the national CE accreditation program for optometric CE, the Council on Optometric Practitioner Education (COPE) program of the Association of Regulatory Boards of Optometry, ensures that continuing education taken by Louisiana licensed optometrists is consistent with the continuing education taken by optometrists in other states. COPE courses also ensure CE courses are commercial free. COPE accreditation follows a standardized process that is in alignment with other healthcare professions' CE accreditation programs. Louisiana is one of three states that does not allow the national accreditation program (COPE) courses for license renewal.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LI. Optometrists

Chapter 3. License

§301. Continuing Education

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of six hours must be obtained in a synchronous format, approved by the Board of Optometry Examiners or any course accredited by the Council on Optometric Practitioner Education; provided, however, a minimum of eight hours must be obtained in a synchronous format in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses. The Board of Optometry Examiners shall include synchronous education courses accredited by the Association of Regulatory Boards of Optometry (ARBO) and its Council on Optometric Practitioner Education (COPE), allowing 8 hours to be obtained outside of the synchronous format and applied to the required non-therapeutic hours, including asynchronous and non-interactive courses. At least 8 therapeutic synchronous hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 8 hours must be obtained in a synchronous setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight synchronous hours related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. Unless otherwise approved by the Board of Optometry Examiners, continuing education hours shall be obtained solely from the following:

- a. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education; or
- b. any course accredited by the Council on Optometric Practitioner Education, the national continuing education accreditation source; or
- c. the National Optometric Association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:631 (April 2006), amended LR 35:1111 (June 2009), LR 38:1590 (July 2012), amended by the Department of Health, Board of Optometry Examiners, LR 44:1248 (July 2018), amended LR 46:23 (January 2020), LR 49:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing distance learning options with advancements in technology to increase ADA accessibility. There will be a reduction in the expenses that a family incurs because the parent won't be required to travel across the state or out of state for the majority of their continuing education.

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.

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;

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Taggart Morton, 1100 Poydras St. suite 2100 New Orleans LA 70163, Attention: Mr. Herbert. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for April 28, 2023, at 1100 Poydras St., Suite 2100, New Orleans LA 70163, 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.

David R. Heitmeier
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Continuing Education

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

The proposed rule revisions are expected to have no fiscal impact to state and local governmental units other than the cost of promulgation for FY 22-23. The Board of Optometry will incur an estimated cost of \$426 in FY 23 for the promulgation of the proposed rule and the final rule.

The proposed revisions allow licensed optometrists to complete an increase number of Continuing Education (CE) hours in an asynchronous setting. In addition, the requirement for classroom-based CE instruction has been replaced with a requirement for synchronous instruction. This change allows licensed optometrists to complete these hours remotely. Finally, the revisions expand the number of available CE courses by allowing licensed optometrists to use course approved by the Council on Optometric Practitioner Education (COPE) with the synchronous format to satisfy their CE requirements.

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

The proposed rule revisions are expected 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 change to LAC 46:LI.301 will increase access to CE for licensed optometrists in Louisiana. For example, the number of approved course hours for Therapeutic Pharmaceutical Agents (TPA) CE requirements in Louisiana is expected to increase from under 75 to over 1,200 in most years. This revision will also result in lower costs due to removing the restrictions on interactive/synchronous distance learning and an increased number of options available to optometrists for continuing education courses. This will ultimately benefit the public and eye care patients in Louisiana.

The proposed changes will have an indeterminable impact on income to currently approved providers of CE, such as the Optometry Association of Louisiana. These providers will face increased competition from other providers which may have a negative impact on income. However, they will also be able to offer remote CE, potentially increasing their income.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change to LAC 46:LI.301 will result in additional competition and oversight to optometric professional education by allowing all sources of accredited CE approved by the Council on Optometric Practitioner Education (COPE), as well as courses provided by the National Optometric Association and schools and colleges or optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

David R. Heitmeier
Executive Director
2303#005

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

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

**Dental Benefits Prepaid Ambulatory Health Plan
Participation Requirements
(LAC 50:I.2103)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.2103 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 dental benefits prepaid ambulatory health plan in order to remove language that allows for a retainage of funds from the per member, per month capitation payment to the dental benefit plan manager (DBPM) as surety for performance under the contract, since funds are withheld under the current DBPM contract for specific penalties.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE**

Part I. Administration

**Subpart 3. Managed Care for Physical
and Behavioral Health**

**Chapter 21. Dental Benefits Prepaid Ambulatory
Health Plan**

§2103. Participation Requirements

A. - G. ...

H. In the event of noncompliance with the contract and the department's guidelines, a DBPM shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties; or
3. suspension and/or termination of the DBPM's contract.

I. - I.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1228 (September 2020), LR 49:

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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 1, 2023.

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 April 10, 2023. 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 April 27, 2023 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 April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Dental Benefits Prepaid Ambulatory Health Plan—Participation Requirements

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 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 22-23. It is anticipated that \$270 will be collected in FY 22-23 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 dental benefits prepaid ambulatory health plan in order to remove language that allows for a retainage of funds from the per member, per month capitation payment to the dental benefit plan manager (DBPM) as surety for performance under the

contract, since funds are withheld under the current DBPM contract for specific penalties. It is anticipated that implementation of this proposed rule will not result in costs to DBPMs in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the administrative rule aligns with the current DBPM contract requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#051

Evan Brasseaux
Interim 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
Community Choices Waiver
Resource Assessment and Allocation Process
(LAC 50:XXI.8107)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.8107 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 Office of Aging and Adult Services (OAAS) currently uses an updated version of the uniform international resident assessment instrument (interRAI) tool to determine nursing facility level of care for OAAS programs. The Department of Health, Bureau of Health Services Financing and OAAS propose to amend the provisions governing the resource assessment and allocation process in the Community Choices Waiver in order to update the language regarding interRAI assessments.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8107. Resource Assessment and Allocation Process

A. Each Community Choices Waiver applicant/participant shall be assessed using the uniform international resident assessment instrument (interRAI). This assessment provides researched and validated measures of an individual's functional status. The assessment is used to verify if an individual meets nursing facility level of care and generates a resource utilization group (RUG) score. This score is used to establish an individual's services and supports budget.

B. The RUG score assigns an individual to one of 23 distinct groups in seven major groupings. Individuals are assigned to a group based on a hierarchy and are assigned to the highest group for which they qualify. The following

seven major groupings will be utilized to determine the waiver assistance needed to complete various activities of daily living (ADLs) and instrumental activities of daily living (IADLs).

1. Special Rehabilitation. Individuals in this group had at least 120 minutes of rehabilitation therapy (physical, occupational and/or speech) within the seven days prior to the interRAI assessment.

2. Extensive Services. Individuals in this group received one or more of the following services and have an ADL index of 7 or more:

- a. tracheostomy;
- b. ventilator or respirator;
- c. suctioning;
- d. parenteral/IV feeding only;
- e. combined oral and parenteral/tube feeding; or
- f. IV medications.

3. Special Care. Individuals in this group must meet one of the following criteria:

- a. have one of the following conditions or treatments and have an ADL index of 7 or greater:
 - i. stage 3 or 4 pressure ulcers and turning/positioning program;
 - ii. combined oral and parenteral/tube feeding or nasogastric feeding only and aphasia;
 - iii. fever with either vomiting, weight loss, dehydration, nasogastric tube or parenteral feeding, or pneumonia; or
 - iv. radiation therapy; or
- b. have one of the following conditions and have an ADL index of 10 or greater:
 - i. cerebral palsy;
 - ii. multiple sclerosis;
 - iii. quadriplegia; or
- c. are receiving one of the extensive care services (as listed in B.2 above) and have an ADL index of 6 or less.

- d. - h.iv. Repealed.

4. Clinically Complex. Individuals in this group have one of the following conditions or treatments:

- a. septicemia;
- b. dehydration;
- c. hemiplegia and an ADL index of 10 or greater;
- d. pneumonia;
- e. end-stage disease;
- f. comatose (confirmed by totally dependent in the four ADLs used in the ADL index);
- g. foot problems that limit/prevent walking;
- h. gastrointestinal (GI) or genitourinary (GU) bleeding;
- i. diabetes;
- j. combined oral and parenteral/tube feeding or nasogastric tube feeding only;
- k. chemotherapy;
- l. dialysis;
- m. transfusions;
- n. oxygen therapy; or
- o. one of the special care conditions or treatments listed in 3.a above and an ADL index of 6 or less.

5. Impaired Cognition. Individuals in this group have a cognitive performance scale of 3 or more and an ADL index of 10 or less.

6. Behavior Problems. Individuals in this group have one or more of the following behavior problems and an ADL index of 10 or less:

- a. wandering;
- b. verbally abusive;
- c. physically abusive;
- d. socially inappropriate/disruptive;
- e. resists care;
- f. sexually inappropriate;
- g. hallucinations; or
- h. delusions.

7. Physical Function. Individuals who did not meet the criteria for any of the previous categories.

C. Based on the RUG score, the applicant/participant is assigned to one of the distinct groups and is eligible for a set annual services budget associated with that group.

1. If the applicant/participant disagrees with their annual services budget, they or their responsible representative may request a fair hearing to appeal the decision.

2. The applicant/participant may qualify for an increase in the annual services budget amount upon showing that:

- a. one or more responses on the assessment are recorded incorrectly (except for the responses in the identification information, personal intake and initial history, assessment date and reason, and/or signature sections); or
- b. they need an increase in the annual services budget to avoid entering into a nursing facility.

D. Each Community Choices Waiver participant shall be re-assessed at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3518 (December 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), LR 49:

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 Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 1, 2023.

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 April 10, 2023. 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 April 27, 2023 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 April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Community Choices Waiver Resource Assessment and Allocation Process

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 22-23. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the

federal share of the promulgation costs for FY 22-23. It is anticipated that \$486 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing the resource assessment and allocation process in the Community Choices Waiver (CCW) in order to update the language to reflect the current version of the international resident assessment instrument (interRAI) tool used by the Office of Aging and Adult Services (OAAS) to determine nursing facility level of care for OAAS programs. It is anticipated that implementation of this proposed rule will not result in costs to CCW providers in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the current requirements for interRAI assessments are promulgated in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#052

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards
(LAC 48:I.9305)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9305 as authorized by R.S. 36:254 and 40:2100-2115. 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 promulgated an Emergency Rule which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and to update provisions governing the clinical operation of hospitals (*Louisiana Register*, Volume 49, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 20, 2023 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9305. Licensing Process

A. - M.2. ...

N. Plan Review. A letter to the Department of Health, Division of Engineering and Architectural Services, shall accompany the floor plans with a request for a review of the hospital plans. The letter shall include the types of services offered, number of licensed beds and licensed patient rooms, geographical location, and whether it is a relocation, renovation, and/or new construction. A copy of this letter is to be sent to the Hospital Program Manager.

1. - 2.b....

3. Waivers

a. The secretary of the department may, within his/her sole discretion, grant waivers to building and construction guidelines or requirements and to provisions of the licensing rules involving the clinical operation of the hospital. The facility shall submit a waiver request in writing to the licensing section of the department on forms prescribed by the department.

b. In the waiver request, the facility shall demonstrate the following:

i. how patient health, safety, and welfare will not be compromised if such waiver is granted;

ii. how the quality of care offered will not be compromised if such waiver is granted; and

iii. the ability of the facility to completely fulfill all other requirements of the service, condition, or regulation.

c. The licensing section of the department shall have each waiver request reviewed by an internal waiver review committee. In conducting such internal waiver review, the following shall apply:

i. the waiver review committee may consult subject matter experts as necessary, including the Office of State Fire Marshal; and

ii. the waiver review committee may require the facility to submit risk assessments or other documentation to the department.

d. The director of the licensing section of the department shall submit the waiver review committee's recommendation on each waiver to the secretary, or the secretary's designee, for final determination.

e. The department shall issue a written decision of the waiver request to the facility. The granting of any waiver may be for a specific length of time.

f. The written decision of the waiver request is final. There is no right to an appeal of the decision of the waiver request.

g. If any waiver is granted, it is not transferrable in an ownership change or change of location.

h. Waivers are subject to review and revocation upon any change of circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised.

i. Any waivers granted by the department prior to January 15, 2023, shall remain in place, subject to any time limitations on such waivers; further, such waivers shall be subject to the following:

i. such waivers are subject to review or revocation upon any change in circumstance related to the waiver or upon a finding that the health, safety, or welfare of a patient may be compromised; and

ii. such waivers are not transferrable in an ownership change or change of location.

O. - P. ...

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

16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:

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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 1, 2023.

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 April 10, 2023. 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 April 27, 2023 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 April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hospital Licensing Standards**

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 22-23. It is anticipated that \$756 will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on licensing fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the February 20, 2023 Emergency Rule, which amended the provisions governing the licensing of hospitals in order to update the process for granting waivers to building and construction guidelines or requirements and grants a secondary option related to the clinical operation of hospitals. It is anticipated that implementation of this proposed rule will not result in costs to hospitals in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the requirements for granting waivers are accurately reflected in the Louisiana Administrative Code.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2303#053

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing**

Professional Services Program
Tobacco Cessation Counseling
(LAC 50:IX.Chapter 11 and 15106)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:IX.Chapter 11 and §15106 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 currently provides coverage for tobacco cessation counseling services rendered to pregnant beneficiaries in the Medical Assistance Program. The department now proposes

to adopt provisions in the Professional Services Program in order to expand coverage for tobacco cessation counseling services to all Medicaid beneficiaries.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions**

**Chapter 11. Tobacco Cessation Counseling Services
§1101. General Provisions**

A. Effective for dates of service on or after June 20, 2023, the Medicaid Program provides coverage for tobacco cessation counseling services to beneficiaries who use tobacco products or who are being treated for tobacco use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1103. Scope of Services

A. Tobacco cessation counseling services shall be reimbursed by the Medicaid Program when rendered by the beneficiary's primary care provider (PCP) or other appropriate healthcare professionals. Beneficiaries may receive up to four tobacco cessation counseling sessions per quit attempt, up to two quit attempts per calendar year, for a maximum of eight counseling sessions per calendar year. These limits may be exceeded, if deemed medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

§1105. Provider Participation

A. The entity seeking reimbursement for tobacco cessation counseling services must be an enrolled Medicaid provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

**Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter A. General Provisions
§15106. Tobacco Cessation Counseling Services**

A. Effective for dates of service on or after June 20, 2023, the Medicaid Program shall provide reimbursement for tobacco cessation counseling services rendered by qualified health care professionals.

B. Reimbursement for tobacco cessation counseling services shall be a flat fee based on the appropriate HCPCS code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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 will increase access by Medicaid beneficiaries to tobacco cessation treatment 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 will increase access to tobacco cessation treatment that may lead to decreased tobacco utilization and thus decreased spending on tobacco products by family members.

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 a positive impact on small businesses since it provides reimbursement for services that were not previously covered.

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 Rule has been considered. It is anticipated that this 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 and 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 this proposed Rule provides reimbursement for services that were not previously covered.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 1, 2023.

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 April 10, 2023. 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 April 27, 2023 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 April 10, 2023. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the

public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Professional Services Program Tobacco Cessation Counseling

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

It is anticipated that implementation of this proposed rule will increase state costs of approximately \$42,869 for FY 22-23, \$220,275 for FY 23-24, and \$272,405 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 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 increase revenue collections of statutory dedicated revenue from the Medical Assistance Trust Fund by approximately \$41,723 for FY 23-24 and \$73,433 for FY 24-25. In addition, this proposed rule will increase federal revenue collections by approximately \$202,942 for FY 22-23, \$1,155,046 for FY 23-24, and \$1,524,660 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 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 adopts provisions in the Professional Services Program in order to expand coverage for tobacco cessation counseling services to all Medicaid beneficiaries. Currently, coverage for these services is limited to pregnant women. This proposed rule will ensure that all Medicaid beneficiaries have access to tobacco cessation counseling which may lead to decreased tobacco utilization and spending on tobacco products. Implementation of this proposed rule is anticipated to increase payments to providers by approximately \$245,163 for FY 22-23, \$1,417,044 for FY 23-24, and \$1,870,498 for FY 24-25, since tobacco cessation counseling will now be covered for all beneficiaries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Medicaid Executive Director
2303#054

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Licensed Professional Counselors Board of Examiners

Academic Requirements for MFT Licensure or
Provisional Licensure
(LAC:46:LX.3309 and 3311)

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 academic requirements for MFT Licensure or Provisional Licensure to align with the graduate practicum/internship requirements established by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

The Licensed Professional Counselors Board of Examiners hereby gives notice of intent to propose changes to Chapter 33 Section 3309 and Chapter 33 Section 3311 for publication in the March 20, 2023, edition of the *Louisiana Register*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

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

§3309. Academic Requirements for MFT Licensure or Provisional Licensure [Formerly §3311]

A. ...

1. a master's or doctoral degree in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) in a regionally accredited educational institution or a certificate in marriage and family therapy from a post-graduate training institute accredited by COAMFTE

2. a master's or doctoral degree in marriage and family therapy or marriage and family counseling or a related clinical mental health field from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) in a regionally-accredited educational institution with a minimum of six courses in marriage and family therapy, including coursework on the AAMFT code of ethics.

3. a master's or doctoral degree in marriage and family therapy or a related clinical mental health field from a regionally accredited institution of higher education or a certificate from a postgraduate training institute in marriage and family therapy. Applicants with a school counseling degree would need to meet the requirements in §3311. The qualifying degree or certificate program must include coursework, practicum, and internship in marriage and family therapy that is determined by the advisory committee

to be substantially equivalent to a graduate degree or post-graduate certificate in marriage and family therapy from a program accredited by COAMFTE.

4. a master's degree or a doctoral degree in marriage and family therapy from a regionally accredited institution of higher education whose program and curriculum was approved by the board through the advisory committee at any time prior to July 1, 2010.

B. The qualifying degree must include a minimum of 60 graduate semester hours of coursework. Furthermore, the applicant must have completed a practicum and/or internship during the completion of the qualifying degree program or postgraduate training institute that is equivalent to the standards established by COAMFTE.

C. Pursuant to Act 736 of the 2014 Regular Legislative Session and effective January 1, 2018, all applicants whose academic background has not been previously approved by the board as of January 1, 2018, must have completed a minimum of six credit hours in diagnostic psychopathology. Courses in this area shall provide academic instruction from a systemic/relational perspective in psychopharmacology, physical health and illness, traditional psycho-diagnostic categories including the *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5) as published by the American Psychiatric Association on May 18, 2013 and/or the *International Statistical Classification of Diseases and Related Health Problems*, Tenth Edition, published in 1992 (ICD-10) as published by World Health Organization, and the assessment and treatment planning for the treatment of mental, intellectual, emotional, or behavioral disorders within the context of marriage and family systems.

D. Required coursework in marriage and family therapy for academic options 1, 2, 3 and 4 may be completed during the qualifying master's or doctoral degree programs or may be taken as post-graduate work at a regionally-accredited college, university, or qualifying postgraduate marriage and family therapy training institute as determined by the advisory committee.

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 29:156 (February 2003), amended LR 29:2785 (December 2003), LR 35:1113 (June 2009), LR 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011), amended LR 38:1965 (August 2012), repromulgated LR 41:741 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1982 (October 2017), amended LR 45:1204 (September 2019)., LR 49:

§3311. Coursework and Academic Supervision Requirements, for Options 2, 3, and 4

A. - A.9. ...

B. Specific Coursework Requirements—Option 3

1. - 1.g....

2. Academic Supervision. As part of their degree program, an applicant must have completed the minimum number of direct clinical contact hours and supervision hours as set forth by COAMFTE. If a student is simultaneously being supervised and having direct client contact, the time may be counted as both supervision time and direct client contact time.

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 37:1602 (June 2011), repromulgated LR 37:2163 (July 2011), amended LR 38:1966 (August 2012), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 49:

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 April 10, 2023, at 5 p.m.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Academic Requirements for MFT Licensure or Provisional Licensure

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

The proposed rule changes will result in a one-time cost of \$70 in FY 23 and \$381 in FY 24 to publish the notice of intent and final rule, respectively. The proposed rule changes clarify and update the minimum standards for Licensed Marriage and Family Therapist applicants as governed by the LA Licensed Professional Counselors Board (LPC Board) to align with present education standards and current practice.

- 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 the minimum standards for provisional licensure applicants as governed by the LPC Board. The changes allow the direct client contact hours to remain consistent with the current standards proposed by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE).

The LPC Board rules currently provide explicit requirements for the number of practicum or internship hours that must be completed as part of the academic requirements to obtain a license. Specifically, the rules require 500 direct client contact hours, of which 250 must be with couples or families. Additionally, the rules require 100 hours of face-to-face supervision.

The proposed changes to these rules will eliminate these explicit requirements and instead require that any practicum or internship completed by the license applicant must be equivalent to the standards established by COAMFTE. According to the current COAMFTE standards, this would reduce the required number of direct client contact hours from 500 to 300, and the required number of hours with couples or families from 250 to 100.

The changes to the mental health counseling internship and practicum align with standards published by COAMFTE. Currently, most accredited universities offer counseling programs that meet or exceed COAMFTE standards.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition or employment.

Jamie Doming
Executive Director
2303#033

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Licensed Professional Counselors Board of Examiners

Name Change Fee Removal (LAC 46:LX.901)

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 remove name change fees.

The Licensed Professional Counselors Board of Examiners hereby gives notice of intent to propose changes to Chapter 9 Section 901 in the March 20, 2023, edition of the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED
Part LX. Licensed Professional Counselors
Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 9. Fees

§901. General

- A. The board shall collect the following fees:
1. licensure application, license and seal—\$200;
 2. out of state licensure application, license, and seal—\$300;
 3. provisional licensure application and license—\$100;
 4. out of state provisional licensure application and license—\$150;
 5. application for appraisal, board-approved supervisor, and other specialty areas—\$100;
 6. application for change/additional board-approved supervisor—\$50;
 7. application for expedited review—\$55;
 8. renewal of license—\$170;
 9. renewal of provisional license—\$85;
 10. renewal of appraisal, board-approved supervisor, and other specialty areas—\$50;
 11. late fee for renewal of license—\$55;
 12. late fee for renewal of provisional license—\$55;
 13. late fee for renewal of appraisal, board-approved supervisor, and other specialty areas—\$25;
 14. reissue of license duplicate—\$25;
 15. copy of file—\$25;
 16. copy of any documents—cost incurred.

B. - E. ...

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 29:136 (February 2003), amended LR 29:2783 (December 2003), LR 39:1790 (July 2013), LR 41:723 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:437 (March 2019), LR 49:

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 March 10, 2023, at 5 p.m.

Jamie S. Doming
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Name Change Fee Removal

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

The proposed rules are not anticipated to result in any additional costs or savings for state or local governmental units. The proposed rules provide a framework of standards and requirements for persons licensed by the LA Licensed Professional Counselors Board of Examiners (LPC Board) to report if criminal status has been changed.

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

The proposed rule change is expected 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 rules are not expected to create costs and/or economic benefits for any directly affected persons, small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Jamie Doming
Executive Director
2303#034

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 125—Insure Louisiana Incentive Program (LAC 37:XIII.Chapter 189)

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 125 regarding the Insure Louisiana Incentive Program.

Louisiana is currently experiencing a crisis in the availability and affordability of insurance for residential and commercial properties. Louisiana property owners and their insurers sustained catastrophic losses in 2020 and 2021 from hurricanes Laura, Delta, Zeta, and Ida. As the result of their losses and their assessment of the risk of loss from future storms, many property insurers have substantially reduced their participation in the voluntary market for residential and commercial property insurance. With fewer property insurers in the voluntary market, competitive pressure on premium rates is reduced. Current underwriting practices have resulted in a substantial increase in the number of Louisiana property owners forced to obtain their property insurance coverage or their coverage for wind peril from Louisiana Citizens Property Insurance Corporation, the state insurer of last resort.

The Insure Louisiana Incentive Program was enacted through the passage of Act 754 of the 2022 Regular Session of the Louisiana Legislature and Act No. 1 and Act No. 2 of the 2023 Extraordinary Session of the Louisiana Legislature for the purpose of cooperative economic development and stability in Louisiana by encouraging additional property insurers to participate in the voluntary property insurance market to increase the availability of property insurance, increase competitive pressure on insurance rates, and reduce the volume of business written by the Louisiana Citizens Property Insurance Corporation.

Regulation 125 sets forth standards and procedures relative to a property insurer's participation in the Insure Louisiana Incentive Program. Through cooperative endeavor agreements, property insurers participating in the program may be awarded matching grant funds in order to achieve the requirements of Act 754 of the 2022 Regular Session of the Louisiana Legislature and Act No. 1 and Act No. 2 of the 2023 Extraordinary Session of the Louisiana Legislature. Regulation 125 further specifies these requirements and conditions thereof for qualified property insurers.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 189. Regulation Number 125—Insure Louisiana Incentive Program

§18903. Authority

A. Regulation 125 is promulgated pursuant to the authority and responsibility delegated to the commissioner under R.S. 22:2361 through 2371, Act No. 1 and Act No. 2 of the 2023 Extraordinary Session of the Louisiana Legislature, and pursuant to the general powers granted by law to the commissioner and the department.

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:270 (February 2023), amended LR 49:

§18905. Applicability and Scope

A. Regulation 125 shall apply to all authorized insurers as defined in R.S. 22:46(3) operating and writing insurance for residential and commercial properties in the state, and to any approved unauthorized insurer as defined in R.S. 22:46(2) operating and writing insurance for residential and commercial properties in the state, eligible unauthorized insurer as defined in R.S. 22:46(10) operating and writing insurance for residential and commercial properties in the state, or domestic surplus lines insurer as provided for in R.S. 22:436.1 operating and writing insurance for residential and commercial properties in the state and collectively referred to as a surplus lines insurer as defined in R.S. 22:46(27).

B. ...

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:270 (February 2023), amended LR 49:

§18915. Qualifications for Applying for Grant Funds

A. - A.1. ...

2. a property insurer with a financial strength rating that meets the following requirements:

a. AM Best Company "B+" or better; or

b. Demotech, Inc. "A" or better; or

c. AM Best Company "A" or better for licensed surplus lines insurers.

NOTE: Property insurers rated by more than one rating company need only meet one of the rating requirements.

A.3. - D.5. ...

E. Notwithstanding any provision of law, regulation or rule to the contrary, the following are ineligible to receive any portion of funds from the Incentive Program Fund:

1. Any insurance company or property insurer with an officer, director, or controlling shareholder who was an officer, director, or controlling shareholder of an insurance company or property insurer licensed in Louisiana that filed for bankruptcy or was declared insolvent.

2. Any insurance company or property insurer whose parent company controlled all or part of an insurance company or property insurer licensed in Louisiana that filed for bankruptcy or was declared insolvent.

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:270 (February 2023), amended LR 49:

§18927. Reporting Requirements

A. - B.4. ...

C. Grantee shall report quarterly May 15, August 15, and November 15 and annually by June 1, detail on the catastrophe reinsurance program maintained, including premium to surplus ratio, net of reinsurance, gross premium

to surplus ratio, detail on the catastrophe reinsurance program maintained by grantee, including retentions, limits, reinstatements, as well as the current ratings of each reinsurer. In addition, the report shall contain the modeled Probable Maximum Loss for a 1 in 50, 1 in 100, 1 in 150, 1 in 200 and 1 in 250 event, including the models and versions utilized.

1. Within 30 days of the end of each reporting period, the Department shall aggregate all responses and submit them as a report to the legislature.

D. ...

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:270 (February 2023), amended LR 49:

§18929. Compliance

A. ...

B. The commissioner shall submit annual and quarterly reports on the Incentive Program to the House Committee on Appropriations, the Senate Committee on Finance, and the House and Senate Committees on Insurance containing information for the preceding year and quarter, respectively, detailing the following:

1. the amount of premium written by parish and by grantee under the Incentive Program;

2. the amount of premium by parish and by grantee associated with the property located in the parishes listed in §18917.B.3;

3. the amount of premium by parish and by grantee taken-out from the Louisiana Citizens Property Insurance Corporation; and

4. the total amount of premium for each grantee by parish, including the premium written under the Incentive Program.

C. If the commissioner determines that a grantee has complied with the terms of the grant, the commissioner shall notify the grantee in writing that the grantee has earned the 20 percent portion of the grant pursuant to R.S. 22:2370.

D. If the commissioner determines that the grantee shows promise of future compliance, the commissioner may grant an extension of not more than one year to a grantee who has failed to satisfy all requirements of the grant.

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:270 (February 2023), amended LR 49:

§18930. Monitoring

A. The commissioner shall expedite the approval of certificates of authority, rate filings, form filings, and other necessary regulatory approvals of qualified insurers to facilitate the underwriting of new policies pursuant to the Incentive Program.

B. The commissioner shall monitor the financial solvency of grantees by evaluating the adequacy of insurer reinsurance programs using catastrophe model stress tests of the grantee's book of business.

C. The commissioner shall take any action necessary to ensure that grantees remain financially solvent.

AUTHORITY NOTE: Promulgated in accordance with Act No. 1 of the 2023 Extraordinary Session and Act No. 2 of the 2023 Extraordinary Session, R.S. 22:11, 22:2361 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:

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.

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, 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 Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, 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., April 10, 2023.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 125—Insure Louisiana Incentive Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 establish the rules and regulations of the Insure Louisiana Incentive Program, which was enacted through the passage of Act 754 of the 2022 Regular Session of the Louisiana Legislature and Act 1 and Act 2 of the 2023 Extraordinary Session of the Louisiana Legislature. The proposed rule will set

forth standards and procedures relative to a property insurer’s participation in the Insure Louisiana Incentive Program. The Insure Louisiana Incentive Program is a state match program for property insurers who commit to writing new business in Louisiana. The Commissioner of Insurance may grant matching capital funds to qualified property insurers.

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 is anticipated to benefit Louisiana property owners with the current crisis in the availability and affordability of residential and commercial property insurance. The proposed rule outlines rules and regulations of the Insure Louisiana Incentive Program, which was enacted by the legislature for the purpose of economic development and stability in Louisiana. The program encourages additional property insurers to participate in the voluntary property insurance market in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The program anticipates increasing the availability of property insurance, increasing competitive pressure on insurance rates, and reducing the volume of business written by the Louisiana Citizens Property Insurance Corporation.

S. Denise Gardner
Chief of Staff
2303#0035

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Natural Resources
Office of Conservation**

Pipeline Safety
(LAC 43:XI.Chapters 1-43, LAC 43:XIII.Chapters 3-35, and LAC 33:V.Chapter 301)

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

The proposed Rule changes include minor changes to LAC XI and the changes for LAC 43:XIII and LAC 33:V are required as a part of the Department of Natural Resources certification agreement with the US Department of Transportation and are intended to adopt existing federal regulations as state regulations.

Title 43

NATURAL RESOURCES

Part XI. Office of Conservation—Pipeline Division

Subpart 1. Natural Gas and Coal

Chapter 1. Natural Gas and Coal

§101. Definitions

Intrastate Natural Gas—gas produced, transported, and utilized wholly within the State of Louisiana, through the use of intrastate pipelines or of interstate pipelines where such use of interstate pipelines is or may hereafter be exempt from the control of the Federal Energy Regulatory

Commission under the Natural Gas Act or rules and regulations promulgated by the Federal Energy Regulatory Commission thereunder, and gas, wherever produced, which is or may be transported into this state and delivered to an intrastate pipeline in this state to be used or consumed wholly within this state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 4:76 (March 1978), amended LR 7:80 (March 1981), LR 8:15 (January 1982), repromulgated LR 38:1414 (June 2012), amended LR 49:

Subpart 4. Carbon Dioxide

Chapter 35. Requirements

§3501. Operation, Construction, Extension, Acquisition, Interconnection or Abandonment of Carbon Dioxide

Transmission Facilities

(Formerly §703)

A. - G4. ...

H. Certificate of public convenience and necessity shall be issued on the application of any qualified person upon the above findings. The commissioner may attach to any such certificate, and to the exercise of the rights granted thereunder, such reasonable terms and conditions as the public interest may require. Any facility to which a certificate of public convenience and necessity is issued by the commissioner under these rules and regulations and R.S. 30:4(C)(17), R.S. 30:1104(A)(1), and/or R.S. 30:1107 shall possess the right of expropriation with authority to expropriate private property under the general expropriation laws of the state, including R.S. 19:2(10).

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:

Chapter 39. Transportation of Carbon Dioxide

§3907. Matter Incorporated by Reference

(Formerly §703)

A. There are incorporated by reference in this regulation all materials referred to herein. Those materials are hereby made a part of this regulation and have the full force of law.

1. All of the materials incorporated by reference are available for inspection from several sources, including the following:

a. the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington DC 20590. For more information contact 202-366-4046 or go to the PHMSA Web site at: <http://www.phmsa.dot.gov/pipeline/regs>;

b. the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to the NARA Web site at: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html;

c. copies of standards incorporated by reference in this part can also be purchased from the respective standards-developing organization at the addresses provided in the Subsections below.

B. American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005, phone: 202-682-8000, <http://api.org/>.

1. API Specification 5L, "Specification for Line Pipe," 45th edition, effective July 1, 2013, (ANSI/API Spec 5L).

2. ANSI/API Specification 6D, "Specification for Pipeline Valves," 23rd edition, effective October 1, 2008, (including Errata 1 (June 2008), Errata 2 (November 2008), Errata 3 (February 2009), Errata 4 (April 2010), Errata 5 (November 2010), and Errata 6 (August 2011); Addendum 1 (October 2009), Addendum 2 (August 2011), and Addendum 3 (October 2012)); (ANSI/API Spec 6D).

3. API Standard 1104, "Welding of Pipelines and Related Facilities," 20th edition, October 2005, [including errata/addendum (July 2007) and errata 2 (2008), (API Std 1104)].

C. ASME International (ASME), Two Park Avenue, New York, NY 10016, 800-843-2763 (U.S./Canada), Web site: <http://www.asme.org/>.

1. ASME/ANSI B16.9-2007, "Factory-Made Wrought Butt Welding Fittings," December 7, 2007, (ASME/ANSI B16.9).

D. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 119428, phone: 610-832- 9585, Web site: <http://www.astm.org/>.

1. ASTM A53/A53M-10, "Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless," approved October 1, 2010, (ASTM A53/A53M).

2. ASTM A106/A106M-10, "Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service," approved April 1, 2010, (ASTM A106/A106M).

3. ASTM A381-96 (Reapproved 2005), "Standard Specification for Metal-Arc Welded Steel Pipe for Use with High-Pressure Transmission Systems," approved October 1, 2005, (ASTM A381).

4. ASTM A671/A671M-10, "Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures," approved April 1, 2010, (ASTM A671/A671M)

5. ASTM A672/A672M-09, "Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures," approved October 1, 2009, (ASTM A672/A672M).

6. ASTM A691/A691M-09, "Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High-Pressure Service at High Temperatures," approved October 1, 2009, (ASTM A691).

7. ASTM A333/A333M-11, "Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service," approved April 1, 2011, (ASTM A333/A333M)

8. 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)

E. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park St. NE., Vienna,

VA 22180, phone: 703-281-6613, Web site: <http://www.mss-hq.org/>.

1. MSS SP-75-2008 Standard Practice, "Specification for High-Test, Wrought, Butt-Welding Fittings," 2008 edition, (MSS SP 75), IBR approved for §195.118(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), repromulgated LR 49:306 (February 2023), amended LR 49:

Chapter 43. Design Requirements for Carbon Dioxide Pipelines

§4309. Internal Design Pressure (Formerly §1309)

A. - D. ...

E. The seam joint factor used in Subsection A of this Section is determined in accordance with the following table.

Specifications	Pipe Class	Seam Joint Factor
ASTM A53	Seamless	1.00
	Electric resistance welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A106	Seamless	1.00
ASTM A333	Seamless	1.00
	Welded	1.00
ASTM A381	Double submerged arc welded	1.00
ASTM A671	Electric-fusion-welded	1.00
ASTM A672	Electric-fusion-welded	1.00
ASTM A691	Electric-fusion-welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

E.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4(C)(17).

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:115 (February 1986), repromulgated LR 49:309 (February 2023), amended LR 49:

**Part XIII. Office of Conservation—Pipeline Safety
Subpart 2. Transportation of Natural Gas and Other Gas by Pipeline; Annual Incident and Other Reporting [49 CFR Part 191]**

Chapter 3. Annual Reports, Incident Reports and Safety Related Condition Reports [49 CFR Part 191]

§301. Scope [49 CFR 191.1]

A. This Chapter prescribes requirements for the reporting of incidents, safety-related conditions, annual pipeline summary data, National Registry of Operators information, and other miscellaneous conditions by operators of underground natural gas storage facilities and natural gas pipeline facilities located in Louisiana, including underground natural gas storage facilities and pipelines within the limits of the Outer Continental Shelf, as that term is defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331). This part applies to offshore gathering lines

(except as provided in Subsection B of this section) and to onshore gathering lines, including Type R gathering lines as determined in §508 of this Part. [49 CFR 191.1(a)]

B. - B.1. ...

2. pipelines on the Outer Continental Shelf (OCS) that are producer operated and cross into state waters without first connecting to a transporting operator's facility on the OCS, upstream (generally seaward) of the last valve on the last production facility on the OCS. Safety equipment protecting PHMSA-regulated pipeline segments is not excluded. Producing operators for those pipeline segments upstream of the last valve of the last production facility on the OCS may petition the administrator, or designee, for approval to operate under PHMSA regulations governing pipeline design, construction, operation, and maintenance under 49 CFR 190.9; or [49 CFR 191.1(b)(2)]

3. pipelines on the Outer Continental Shelf upstream of the point at which operating responsibility transfers from a producing operator to a transporting operator. [49 CFR 191.1(b)(3)]

4. - 4.b. Repealed.

C. Sections 322.B and C and 323 do not apply to the onshore gathering of gas: [49 CFR 191.1(c)]

1. through a pipeline that operates at less than 0 psig (0 kPa); [49 CFR 191.1(c)(1)]

2. through a pipeline that is not a regulated onshore gathering line; or [49 CFR 191.1(c)(2)]

3. within inlets of the Gulf of Mexico, except for the requirements in §2712 of this Part. [49 CFR 191.1(c)(3)]

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:218 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 18:854 (August 1992), LR 27:1536 (September 2001), LR 30:1220 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 45:66 (January 2019), LR 49:

§303. Definitions

[49 CFR 191.3]

A. ...

Regulated Onshore Gathering—a Type A, Type B, or Type C gas gathering pipeline system as determined in §508 of this Part.

Reporting-Regulated Gathering—a Type R gathering line as determined in §508 of this Part. A Type R gathering line is subject only to this Subpart.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 44:1032 (June 2018), LR 45:66 (January 2019), LR 46:1575 (November 2020), LR. 47:1140 (August 2021), LR 49:

§307. Report Submission Requirements

[49 CFR 191.7]

A. - A.1. ...

a. Repealed.

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:510 (July 1984), LR 11:255 (March 1985), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 31:679 (March 2005), LR 33:473 (March 2007), LR 35:2800 (December 2009), LR 38:110 (January 2012), LR 44:1032 (June 2018), LR 45:66 (January 2019), LR 49:

§315. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities: Incident Report [49 CFR 191.15]

A. Pipeline Systems [49 CFR 191.15(a)]

1. Transmission, offshore gathering, or regulated onshore gathering. Each operator of a transmission, offshore gathering, or a regulated onshore gathering pipeline system must submit Department of Transportation (DOT) Form PHMSA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under §305. [49 CFR 191.15(a)(1)]

2. Reporting-regulated gathering. Each operator of a reporting-regulated gathering pipeline system must submit DOT Form PHMSA F 7100.2-2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under §305 that occurs after May 16, 2022. [49 CFR 191.15(a)(2)]

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:1575 (November 2020), LR 49:

§317. Transmission Systems; Gathering Systems; and Liquefied Natural Gas Facilities: Annual Report [49 CFR 191.17]

A. Pipeline Systems [49 CFR 191.17(a)]

1. Transmission or regulated onshore gathering. Each operator of a transmission or a regulated onshore gathering pipeline system must submit an annual report for that system on DOT Form PHMSA F 7100.2-1. This report must be submitted each year, not later than March 15, for the preceding calendar year. [49 CFR 191.17(a)(1)]

2. Type R gathering. Beginning with an initial annual report submitted in March 2023 for the 2022 calendar year, each operator of a reporting-regulated gas gathering pipeline system must submit an annual report for that system on DOT Form PHMSA F 7100.2-3. This report must be submitted each year, not later than March 15, for the preceding calendar year. [49 CFR 191.17(a)(2)]

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:256 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR 45:67 (January 2019), LR 46:1575 (November 2020), LR 49:

§323. Reporting Safety-Related Conditions [49 CFR 191.23]

A. - B. ...

1. exists on a master meter system, a reporting-regulated gathering pipeline a Type C gas gathering pipeline with an outside diameter of 12.75 inches or less, a Type C gas gathering pipeline covered by the exception in §509F.1 of this subchapter and therefore not required to comply with §509.E.2.b, or a customer-owned service line; [49 CFR 191.23(b)(1)]

2. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, amended LR 30:1223 (June 2004), LR 45:68 (January 2019), LR 46:1576 (November 2020), LR 49:

§329. National Pipeline Mapping System [49 CFR 191.29]

A. - B. ...

C. This section does not apply to gathering pipelines. [49 CFR 191.29(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 44:1033 (June 2018), LR 49:

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. ...

Composite Materials—materials used to make pipe or components manufactured with a combination of either steel and/or plastic and with a reinforcing material to maintain its circumferential or longitudinal strength.

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.

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.

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.

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

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§508. How are Onshore Gathering Lines and Regulated Onshore Gathering Lines Determined?
[49 CFR 192.8]

A. - A.4. ...

5. For new, replaced, relocated, or otherwise changed gas gathering pipelines installed after May 16, 2022, the endpoint of gathering under sections 2.2(a)(1)(E) and 2.2.1.2.6 of API RP 80 (incorporated by reference, see §507), also known as “incidental gathering,” may not be used if the pipeline terminates 10 or more miles downstream from the furthestmost downstream endpoint as defined in paragraphs 2.2(a)(1)(A) through (a)(1)(D) of API RP 80 (incorporated by reference, see §507) and this section. If an “incidental gathering” pipeline is 10 miles or more in length, the entire portion of the pipeline that is designated as an incidental gathering line under 2.2(a)(1)(E) and 2.2.1.2.6 of API RP 80 shall be classified as a transmission pipeline subject to all applicable regulations in this chapter for transmission pipelines. [49 CFR 192.8(a)(5)]

B. Each operator must determine and maintain for the life of the pipeline records documenting the methodology by which it calculated the beginning and end points of each onshore gathering pipeline it operates, as described in the second column of the table to Paragraph C.2 of this Section, by: [49 CFR 192.8(b)]

1. November 16, 2022, or before the pipeline is placed into operation, whichever is later; [49 CFR 192.8(b)(1)]

2. An alternative deadline approved by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The operator must notify PHMSA and State or local pipeline safety authorities, as applicable, no later than 90 days in advance of the deadline in Subsection B.1 of this section. The notification must be made in accordance with §518 and must include the following information: [49 CFR 192.8(b)(2)]

a. description of the affected facilities and operating environment; [49 CFR 192.8(b)(2)(i)]

b. justification for an alternative compliance deadline; and [192.(b)(2)(ii)]

c. proposed alternative deadline. [192.(b)(2)(iii)]

C. For purposes of part 191 of this chapter and Sec. 192.9, the term *regulated onshore gathering pipeline* means: [49 CFR 192.8(c)]

1. each Type A, Type B, or Type C onshore gathering pipeline (or segment of onshore gathering pipeline) with a feature described in the second column of the table to Paragraph C.2 of this Section that lies in an area described in the third column; and [49 CFR 192.8(c)(1)]

2. as applicable, additional lengths of pipeline described in the fourth column to provide a safety buffer: [49 CFR 192.8(c)(2)]

3. a Type R gathering line is subject to reporting requirements under part 191 of this chapter but is not a regulated onshore gathering line under this part. [49 CFR 192.8(c)(3)]

4. for the purpose of identifying Type C lines in table 1 to Paragraph C.2 of this Section, if an operator has not calculated MAOP consistent with the methods at §§2719.A or C.1, the operator must either: [49 CFR 192.8(c)(4)]

a. calculate MAOP consistent with the methods at §2719.A or C.1; or [49 CFR 192.8(c)(4)(i)]

b. use as a substitute for MAOP the highest operating pressure to which the segment was subjected during the preceding five operating years. [192.8(c)(4)(ii)]

Type	Feature	Area	Safety Buffer
A	—Metallic and the MAOP produces a hoop stress of 20 percent or more of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is more than 125 psig (862 kPa).	Class 2, 3, or 4 location (see §505).	None.
B	—Metallic and the MAOP produces a hoop stress of less than 20 percent of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is 125 psig (862 kPa) or less.	Area 1. Class 3 or 4 location. Area 2. An area within a Class 2 location the operator determines by using any of the following three methods: (a) A Class 2 location. (b) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1 mile (1.6 km) of pipeline and including more than 10 but fewer than 46 dwellings. (c) An area extending 150 feet (45.7 m) on each side of the centerline of any continuous 1000 feet (305 m) of pipeline and including 5 or more dwellings.	If the gathering line is in Area 2(b) or 2(c), the additional lengths of line extend upstream and downstream from the area to a point where the line is at least 150 feet (45.7 m) from the nearest dwelling in the area. However, if a cluster of dwellings in Area 2 (b) or 2(c) qualifies a line as Type B, the Type B classification ends 150 feet (45.7 m) from the nearest dwelling in the cluster.

Type	Feature	Area	Safety Buffer
C	Outside diameter greater than or equal to 8.625 inches and any of the following: —Metallic and the MAOP produces a hoop stress of 20 percent or more of SMYS; —If the stress level is unknown, segment is metallic and the MAOP is more than 125 psig (862 kPa); or —Non-metallic and the MAOP is more than 125 psig (862 kPa)	Class 1 location	None.
R	—Metallic and the MAOP produces a hoop stress of less than 20 percent of SMYS. If the stress level is unknown, an operator must determine the stress level according to the applicable provisions in Chapter 9 of this Subpart. —Non-metallic and the MAOP is 125 psig (862 kPa) or less.	Class 1 and Class 2 locations	None.

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 33:476 (March 2007), amended LR 49:

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

A. - 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, 1139.F, 1165, 1307.C, 1515.E, 2305, 2734, and 2735. [49 CFR 192.9(d)(1)]

2. - 8. ...

E. Type C Lines. The requirements for Type C gathering lines are as follows. [49 CFR 192.9(e)].

1. An operator of a Type C onshore gathering line with an outside diameter greater than or equal to 8.625 inches must comply with the following requirements: [49 CFR 192.9(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 through 17 and Chapter 23 of this Part applicable to transmission lines. Compliance with §§717, 927, 1139.E, 1139.F, 1165, 1307.C, 1515.E, 2305, 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 §2145; [192.9(e)(1)(ii)]

c. carry out a damage prevention program under §2714; [192.9(e)(1)(iii)]

d. develop and implement procedures for emergency plans in accordance with §2715; [192.9(e)(1)(iv)]

e. develop and implement a written public awareness program in accordance with §2716; [192.9(e)(1)(v)]

f. install and maintain line markers according to the requirements for transmission lines in §2907; and [192.9(e)(1)(vi)]

g. conduct leakage surveys in accordance with the requirements for transmission lines in §2906 using leak-detection equipment, and promptly repair hazardous leaks in accordance with §2903.C. [192.9(e)(1)(vii)]

2. An operator of a Type C onshore gathering line with an outside diameter greater than 12.75 inches must comply with the requirements in Paragraph E.1 of this Section and the following: [49 CFR 192.9(e)(2)]

a. if the pipeline contains plastic pipe, the operator must comply with all applicable requirements of this part for plastic pipe or components. This does not include pipe and components made of composite materials that incorporate plastic in the design; and [49 CFR 192.9(e)(2)(i)]

b. establish the MAOP of the pipeline under Subsections 2719.A or C and maintain records used to establish the MAOP for the life of the pipeline. [192.9(e)(2)(ii)]

F. Exceptions. [49 CFR 192.9(f)]

1. Compliance with Subparagraphs E.1.b, e, f, and g and E.2.a and b of this Section is not required for pipeline segments that are 16 inches or less in outside diameter if one of the following criteria are met. [49 CFR 192.9(f)(1)]

a. Method 1. The segment is not located within a potential impact circle containing a building intended for human occupancy or other impacted site. The potential impact circle must be calculated as specified in Section 3303, except that a factor of 0.73 must be used instead of 0.69. The MAOP used in this calculation must be determined and documented in accordance with Clause E.2.b of this Section. [49 CFR 192.9(f)(1)(i)]

b. Method 2. The segment is not located within a class location unit (see §505) containing a building intended for human occupancy or other impacted site. [49 CFR 192.9(f)(1)(ii)]

2. Clause E.1.a of this Section is not applicable to pipeline segments 40 feet or shorter in length that are replaced, relocated, or changed on a pipeline existing on or before May 16, 2022. [49 CFR 192.9(f)(2)]

3. For purposes of this section, the term “building intended for human occupancy or other impacted site” means any of the following: [49 CFR 192.9(f)(3)].

a. any building that may be occupied by humans, including homes, office buildings factories, outside recreation areas, plant facilities, etc.; [49 CFR 192.9(f)(3)(i)]

b. a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period (the days and weeks need not be consecutive); or [49 CFR 192.9(f)(3)(ii)]

c. any portion of the paved surface, including shoulders, of a designated interstate, other freeway, or expressway, as well as any other principal arterial roadway with 4 or more lanes. [49 CFR 192.9(f)(3)(iii)]

G. Compliance deadlines. An operator of a regulated onshore gathering line must comply with the following deadlines, as applicable. [49 CFR 192.9(g)]

1. An operator of a new, replaced, relocated, or otherwise changed line must be in compliance with the applicable requirements of this section by the date the line goes into service, unless an exception in §513 applies. [49 CFR 192.9(g)(1)]

2. If a Type A or Type B regulated onshore gathering pipeline existing on April 14, 2006, was not previously subject to this part, an operator has until the date stated in the second column to comply with the applicable requirement for the pipeline listed in the first column, unless the Administrator finds a later deadline is justified in a particular case. [49 CFR 192.9(g)(2)]

Requirement	Compliance Deadline
Control corrosion according to Chapter 21 requirements for transmission lines.	April 15, 2009
Carry out a damage prevention program under §2714.	October 15, 2007
Establish MAOP under §2719	October 15, 2007
Install and maintain line markers under §2907.	April 15, 2008
Establish a public education program under §2716.	April 15, 2008
Other provisions of this Part as required by Subsection C of this Section for Type A lines.	April 15, 2009

3. If, after April 14, 2006, a change in class location or increase in dwelling density causes an onshore gathering pipeline to become a Type A or Type B regulated onshore gathering line, the operator has 1 year for Type B lines and 2 years for Type A lines after the pipeline becomes a regulated onshore gathering pipeline to comply with this section. [49 CFR 192.9(g)(3)]

4. If a Type C gathering pipeline existing on or before May 16, 2022, was not previously subject to this Subpart, an operator must comply with the applicable requirements of this Section, except for Subsection H of this Section, on or before: [49 CFR 192.9(g)(4)]

a. May 16, 2023; or [49 CFR 192.9(g)(4)(i)]

b. an alternative deadline approved by PHMSA. The operator must notify PHMSA and State or local pipeline safety authorities, as applicable, no later than 90 days in advance of the deadline in paragraph (b)(1) of this section. The notification must be made in accordance with §518 and must include a description of the affected facilities and operating environment, the proposed alternative deadline for each affected requirement, the justification for each alternative compliance deadline, and actions the operator will take to ensure the safety of affected facilities. [49 CFR 192.9(g)(4)(ii)]

5. If, after May 16, 2022, a change in class location, an increase in dwelling density, or an increase in MAOP causes a pipeline to become a Type C gathering pipeline, or causes a Type C gathering pipeline to become subject to additional Type C requirements (see Subsection F of this Section), the operator has 1 year after the pipeline becomes subject to the additional requirements to comply with this section. [49 CFR 192.9(g)(5)]

H. Composite Materials. Pipe and components made with composite materials not otherwise authorized for use

under this part may be used on Type C gathering pipelines if the following requirements are met: [49 CFR 192.9(h)]

1. Steel and plastic pipe and components must meet the installation, construction, initial inspection, and initial testing requirements in Chapters 7 through 17 and 23 of this Subpart applicable to transmission lines. [49 CFR 192.9(h)(1)]

2. Operators must notify PHMSA in accordance with §518 at least 90 days prior to installing new or replacement pipe or components made of composite materials otherwise not authorized for use under this part in a Type C gathering pipeline. The notifications required by this section must include a detailed description of the pipeline facilities in which pipe or components made of composite materials would be used, including: [49 CFR 192.9(h)(2)]

a. the beginning and end points (stationing by footage and mileage with latitude and longitude coordinates) of the pipeline segment containing composite pipeline material and the counties and States in which it is located; [49 CFR 192.9(h)(2)(i)]

b. a general description of the right-of-way including high consequence areas, as defined in §3305; [49 CFR 192.9(h)(2)(ii)]

c. relevant pipeline design and construction information including the year of installation, the specific composite material, diameter, wall thickness, and any manufacturing and construction specifications for the pipeline; [49 CFR 192.9(h)(2)(iii)]

d. relevant operating information, including MAOP, leak and failure history, and the most recent pressure test (identification of the actual pipe tested, minimum and maximum test pressure, duration of test, any leaks and any test logs and charts) or assessment results; [49 CFR 192.9(h)(2)(iv)]

e. an explanation of the circumstances that the operator believes make the use of composite pipeline material appropriate and how the design, construction, operations, and maintenance will mitigate safety and environmental risks; [49 CFR 192.9(h)(2)(v)]

f. an explanation of procedures and tests that will be conducted periodically over the life of the composite pipeline material to document that its strength is being maintained; [49 CFR 192.9(h)(2)(vi)]

g. operations and maintenance procedures that will be applied to the alternative materials. These include procedures that will be used to evaluate and remediate anomalies and how the operator will determine safe operating pressures for composite pipe when defects are found; [49 CFR 192.9(h)(2)(vii)]

h. an explanation of how the use of composite pipeline material would be in the public interest; and [49 CFR 192.9(h)(2)(viii)]

i. a certification signed by a vice president (or equivalent or higher officer) of the operator's company that operation of the applicant's pipeline using composite pipeline material would be consistent with pipeline safety. [49 CFR 192.9(h)(2)(iv)]

3. Repairs or replacements using materials authorized under this part do not require notification under this Section. [49 CFR 192.9(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:

§513. What General Requirements Apply to Pipelines Regulated Under this Subpart?

[49 CFR 192.13]

A. No person may operate a segment of pipeline listed in the first column of Paragraph A.3 of this Section that is readied for service after the date in the second column, unless: [49 CFR 192.13(a)]

1. - 2. ...

3. The compliance deadlines are as follows: [49 CFR 192.13(a)(3)]

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006	March 15 2007
Regulated onshore gathering pipeline to which this part did not apply until May 16, 2022	May 16, 2023..
All other pipelines.	March 12, 1971

B. No person may operate a segment of pipeline listed in the first column that is replaced, relocated, or otherwise changed after the date in the second column, unless the replacement, relocation, or change has been made according to the requirements in this Subpart [49 CFR 192.13(b)]

Pipeline	Date
Offshore gathering line.	July 31, 1977
Regulated onshore gathering line to which this Subpart did not apply until April 14, 2006.	March 15 2007
Regulated onshore gathering pipeline to which this part did not apply until May 16, 2022	May 16, 2023
All other pipelines.	November 12, 1970

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 9:220 (April 1983), amended LR 10:511 (July 1984), LR 30:1227 (June 2004), LR 33:477 (March 2007), LR 49:

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

A. - B. ...

C. Unless otherwise specified, if an operator submits, pursuant to §§508, 509, 1139, 2306, 2707, 2719, 2724, 2732, 2734, 2736, 2910, 2912, 2945, 3321, 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 49:

Chapter 9. Pipe Design

[49 CFR Part 192 Subpart C]

§921. Design of Plastic Pipe [49 CFR 192.121]

A. - C.2.d. ...

Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
3/4" IPS	0.095	11
1" CTS	.099	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2"	0.216	11
3"	0.259	13.5
4"	0.265	17
6"	0.315	21
8"	0.411	21
10"	0.512	21
12"	0.607	21
16	.762	21
18	.857	21
20	.952	21
22	1.048	21
24	1.143	21

D. - 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 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), repromulgated LR 38:828 (March 2012), amended LR 44:1037 (June 2018), LR 46:1582 (November 2020), LR. 47:1141 (August 2021), LR 49:

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

§1110. Passage of Internal Inspection Devices
[49 CFR 192.150]

A. - B.7.a. ...

b. if the design includes taps for lateral connections, the operator can demonstrate, based on investigation or experience, that there is no reasonably practical alternative under the design circumstances to the use of a tap that will obstruct the passage of instrumented internal inspection devices; [49 CFR 192.150(b)(7)(ii)]

8. Gathering lines; and [49 CFR 192.150(b)(8)]

9. Other piping that, under 49 CFR Part 190.9 and LAC 43:XI.Subpart 3 the commissioner/administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices. [49 CFR 192.150(b)(9)]

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 21:821 (August 1995), amended LR 27:1539 (September 2001), LR 30:1233 (June 2004), LR 31:682 (March 2005), LR 33:479 (March 2007), LR 46:1584 (November 2020), LR 49:

§1113. Components Fabricated by Welding
[49 CFR 192.153]

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

b. A prefabricated unit or pressure vessel installed on or after October 1, 2021 must be tested for the duration specified in either §2305.C or D, 2307.C, or §2309.A, whichever is applicable for the pipeline in which the component is being installed. [49 CFR 192.153(e)(2)(ii)]

E.3. - E.6.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1234 (June 2004), LR 44:1037 (June 2018), LR 47:1142 (August 2021) repromulgated LR 47:1331 (September 2021). LR 49:

§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. All RMVs and alternative equivalent technologies installed pursuant to this Subsection must meet the requirements of §§2734 and 2736. Exempted from this Subsection's installation requirements are pipeline segments in Class 1, or Class 2 locations that have a potential impact radius (PIR), as defined in §3303, of 150 feet or less. 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 §318, 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 §§2734 and 2736. The requirements of this Subsection apply when the applicable pipeline replacement project involves a valve, either through addition, replacement, or removal. This Subsection's installation requirements do not apply to pipe

segments in Class 1 or Class 2 locations that have a PIR, as defined in §3303, that is less than or equal to 150 feet. An operator may request an extension of the installation compliance deadline requirements of this paragraph if it can demonstrate to PHMSA, in accordance with the notification procedures in §192.18, that those installation compliance deadlines would be economically, technically, or operationally infeasible for a particular pipeline replacement project. [49 CFR 192.179(f)]

G. If an operator elects to use alternative equivalent technology in accordance with paragraphs (e) or (f) of this section, the operator must notify PHMSA in accordance with the procedures in §192.18. 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 §§2734 and 2736. 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 compressor station valve at a continuously manned station as an alternative equivalent technology, and use of such valve would not require a notification to PHMSA in accordance with §518, but it must comply with §2736. [49 CFR 192.179(g)]

H. The valve spacing requirements of Subsection A of this section do not apply to pipe replacements on a pipeline if the distance between each point on the pipeline and the nearest valve does not exceed: [49 CFR 192.179(h)]

1. 4 miles in Class 4 locations, with a total spacing between valves no greater than 8 miles; [49 CFR 192.179(h)(1)]

2. 7 1/2 miles in Class 3 locations, with a total spacing between valves no greater than 15 miles; or [49 CFR 192.179(h)(2)]

3. 10 miles in Class 1 or 2 locations, with a total spacing between valves no greater than 20 miles. [49 CFR 192.179(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:

Chapter 15. Joining of Materials Other Than by Welding
[49 CFR Part 192 Subpart F]

§1511. Plastic Pipe [49 CFR 192.281]

A. - B.3. ...

C. Heat-Fusion Joints. Each heat-fusion joint on a PE pipe or component, except for electrofusion joints, must comply with ASTM F2620 (incorporated by reference in §507), or an alternative written procedure that has been demonstrated to provide an equivalent or superior level of safety and has been proven by test or experience to produce strong gastight joints, and the following. [49 CFR 192.281(c)]

C.1. - E.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983),

amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 30:1243 (June 2004), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:1585 (November 2020), LR 47:1144 (August 2021), LR 49:

Chapter 21. Requirements for Corrosion Control
[49 CFR Part 192 Subpart I]

§2103. How Does this Chapter Apply to Converted Pipelines and Regulated Onshore Gathering Lines? [49 CFR 192.452]

A. ...

B. Type A and B onshore gathering lines. For any Type A or Type B regulated onshore gathering line under §509 existing on April 14, 2006, that was not previously subject to this Subpart, and for any onshore gathering line that becomes a regulated onshore gathering line under §509 after April 14, 2006, because of a change in class location or increase in dwelling density. [49 CFR 192.452(b)]

C. Type C onshore regulated gathering lines. For any Type C onshore regulated gathering pipeline under §509 existing on May 16, 2022, that was not previously subject to this Subpart, and for any Type C onshore gas gathering pipeline that becomes subject to this subpart after May 16, 2022, because of an increase in MAOP, change in class location, or presence of a building intended for human occupancy or other impacted site: [49 CFR 192.452(c)]

1. the requirements of this subpart specifically applicable to pipelines installed before August 1, 1971, apply to the gathering line regardless of the date the pipeline was actually installed; and [49 CFR 192.452(c)(1)]

2. the requirements of this subpart specifically applicable to pipelines installed after July 31, 1971, apply only if the pipeline substantially meets those requirements. [49 CFR 192.452(c)(2)]

D. Regulated onshore gathering lines generally. Any gathering line that is subject to this subpart per §509 at the time of construction must meet the requirements of this subpart applicable to pipelines installed after July 31, 1971. [49 CFR 192.452(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 9:235 (April 1983), amended LR 10:527 (July 1984), LR 30:1252 (June 2004), LR 33:480 (March 2007), LR 49:

Chapter 27. Operations
[49 CFR Part 192 Subpart L]

§2710. Change in class location: Change in valve spacing. [49 CFR 192.610]

A. If a class location change on a transmission pipeline occurs after October 5, 2022 and results in pipe replacement, of 2 or more miles, in the aggregate, within any 5 contiguous miles within a 24-month period, to meet the maximum allowable operating pressure (MAOP) requirements in §§2711, 2719, or 2720, then the requirements in §§1139, 2734, 2736, as applicable, apply to the new class location, and the operator must install valves, including rupture-mitigation valves (RMV) or alternative equivalent technologies, as necessary, to comply with those sections. Such valves must be installed within 24 months of the class location change in accordance with the timing requirement in §2711.D for compliance after a class location change. [49 CFR 192.610(a)]

B. If a class location change occurs 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)]

1. Comply with the valve spacing requirements of §192.179(a) for the replaced pipeline segment; or [49 CFR 192.610(b)(1)]

2. Install or use existing RMVs or alternative equivalent technologies so that the entirety of the replaced pipeline segments are between at least two RMVs or alternative equivalent technologies. The distance between RMVs and alternative equivalent technologies for the replaced segment must not exceed 20 miles. The RMVs and alternative equivalent technologies must comply with the applicable requirements of §2736. [49 CFR 192.610(B)(2)]

C. The provisions of Subsection B of this Section do not apply to pipeline replacements that amount to less than 1,000 feet within any 1 contiguous mile during any 24-month period. [49 CFR 192.610(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:

§2715. Emergency Plans
[49 CFR 192.615]

A. - A.1. ...

2. establishing and maintaining adequate means of communication with appropriate public safety answering point (i.e., 9-1-1 emergency call center), where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, and fire, police, and other public officials. Operators may establish liaison with the appropriate local emergency coordinating agencies, such as 9-1-1 emergency call centers or county emergency managers, in lieu of communicating individually with each fire, police, or other public entity. An operator must determine the responsibilities, resources, jurisdictional area(s), and emergency contact telephone number(s) for both local and out-of-area calls of each Federal, State, and local government organization that may respond to a pipeline emergency, and inform such officials about the operator's ability to respond to a pipeline emergency and the means of communication during emergencies. [49 CFR 192.615(a)(2)]

3. - 5. ...

6. Taking necessary actions, including but not limited to, emergency shutdown, valve shut-off, or pressure reduction, in any section of the operator's pipeline system, to minimize hazards of released gas to life, property, or the environment. [49 CFR 192.615(a)(6)]

7. ...

8. notifying the appropriate public safety answering point (i.e., 9-1-1 emergency call center) where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, and fire, police, and other public officials, of gas pipeline emergencies to coordinate and share information to determine the location of the emergency, including both planned responses and actual responses during an emergency. The operator must immediately and directly notify the appropriate public safety answering point or other coordinating agency for the communities and

jurisdictions in which the pipeline is located after receiving a notification of potential rupture, as defined in §503, to coordinate and share information to determine the location of any release, regardless of whether the segment is subject to the requirements of §§1139, 2734, or 2736. [49 CFR 192.615(a)(8)]

9. - 10. ...

11. actions required to be taken by a controller during an emergency in accordance with the operator's emergency plans and requirements set forth in §§2731, 2734, and 2736. [49 CFR 192.615(a)(11)]

12. Each operator must develop written rupture identification procedures to evaluate and identify whether a notification of potential rupture, as defined in §503, is an actual rupture event or a non-rupture event. These procedures must, at a minimum, specify the sources of information, operational factors, and other criteria that operator personnel use to evaluate a notification of potential rupture and identify an actual rupture. For operators installing valves in accordance with §1139.E, §1139.F, or that are subject to the requirements in §2734, those procedures must provide for rupture identification as soon as practicable. [49 CFR 192.615(a)(12)]

B. - B.3. ...

C. Each operator must establish and maintain liaison with the appropriate public safety answering point (*i.e.*, 9-1-1 emergency call center) where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, as well as fire, police, and other public officials, to: [49 CFR 192.615(c)]

I. - 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 9:241 (April 1983), amended LR 10:534 (July 1984), LR 21:822 (August 1995), LR 30:1263 (June 2004), LR 38:117 (January 2012), LR 49:

§2717. Investigation of Failures

[49 CFR 192.617]

A. Post-failure and incident procedures. Each operator must establish and follow procedures for investigating and analyzing failures and incidents as defined in §303, including sending the failed pipe, component, or equipment for laboratory testing or examination, where appropriate, for the purpose of determining the causes and contributing factor(s) of the failure or incident and minimizing the possibility of a recurrence. [49 CFR 192.617(a)]

B. Post-failure and incident lessons learned. Each operator must develop, implement, and incorporate lessons learned from a post-failure or incident review into its written procedures, including personnel training and qualification programs, and design, construction, testing, maintenance, operations, and emergency procedure manuals and specifications. [49 CFR 192.617(b)]

C. Analysis of rupture and valve shut-offs. If an incident on an onshore gas transmission pipeline or a Type A gathering pipeline involves the closure of a rupture-mitigation valve (RMV), as defined in §503, or the closure of alternative equivalent technology, the operator of the pipeline must also conduct a post-incident analysis of all of the factors that may have impacted the release volume and the consequences of the incident and identify and implement operations and maintenance measures to prevent or

minimize the consequences of a future incident. The requirements of this Subsection B are not applicable to distribution pipelines or Types B and C gas gathering pipelines. The analysis must include all relevant factors impacting the release volume and consequences, including, but not limited to, the following: [49 CFR 192.617(c)]

1. detection, identification, operational response, system shut-off, and emergency response communications, based on the type and volume of the incident; [49 CFR 192.617(c)(1)]

2. appropriateness and effectiveness of procedures and pipeline systems, including supervisory control and data acquisition (SCADA), communications, valve shut-off, and operator personnel; [49 CFR 192.617(c)(2)]

3. actual response time from identifying a rupture following a notification of potential rupture, as defined in §503, to initiation of mitigative actions and isolation of the pipeline segment, and the appropriateness and effectiveness of the mitigative actions taken; [49 CFR 192.617(c)(3)]

4. location and timeliness of actuation of RMVs or alternative equivalent technologies; and [49 CFR 192.617(c)(4)]

5. all other factors the operator deems appropriate. [49 CFR 192.617(c)(5)]

D. Rupture Post-Failure and Incident Summary. If a failure or incident on an onshore gas transmission pipeline or a Type A gathering pipeline involves the identification of a rupture following a notification of potential rupture, or the closure of an RMV (as those terms are defined in §503), or the closure of an alternative equivalent technology, the operator of the pipeline must complete a summary of the post-failure or incident review required by Subsection C of this section within 90 days of the incident, and while the investigation is pending, conduct quarterly status reviews until the investigation is complete and a final post-incident summary is prepared. The final post-failure or incident summary, and all other reviews and analyses produced under the requirements of this section, must be reviewed, dated, and signed by the operator's appropriate senior executive officer. The final post-failure or incident summary, all investigation and analysis documents used to prepare it, and records of lessons learned must be kept for the useful life of the pipeline. The requirements of this Subsection D are not applicable to distribution pipelines or Types B and C gas gathering pipelines. [49 CFR 192.617(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 9:242 (April 1983), amended LR 10:534 (July 1984), LR 30:1264 (June 2004), LR 49:

§2719. What is the Maximum Allowable Operating Pressure for Steel or Plastic Pipelines?

[49 CFR 192.619]

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

3. the highest actual operating pressure to which the segment was subjected during the five years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in Paragraph A.2 of this Section after the applicable date in the third column or the segment was updated according to the requirements in Chapter 25 of this Subpart. [49 CFR 192.619(a)(3)]

Pipeline Segment	Pressure Date	Test Date
—Onshore gathering line that first became subject to this Subpart (other than §2712) after April 13, 2006.	March 15, 2006, or date line becomes subject to this Subpart, whichever is later.	5 years preceding applicable date in second column.
Onshore regulated gathering pipeline (Type C under §509.D that first became subject to this part (other than §2712) on or after May 16, 2022	May 16, 2023, or date pipeline becomes subject to this Subpart, whichever is later	5 years preceding applicable date in second column.
—Onshore transmission line that was a gathering line not subject to this Subpart before March 15, 2006.	March 15, 2006, or date line becomes subject to this Subpart, whichever is later.	5 years preceding applicable date in second column
Offshore gathering lines.	July 1, 1976	July 1, 1971
All other pipelines.	July 1, 1970	July 1, 1965

A.4. - B. ...

C. The requirements on pressure restrictions in this Section do not apply in the following instance: [49 CFR 192.619(c)]

1. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five years preceding the applicable date in the second column of the table in Paragraph A.3 of this Section. An operator must still comply with §2711. [49 CFR 192.619(c)(1)]

2. For any Type C gas gathering pipeline under §509 existing on or before May 16, 2022, that was not previously subject to this part and the operator cannot determine the actual operating pressure of the pipeline for the 5 years preceding May 16, 2023, the operator may establish MAOP using other criteria based on a combination of operating conditions, other tests, and design with approval from PHMSA. The operator must notify PHMSA in accordance with §518. The notification must include the following information: [49 CFR 192.19(c)(2)]

a. the proposed MAOP of the pipeline; [49 CFR 192.619(c)(2)(i)]

b. description of pipeline segment for which alternate methods are used to establish MAOP, including diameter, wall thickness, pipe grade, seam type, location, endpoints, other pertinent material properties, and age; [49 CFR 192.619(c)(2)(ii)]

c. pipeline operating data, including operating history and maintenance history; [49 CFR 192.619(c)(2)(iii)]

d. description of methods being used to establish MAOP; [49 CFR 192.619(c)(2)(iv)]

e. technical justification for use of the methods chosen to establish MAOP; and [49 CFR 192.619(c)(2)(v)]

f. evidence of review and acceptance of the justification by a qualified technical subject matter expert. [49 CFR 192.619(c)(2)(vi)]

D. - F. ...

1. operators of pipelines in operation as of [July 1, 2020 must retain any existing records establishing MAOP for the life of the pipeline; [49 CFR 192.619(f)(1)]

2. operators of pipelines in operation as of July 1, 2020 that do not have records establishing MAOP and are required to reconfirm MAOP in accordance with §2724,

must retain the records reconfirming MAOP for the life of the pipeline; and [49 CFR 192. 619(f)(2)]

3. operators of pipelines placed in operation after July 1, 2020 must make and retain records establishing MAOP for the life of the pipeline. [49 CFR 192. 619(f)(3)]

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:2807 (December 2009), LR 46:1590 (November 2020), LR 47:1145 (August 2021), LR 49:

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

A. For new or entirely replaced onshore transmission pipeline segments with diameters of 6 inches or greater that are located in high-consequence areas (HCA) or Class 3 or Class 4 locations and that are installed after April 10, 2023, an operator must install or use existing rupture-mitigation valves (RMV), or an alternative equivalent technology, according to the requirements of this Section and §§1139 and 2736. RMVs and alternative equivalent technologies must be operational within 14 days of placing the new or replaced pipeline segment into service. An operator may request an extension of this 14-day operation requirement if it can demonstrate to PHMSA, in accordance with the notification procedures in §518, that application of that requirement would be economically, technically, or operationally infeasible. The requirements of this section apply to all applicable pipe replacement projects, even those that do not otherwise involve the addition or replacement of a valve. This section does not apply to pipe segments in Class 1 or Class 2 locations that have a potential impact radius (PIR), as defined in §3303, that is less than or equal to 150 feet. 49 CFR 192.634(a)]

B. Maximum Spacing between Valves. RMVs, or alternative equivalent technology, must be installed in accordance with the following requirements. 49 CFR 192.634(b)]

1. Shut-off Segment. For purposes of this section, a “shut-off segment” means the segment of pipe located between the upstream valve closest to the upstream endpoint of the new or replaced Class 3 or Class 4 or HCA pipeline segment and the downstream valve closest to the downstream endpoint of the new or replaced Class 3 or Class 4 or HCA pipeline segment so that the entirety of the segment that is within the HCA or the Class 3 or Class 4 location is between at least two RMVs or alternative equivalent technologies. If any crossover or lateral pipe for gas receipts or deliveries connects to the shut-off segment between the upstream and downstream valves, the shut-off segment also must extend to a valve on the crossover connection(s) or lateral(s), such that, when all valves are closed, there is no flow path for gas to be transported to the rupture site (except for residual gas already in the shut-off segment). Multiple Class 3 or Class 4 locations or HCA segments may be contained within a single shut-off segment. The operator is not required to select the closest valve to the shut-off segment as the RMV, as that term is defined in §503, or the alternative equivalent technology. An operator may use a manual compressor station valve at a continuously manned station as an alternative equivalent technology, but it

must be able to be closed within 30 minutes following rupture identification, as that term is defined at §503. Such a valve used as an alternative equivalent technology would not require a notification to PHMSA in accordance with §518. [49 CFR 192.634(b)(1)]

2. Shut-Off Segment Valve Spacing. A pipeline subject to Subsection A of this Section must have RMVs or alternative equivalent technology on the upstream and downstream side of the pipeline segment. The distance between RMVs or alternative equivalent technologies must not exceed: [49 CFR 192.634(b)(2)]

a. 8 miles for any Class 4 location; [49 CFR 192.634(b)(2)(i)]

b. 15 miles for any Class 3 location; or [49 CFR 192.634(b)(2)(ii)]

c. 20 miles for all other locations. [49 CFR 192.634(b)(2)(iii)]

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 paragraph 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. Crossovers. An operator may use a manual valve as an alternative equivalent technology in lieu of an RMV for a crossover connection if, during normal operations, the valve is closed to prevent the flow of gas by the use of a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator. The operator must develop and implement operating procedures and document that the valve has been closed and locked in accordance with the operator's lock-out and tag-out procedures to prevent the flow of gas. An operator using such a manual valve as an alternative equivalent technology must notify PHMSA in accordance with §§518 and 1139. [49 CFR 192.634(b)(4)]

C. Manual Operation upon Identification of a Rupture. Operators using a manual valve as an alternative equivalent technology as authorized pursuant to §§518 and 1139 must develop and implement operating procedures that appropriately designate and locate nearby personnel to ensure valve shut-off in accordance with this section and §2736. 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 §2736.B. [49 CFR 192.634(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:

§2735. Notification of Potential Rupture [49 CFR 192.635]

A. As used in this part, a "notification of potential rupture" refers to the notification of, 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 gas from a pipeline: [49 CFR 192.635(a)]

1. an unanticipated or unexplained pressure loss outside of the pipeline's normal operating pressures, as defined in the operator's written procedures. The operator must establish in its written procedures that an unanticipated or unplanned pressure loss is outside of the pipeline's normal operating pressures when there is a pressure loss greater than 10 percent occurring within a time interval of 15 minutes or less, unless the operator has documented in its written procedures the operational need for a greater pressure-change threshold due to pipeline flow dynamics (including changes in operating pressure, flow rate, or volume), that are caused by fluctuations in gas demand, gas receipts, or gas deliveries; or [49 CFR 192.635(a)(1)]

2. an unanticipated or unexplained flow rate change, pressure change, equipment function, or other pipeline instrumentation indication at the upstream or downstream station that may be representative of an event meeting paragraph (a)(1) of this section; or [49 CFR 192.635(a)(2)]

3. any unanticipated or unexplained rapid release of a large volume of gas, a fire, or an explosion in the immediate vicinity of the pipeline. [49 CFR 192.635(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 192.635(b)]

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:

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

A. Scope. The requirements in this section apply to rupture-mitigation valves (RMVs), as defined in §503, or alternative equivalent technologies, installed pursuant to §§1139.E, F, G, and 2734. [49 CFR 192.636(a)]

B. Rupture identification and valve shut-off time. An operator must, as soon as practicable but within 30 minutes of rupture identification (see §2715.A.12, fully close any RMVs or alternative equivalent technologies necessary to minimize the volume of gas released from a pipeline and mitigate the consequences of a rupture. [49 CFR 192.636(b)]

C. Open Valves. An operator may leave an RMV or alternative equivalent technology open for more than 30 minutes, as required by Subsection B of this Section, if the operator has previously established in its operating procedures and demonstrated within a notice submitted under §518 for PHMSA review, that closing the RMV or alternative equivalent technology would be detrimental to public safety. The request must have been coordinated with appropriate local emergency responders, and the operator and emergency responders must determine that it is safe to leave the valve open. Operators must have written procedures for determining whether to leave an RMV or alternative equivalent technology open, including plans to communicate with local emergency responders and minimize environmental impacts, which must be submitted as part of its notification to PHMSA. [49 CFR 192.636(c)]

D. Valve monitoring and operation capabilities. An RMV, as defined in §503, or alternative equivalent technology, must be capable of being monitored or controlled either remotely or by on-site personnel as follows: [49 CFR 192.636(d)]

1. operated during normal, abnormal, and emergency operating conditions; [49 CFR 192.636(d)(1)]

2. monitored for valve status (i.e., open, closed, or partial closed/open), upstream pressure, and downstream pressure. For automatic shut-off valves (ASV), an operator does not need to monitor remotely a valve's status if the operator has the capability to monitor pressures or gas flow rate within each pipeline segment located between RMVs or alternative equivalent technologies to identify and locate a rupture. Pipeline segments that use manual valves or other alternative equivalent technologies must have the capability to monitor pressures or gas flow rates on the pipeline to identify and locate a rupture; and [49 CFR 192.636(d)(2)]

3. have a back-up power source to maintain SCADA systems or other remote communications for remote-control valve (RCV) or automatic shut-off valve (ASV) operational status, or be monitored and controlled by on-site personnel. [49 CFR 192.636(d)(3)]

E. Monitoring of valve shut-off response status. The position and operational status of an RMV must be appropriately monitored through electronic communication with remote instrumentation or other equivalent means. An operator does not need to monitor remotely an ASV's status if the operator has the capability to monitor pressures or gas flow rate on the pipeline to identify and locate a rupture. [49 CFR 192.636(e)]

F. Flow Modeling for Automatic Shut-Off Valves. Prior to using an ASV as an RMV, an operator must conduct flow modeling for the shut-off segment and any laterals that feed the shut-off segment, so that the valve will close within 30 minutes or less following rupture identification, consistent with the operator's procedures, and in accordance with §503 and this section. The flow modeling must include the anticipated maximum, normal, or any other flow volumes, pressures, or other operating conditions that may be encountered during the year, not exceeding a period of 15 months, and it must be modeled for the flow between the RMVs or alternative equivalent technologies, and any looped pipelines or gas receipt tie-ins. If operating conditions change that could affect the ASV set pressures and the 30-minute valve closure time after notification of

potential rupture, as defined at §503, an operator must conduct a new flow model and reset the ASV set pressures prior to the next review for ASV set pressures in accordance with §2945. The flow model must include a time/pressure chart for the segment containing the ASV if a rupture occurs. An operator must conduct this flow modeling prior to making flow condition changes in a manner that could render the 30-minute valve closure time unachievable. [49 CFR 192.636(f)]

G. Manual Valves in Non-HCA, Class 1 Locations. For pipeline segments in a Class 1 location that do not meet the definition of a high consequence area (HCA), an operator submitting a notification pursuant to §§518 and 1139 for use of manual valves as an alternative equivalent technology may also request an exemption from the requirements of §2736.B. [49 CFR 192.636(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 49:

§2945. Valve Maintenance: Transmission Lines
[49 CFR 192.745]

A. - B. ...

C. For each remote-control valve (RCV) installed in accordance with §§1139 or 2734, an operator must conduct a point-to-point verification between SCADA system displays and the installed valves, sensors, and communications equipment, in accordance with §2731.C and E. [49 CFR 192.745(c)]

D. For each alternative equivalent technology installed on an onshore pipeline under §§1139.E, 1139.F, or 2734 that is manually or locally operated (i.e., not a rupture-mitigation valve (RMV), as that term is defined in §503). [49 CFR 192.745(d)]

1. Operators must achieve a valve closure time of 30 minutes or less, pursuant to §2736.B, through an initial drill and through periodic validation as required in Paragraph D.2 of this Section. An operator must review and document the results of each phase of the drill response to validate the total response time, including confirming the rupture, and valve shut-off time as being less than or equal to 30 minutes after rupture identification. [49 CFR 192.745(d)(1)]

2. Operators must achieve a valve closure time of 30 minutes or less, pursuant to §2736.B, through an initial drill and through periodic validation as required in Paragraph D.2 of this Section. An operator must review and document the results of each phase of the drill response to validate the total response time, including confirming the rupture, and valve shut-off time as being less than or equal to 30 minutes after rupture identification. [49 CFR 192.745(d)(2)]

3. If the 30-minute-maximum response time cannot be achieved during the drill, the operator must revise response efforts to achieve compliance with §2736 as soon as practicable, but no later than 12 months after the drill. Alternative valve shut-off measures must be in place in accordance with Subsection E of this Section within 7 days of a failed drill. [49 CFR 192.745(d)(3)]

4. Based on the results of response-time drills, the operator must include lessons learned in: [49 CFR 192.745(d)(4)]

a. training and qualifications programs; [49 CFR 192.745(d)(4)(i)]

b. design, construction, testing, maintenance, operating, and emergency procedures manuals; and [49 CFR 192.745(d)(4)(ii)]

c. any other areas identified by the operator as needing improvement. [49 CFR 192.745(d)(4)(iii)]

5. The requirements of this Subsection D do not apply to manual valves who, pursuant to §2736.G, have been exempted from the requirements of §2736.B. [49 CFR 192.745(d)(5)]

E. Each operator must develop and implement remedial measures to correct any valve installed on an onshore pipeline under §§1139.E, 1139.F, or 2734 that is indicated to be inoperable or unable to maintain effective shut-off as follows: [49 CFR 192.745(e)]

1. Repair or replace the valve as soon as practicable but no later than 12 months after finding that the valve is inoperable or unable to maintain effective shut-off. An operator must request an extension from PHMSA in accordance with §518 if repair or replacement of a valve within 12 months would be economically, technically, or operationally infeasible; and [49 CFR 192.745(e)(1)]

2. Designate an alternative valve acting as an RMV within 7 calendar days of the finding while repairs are being made and document an interim response plan to maintain safety. Such valves are not required to comply with the valve spacing requirements of this part. [49 CFR 192.745(e)(2)]

F. An operator using an ASV as an RMV, in accordance with §§503, 1139, 2734, and 2736, must document and confirm the ASV shut-in pressures, in accordance with 2736.F, on a calendar year basis not to exceed 15 months. ASV shut-in set pressures must be proven and reset individually at each ASV, as required, on a calendar year basis not to exceed 15 months. [49 CFR 192.745(e)]

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:246 (April 1983), amended LR 10:539 (July 1984), LR 30:1271 (June 2004), LR 49:

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

§3335. What Additional Preventive and Mitigative Measures Must an Operator Take?
[49 CFR 192.935]

A. - B.2. ...

C. Risk Analysis for Gas Releases And Protection Against Ruptures. If an operator determines, based on a risk analysis, that a rupture-mitigation valve (RMV) or alternative equivalent technology would be an efficient means of adding protection to a high-consequence area (HCA) in the event of a gas release, an operator must install the RMV or alternative equivalent technology. In making that determination, an operator must, at least, evaluate the following factors – timing of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel. An RMV or alternative equivalent technology installed under this paragraph must meet all of the other applicable requirements in this Part. [49 CFR 192.935(c)]

D. - E. ...

F. Periodic evaluations. Risk analyses and assessments conducted under Subsection C of this Section must be reviewed by the operator and certified by a senior executive of the company, for operational matters that could affect rupture-mitigation processes and procedures. Review and certification must occur once per calendar year, with the period between reviews not to exceed 15 months, and must also occur within 3 months of an incident or safety-related condition, as those terms are defined at §§303 and 323, respectively. [49 CFR 192.935(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 49:

Chapter 35. Gas Distribution Pipeline Integrity Management (IM)
[49 CFR Part 192 Subpart P]

§3515. What must a Small LPG Operator do to Implement this Chapter? [49 CFR 192.1015]

A. - B.1. ...

2. Identify Threats. The operator must consider, at minimum, the following categories of threats (existing and potential): corrosion(including atmospheric corrosion), natural forces, excavation damage, other outside force damage, material or weld failure, equipment failure, and incorrect operation. [49 CFR 192.1015(b)(2)]

B.3. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:124 (January 2012), amended LR 47:1147 (August 2021), LR 49:

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]
§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 two or more miles of pipe, in the aggregate, have been replaced within any 5 contiguous miles within any 24-month period.

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.

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.

* * *

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:

§30117. What is a Regulated Rural Gathering Line and What Requirements Apply? [49 CFR 195.11]

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

b. For steel pipelines constructed, replaced, relocated, or otherwise changed after July 3, 2009:, [49 CFR 195.11(b)(2)]

i. Design, install, construct, initially inspect, and initially test the pipeline in compliance with this part, unless the pipeline is converted under §30111. [49 CFR 195.11(b)(2)(i)]

ii. Except for pipelines subject to §30260.E, such pipelines are not subject to the rupture-mitigation valve (RMV) and alternative equivalent technology requirements in §§30258.C and D, 30418, and 30419. [49 CFR 195.11(b)(2)(ii)]

1.c. - 4.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 35:2793 (December 2009), amended LR 49:

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

§30122. How to Notify PHMSA [49 CFR 195.18]

A. An operator must provide any notification required by this part by: [49 CFR 195.18(a)]

1. sending the notification by electronic mail to InformationResourcesManager@dot.gov; or [49 CFR 195.18(a)(1)]

2. sending the notification by mail to ATTN: Information Resources Manager, DOT/PHMSA/OPS, East Building, 2nd Floor, E22-321, 1200 New Jersey Ave. SE., Washington, DC 20590. [49 CFR 195.18(a)(2)]

B. An operator must also notify the appropriate State or local pipeline safety authority when an applicable pipeline segment is located in a State where OPS has an interstate agent agreement, or an intrastate pipeline segment is regulated by that State. [49 CFR 195.18(b)]

C. Unless otherwise specified, if an operator submits, pursuant to §§30258, 30260, 30418, 30419, 30420 or 30452 a notification requesting use of a different integrity assessment method, analytical method, sampling approach, compliance timeline, 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 that other method, approach, compliance timeline, or technique. An operator may proceed to use the other method, approach, compliance timeline, or technique 91 days after submittal of the notification unless it receives a letter from the Associate Administrator of Pipeline Safety informing the operator that PHMSA objects to the proposal, or that PHMSA requires additional time and/or information to conduct its review. [49 CFR 195.18(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 49:

Chapter 302. Transportation of Hazardous Liquids by Pipeline—Construction

[49 CFR Part 195 Subpart D]

§30258. Valves: General

[49 CFR 195.258]

A. - B. ...

C. For all onshore hazardous liquid or carbon dioxide 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 and §30260. An operator using alternative equivalent technology must notify PHMSA in accordance with the procedure in Subsection E of this Section. All RMVs and alternative equivalent technology installed as required by this section must meet the requirements of §30419. An operator may request an extension of the installation compliance deadline requirements of this paragraph if it can demonstrate to PHMSA, in accordance with the notification procedures in §30123, that those installation deadline requirements would be economically, technically, or operationally infeasible for a particular new pipeline. [49 CFR 195.258(c)]

D. For all entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments with diameters greater than or equal to 6 inches that have been replaced 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 using alternative equivalent technology must notify PHMSA in accordance with the procedure in paragraph (e) of this section. All valves installed as required by this section must meet the requirements of §30419. The requirements of this paragraph (d) apply when the applicable pipeline replacement project involves a valve, either through addition, replacement, or removal. An operator may request an extension of the installation compliance deadline requirements of this paragraph if it can demonstrate to PHMSA, in accordance with the notification procedures in §30123, that those installation deadline requirements would be economically, technically, or operationally infeasible for a particular pipeline replacement project. [49 CFR 195.258(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 §195.18. 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 compressor 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 §30123, but it must comply with §§30419 and 30420. [49 CFR 195.258(e)]

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:

§30260. Valves: Location [49 CFR 195.260]

A. A valve must be installed at each of the following locations: [49 CFR 195.260]

1. on the suction end and the discharge end of a pump station in a manner that permits isolation of the pump station equipment in the event of an emergency; [49 CFR 195.260(a)]

2. on each pipeline entering or leaving a breakout storage tank area in a manner that permits isolation of the tank area from other facilities; [49 CFR 195.260(b)]

3. on each pipeline at locations along the pipeline system that will minimize or prevent safety risks, property damage, or environmental harm from accidental hazardous liquid or carbon dioxide discharges, as appropriate for onshore areas, offshore areas, and high-consequence areas (HCA). For newly constructed or entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments, as that term is defined at §30105, that are installed after April 10, 2023, valve spacing must not exceed 15 miles for pipeline segments that could affect or are in HCAs, as defined in §30450, and 20 miles for pipeline segments that could not affect HCAs. Valves on pipeline segments that are located in HCAs or which could affect HCAs must be installed at locations as determined by the operator's process for identifying preventive and mitigative measures established pursuant to §195.452(i) and by using the selection process in Section I.B of Appendix C of Part 195, but with a maximum distance that does not exceed 7 1/2 miles from the endpoints of the HCA segment or the segment that could affect an HCA. An operator may request an exemption from the compliance deadline requirements of this section for valve installation at the specified valve spacing if it can demonstrate to PHMSA, in accordance with the notification procedures in §30123, that those compliance deadline requirements would be economically, technically, or operationally infeasible. [49 CFR 195.260(c)]

4. on each lateral takeoff from a pipeline in a manner that permits shutting off the lateral without interrupting the flow in the trunk line; [49 CFR 195.260(d)]

5. on each side of a water crossing that is more than 100 feet (30 meters) wide from high-water mark to high-water mark as follows:[49 CFR 195.260(e)]

a. Valves must be installed at locations outside of the 100-year flood plain or be equipped with actuators or other control equipment that is installed so as not to be impacted by flood conditions; and [49 CFR 195.260(e)(1)]

b. The maximum spacing interval between valves that protect multiple adjacent water crossings cannot exceed 1 mile in length; [49 CFR 195.260(e)(1)]

6. on each side of a reservoir holding water for human consumption. [49 CFR 195.260(f)]

7. on each highly volatile liquid (HVL) pipeline that is located in a high-population area or other populated area, as defined in §30420, and that is constructed, or where 2 or more miles of pipe have been replaced within any 5

contiguous miles within any 24-month period, after April 10, 2023, with a maximum valve spacing of 7 1/2 miles. The maximum valve spacing intervals may be increased by 1.25 times the distance up to a 9 3/8-mile spacing, provided the operator: [49 CFR 195.260(g)]

a. submits for PHMSA review a notification pursuant to §30123 requesting alternative spacing because installation of a valve at a particular location between a 7-mile to a 7 1/2-mile spacing would be economically, technically, or operationally infeasible, and that an alternative spacing would not adversely impact safety; and [49 CFR 195.260(g)(1)]

b. keeps the records necessary to support that determination for the useful life of the pipeline. [49 CFR 195.260(g)(2)]

B. 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)]

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:

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

A. - C.3. ...

4. Determining which pipeline facilities are in areas that would require an immediate response by the operator to prevent hazards to the public, property, or the environment if the facilities failed or malfunctioned, including segments that could affect high-consequence areas (HCA) or are in HCAs, and valves specified in §§30418 or 30452.I.4. [49 CFR 195.402(c)(4)]

5. Investigating and analyzing pipeline accidents and failures, including sending the failed pipe, component, or equipment for laboratory testing or examination where appropriate, to determine the cause(s) and contributing factors of the failure and to minimize the possibility of a recurrence. [49 CFR 195.402(c)(5)]

a. Post-failure and -accident lessons learned. Each operator must develop, implement, and incorporate lessons learned from a post-failure and accident review into its written procedures, including in pertinent operator personnel training and qualifications programs, and in design, construction, testing, maintenance, operations, and emergency procedure manuals and specifications. [49 CFR 195.402(c)(5)(i)]

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 accident analysis of all of 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 incident. The analysis must include all relevant factors impacting the release volume and consequences, including, but not limited to, the following: [49 CFR 195.402(c)(5)(ii)]

i. Detection, identification, operational response, system shut-off, and emergency-response communications, based on the type and volume of the release or failure event; ([49 CFR 195.402(c)(5)(ii)(A)]

ii. Appropriateness and effectiveness of procedures and pipeline systems, including supervisory control and data acquisition (SCADA), communications, valve shut-off, and operator personnel; ([49 CFR 195.402(c)(5)(ii)(B)]

iii. Actual response time from identifying a rupture following a notification of potential rupture, as defined at §30105, to initiation of mitigative actions and isolation of the segment, and the appropriateness and effectiveness of the mitigative actions taken; ([49 CFR 195.402(c)(5)(ii)(C)]

iv. Location and timeliness of actuation of all RMVs or alternative equivalent technologies; and ([49 CFR 195.402(c)(5)(ii)(D)]

v. All other factors the operator deems appropriate. ([49 CFR 195.402(c)(5)(ii)(E)]

c. Rupture post-failure and accident summary. If a failure or accident on an onshore hazardous liquid or carbon dioxide pipeline involves the identification of a rupture following a notification of potential rupture; the closure of an RMV, as those terms are defined in §30105; or the closure of an alternative equivalent technology, the operator must complete a summary of the post-failure or -accident review required by subparagraph C.5.b of this section within 90 days of the failure or accident. While the investigation is pending, the operator must conduct quarterly status reviews until the investigation is completed and a final post-failure or -accident review is prepared. The final post-failure or -accident summary and all other reviews and analyses produced under the requirements of this section must be reviewed, dated, and signed by the operator's appropriate senior executive officer. An operator must keep, for the useful life of the pipeline, the final post-failure or -accident summary, all investigation and analysis documents used to prepare it, and records of lessons learned. [49 CFR 195.402(c)(5)(iii)]

6. - 11. ...

12. Establishing and maintaining adequate means of communication with the appropriate public safety answering point (i.e., 9-1-1 emergency call center), where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, and fire, police, and other public officials. Operators must determine the responsibilities, resources, jurisdictional area(s), and emergency contact telephone numbers for both local and out-of-area calls of each Federal, State, and local government organization that may respond to a pipeline emergency, and inform the officials about the operator's ability to respond to the pipeline emergency and means of communication during

emergencies. Operators may establish liaison with the appropriate local emergency coordinating agencies, such as 9-1-1 emergency call centers or county emergency managers, in lieu of communicating individually with each fire, police, or other public entity. [49 CFR 195.402(c)(12)]

C.13. - E. ...

1. Receiving, identifying, and classifying notices of events that need immediate response by the operator or notice to the appropriate public safety answering point (i.e., 9-1-1 emergency call center), where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, and fire, police, and other appropriate public officials, and communicating this information to appropriate operator personnel for prompt corrective action. Operators may establish liaison with the appropriate local emergency coordinating agencies, such as 9-1-1 emergency call centers or county emergency managers, in lieu of communicating individually with each fire, police, or other public entity. [49 CFR 195.402(e)(1)]

2. - 3. ...

4. Taking necessary actions, including but not limited to, emergency shutdown, valve shut-off, or pressure reduction, in any section of the operator's pipeline system, to minimize hazards of released hazardous liquid or carbon dioxide to life, property, or the environment. Each operator must also develop written rupture identification procedures to evaluate and identify whether a notification of potential rupture, as defined in §30105, is an actual rupture event or non-rupture event. These procedures must, at a minimum, specify the sources of information, operational factors, and other criteria that operator personnel use to evaluate a notification of potential rupture, as defined at §30105. For operators installing valves in accordance with §30258.C, §30258.D, or that are subject to the requirements in §30418, those procedures should provide for rupture identification as soon as practicable. [49 CFR 195.402(e)(4)]

5. - 6. ...

7. Notifying the appropriate public safety answering point (i.e., 9-1-1 emergency call center), where direct access to a 9-1-1 emergency call center is available from the location of the pipeline, and fire, police, and other public officials, of hazardous liquid or carbon dioxide pipeline emergencies to coordinate and share information to determine the location of the release, including both planned responses and actual responses during an emergency, and any additional precautions necessary for an emergency involving a pipeline transporting a highly volatile liquid (HVL). The operator must immediately and directly notify the appropriate public safety answering point or other coordinating agency for the communities and jurisdiction(s) in which the pipeline is located after notification of potential rupture, as defined at §30105, has occurred to coordinate and share information to determine the location of the release, regardless of whether the segment is subject to the requirements of §§30258.C or D, 30418, or 30419. [49 CFR 195.402(e)(7)]

8. - 9. ...

10. Actions required to be taken by a controller during an emergency, in accordance with the operator's emergency plans and §§30418 and 30446. [49 CFR 195.402(e)(10)]

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 29:2824 (December 2003), amended LR 38:106 (January 2012), LR 49:

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

§30417. Notification of Potential Rupture
[49 CFR 195.417]

A. As used in this part, a notification of potential rupture means refers to 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 from a pipeline: [49 CFR 195.417(a)]

1. An unanticipated or unexplained pressure loss outside of the pipeline's normal operating pressures, as defined in the operator's written procedures. The operator must establish in its written procedures that an unanticipated or unplanned pressure loss is outside of the pipeline's normal operating pressures when there is a pressure loss greater than 10 percent occurring within a time interval of 15 minutes or less, unless the operator has documented in its written procedures the operational need for a greater pressure-change threshold due to pipeline flow dynamics (including changes in operating pressure, flow rate, or volume), that are caused by fluctuations in product demand, receipts, or deliveries; [49 CFR 195.417(a)(1)]

2. An unanticipated or unexplained flow rate change, pressure change, equipment function, or other pipeline instrumentation indication at the upstream or downstream station that may be representative of an event meeting Paragraph A.1 of this Section; or [49 CFR 195.417(a)(2)]

3. Any unanticipated or unexplained rapid release of a large volume of hazardous liquid, 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 Paragraph A of this Section. [49 CFR 195.417(b)]

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 49:

§30418. Valves: Onshore Valve Shut-Off For Rupture Mitigation [49 CFR 195.418]

A. Applicability. For newly constructed and entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments, as defined at §30105, with diameters of 6 inches or greater that could affect high-consequence areas or are located in high consequence areas (HCA), and that have been installed after April 10, 2023 an operator must install or use existing rupture-mitigation valves (RMV), as defined at §30105, or alternative equivalent technologies according to the requirements of this section and §30419. RMVs and alternative equivalent technologies must be operational within 14 days of placing the new or replaced pipeline segment in service. An operator may request an extension of this 14-day operation requirement if it can demonstrate to PHMSA, in accordance with the notification procedures in

§30123, that application of that requirement would be economically, technically, or operationally infeasible. The requirements of this section apply to all applicable pipe replacements, even those that do not otherwise directly involve the addition or replacement of a valve. [49 CFR 195.418(a)]

B. Maximum spacing between valves. RMVs and alternative equivalent technology must be installed in accordance with the following requirements. [49 CFR 195.418(b)]

1. Shut-off Segment. For purposes of this Section, a "shut-off segment" means the segment of pipeline located between the upstream valve closest to the upstream endpoint of the replaced pipeline segment in the HCA or the pipeline segment that could affect an HCA and the downstream valve closest to the downstream endpoint of the replaced pipeline segment of the HCA or the pipeline segment that could affect an HCA so that the entirety of the segment that could affect the HCA or the segment within the HCA is between at least two RMVs or alternative equivalent technologies. If any crossover or lateral pipe for commodity receipts or deliveries connects to the replaced segment between the upstream and downstream valves, the shut-off segment also extends to a valve on the crossover connection(s) or lateral(s), such that, when all valves are closed, there is no flow path for commodity to be transported to the rupture site (except for residual liquids already in the shut-off segment). Multiple segments that could affect HCAs or are in HCAs may be contained within a single shut-off segment. All entirely replaced onshore hazardous liquid or carbon dioxide pipeline segments, as defined in §30105, that could affect or are in an HCA must include a minimum of one valve that meets the requirements of this section and section 30419. The operator is not required to select the closest valve to the shut-off segment as the RMV or alternative equivalent technology. An operator may use a manual pump station valve at a continuously manned station as an alternative equivalent technology. Such a manual valve used as an alternative equivalent technology would not require a notification to PHMSA in accordance with §30123. [49 CFR 195.418(b)(1)]

2. Shut-Off Segment Valve Spacing. Pipeline segments subject to Subsection A of this Section must be protected on the upstream and downstream side with RMVs or alternative equivalent technologies. The distance between RMVs or alternative equivalent technologies must not exceed: [49 CFR 195.418(b)(2)]

a. for pipeline segments carrying non-highly volatile liquids (HVL): 15 miles, with a maximum distance not to exceed 7 1/2 miles from the endpoints of a shut-off segment: or [49 CFR 195.418(b)(2)(i)]

b. for pipeline segments carrying non-highly volatile liquids (HVL): 15 miles, with a maximum distance not to exceed 7 1/2 miles from the endpoints of a shut-off segment: or [49 CFR 195.418(b)(2)(ii)]

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 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 a such a valve as an alternative equivalent technology must submit a request to PHMSA in accordance with §30123. [49 CFR 195.418(b)(3)]

4. Crossovers. An operator may use a manual valve as an alternative equivalent technology for a crossover connection if, during normal operations, the valve is closed to prevent the flow of hazardous liquid or carbon dioxide with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator. The operator must document that the valve has been closed and locked in accordance with the operator's lock-out and tag-out procedures to prevent the flow of hazardous liquid or carbon dioxide. An operator using a such a valve as an alternative equivalent technology must submit a request to PHMSA in accordance with §30123. [49 CFR 195.418(b)(4)]

C. Manual operation upon identification of a rupture. Operators using a manual valve as an alternative equivalent technology pursuant to Subsection A of this Section must develop and implement operating procedures and appropriately designate and locate nearby personnel to ensure valve shut-off in accordance with this section and §30419. 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 manually shut off all valves, not to exceed the response time in §30419.B. [49 CFR 195.418(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:

§30419. Valve Capabilities
[49 CFR 195.419]

A. Scope. The requirements in this section apply to rupture-mitigation valves (RMV), as defined in §30105, or alternative equivalent technology, installed pursuant to §§30258 and 30418. [49 CFR 195.419(a)]

B. Rupture Identification and Valve Shut-Off Time. If an operator observes or is notified of a release of hazardous liquid or carbon dioxide that may be representative of an unintentional or uncontrolled release event meeting a notification of potential rupture (see §§30105 and 30417), including any unexplained flow rate changes, pressure changes, equipment functions, or other pipeline instrumentation indications observed by the operator, the operator must, as soon as practicable but within 30 minutes of rupture identification (see §30402.E.4, identify the rupture and fully close any RMVs or alternative equivalent technologies necessary to minimize the volume of hazardous liquid or carbon dioxide released from a pipeline and

mitigate the consequences of a rupture. [49 CFR 195.419(b)]

C. Valve Shut-Off Capability. A valve must have the actuation capability necessary to close an RMV or alternative equivalent technology to mitigate the consequences of a rupture in accordance with the requirements of this section. [49 CFR 195.419(c)]

D. Valve Monitoring and Operational Capabilities. An RMV, as defined in §30105, or alternative equivalent technology, must be capable of being monitored or controlled by either remote or onsite personnel as follows: [49 CFR 195.419(d)]

1. operated during normal, abnormal, and emergency operating conditions; [49 CFR 195.419(d)(1)]

2. monitored for valve status (i.e., open, closed, or partial closed/open), upstream pressure, and downstream pressure. For automatic shut-off valves (ASV), an operator does not need to monitor remotely a valve's status if the operator has the capability to monitor pressures or flow rate within each pipeline segment located between RMVs or alternative equivalent technologies to identify and locate a rupture. Pipeline segments that use an alternative equivalent technology must have the capability to monitor pressures and hazardous liquid or carbon dioxide flow rates on the pipeline in order to identify and locate a rupture; and [49 CFR 195.419(d)(2)]

3. have a back-up power source to maintain supervisory control and data acquisition (SCADA) systems or other remote communications for remote-control valve (RCV) or ASV operational status or be monitored and controlled by on-site personnel. [49 CFR 195.419(d)(3)]

E. Monitoring of Valve Shut-Off Response Status. The position and operational status of an RMV must be appropriately monitored through electronic communication with remote instrumentation or other equivalent means. An operator does not need to monitor remotely an ASV's status if the operator has the capability to monitor pressures or hazardous liquid or carbon dioxide s flow rate on the pipeline to identify and locate a rupture. [49 CFR 195.419(e)]

F. Flow Modeling for Automatic Shut-Off Valves. Prior to using an ASV as an RMV, the operator must conduct flow modeling for the shut-off segment and any laterals that feed the shut-off segment, so that the valve will close within 30 minutes or less following rupture identification, consistent with the operator's procedures, and in accordance with §30105 and this section. The flow modeling must include the anticipated maximum, normal, or any other flow volumes, pressures, or other operating conditions that may be encountered during the year, not to exceed a period of 15 months, and it must be modeled for the flow between the RMVs or alternative equivalent technologies, and any looped pipelines or hazardous liquid or carbon dioxide receipt tie-ins. If operating conditions change that could affect the ASV set pressures and the 30-minute valve closure time following a notification of potential rupture, as defined at §30105, an operator must conduct a new flow model and reset the ASV set pressures prior to the next review for ASV set pressures in accordance with §30420. The flow model must include a time/pressure chart for the segment containing the ASV if a rupture event occurs. An operator

must conduct this flow modeling prior to making flow condition changes in a manner that could render the 30-minute valve closure time unachievable. [49 CFR 195.419(f)]

G. Pipelines Not Affecting HCAs. For pipeline segments that are not in a high-consequence area (HCA) or that could not affect an HCA, an operator submitting a notification pursuant to §§30123 and 30258 for use of manual valves as an alternative equivalent technology may also request an exemption from the valve operation requirements of §30419.B. [49 CFR 195.419(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 49:

§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 valve to determine that it is functioning properly. Each rupture-mitigation valve (RMV), as defined in §30105, 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 drill; 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. ...

D. For each remote-control valve (RCV) installed in accordance with §§30258.C or 30418, an operator must conduct a point-to-point verification between SCADA system displays and the installed valves, sensors, and communications equipment, in accordance with §195.446(c) and (e). [49 CFR 195.420(d)]

E. For each alternative equivalent technology installed under §§30258.C, 30258.D, or 30418.A that is manually or locally operated (i.e., not an RMV, as that term is defined in §30105: [49 CFR 195.420(e)]

1. operators must achieve a response time of 30 minutes or less, as required by §30419.B, through an initial drill and through periodic validation as required by Subsection E.2 of this Section. An operator must review each phase of the drill response and document the results to validate the total response time, including the identification of a rupture, and valve shut-off time as being less than or equal to 30 minutes after rupture identification; [49 CFR 195.420(e)(1)]

2. within each pipeline system, and within each operating or maintenance field work unit, operators must randomly select an authorized rupture-mitigation alternative equivalent technology for an annual 30-minute-total response time validation drill simulating worst-case conditions for that location to ensure compliance with §30419. Operators are not required to close the alternative equivalent technology fully during the drill; a minimum 25 percent valve closure is sufficient to demonstrate compliance with the drill requirements unless the operator has operational information that requires an additional closure percentage for maintaining reliability. The response drill must occur at least once each calendar year, at intervals not to exceed 15 months. Operators must include in their written

procedures the method they use to randomly select which alternative equivalent technology is tested in accordance with this Paragraph; [49 CFR 195.420(e)(2)]

3. if the 30-minute-maximum response time cannot be achieved in the drill, the operator must revise response efforts to achieve compliance with §30419 no later than 12 months after the drill. Alternative valve shut-off measures must be in accordance with Subsection F of this Section within seven days of the drill; [49 CFR 195.420(e)(3)]

4. based on the results of the response-time drills, the operator must include lessons learned in: [49 CFR 195.420(e)(4)]

a. training and qualifications programs; [49 CFR 195.420(e)(4)(i)]

b. design, construction, testing, maintenance, operating, and emergency procedures manuals; and [49 CFR 195.402(e)(4)(ii)]

c. any other areas identified by the operator as needing improvement. [49 CFR 195.402(e)(4)(ii)]

F. Each operator must implement remedial measures as follows to correct any valve installed on an onshore pipeline in accordance with §30258.C, or an RMV or alternative equivalent technology installed in accordance with §30418, that is indicated to be inoperable or unable to maintain effective shut-off: [49 CFR 195.420(f)]

1. repair or replace the valve as soon as practicable but no later than 12 months after finding that the valve is inoperable or unable to maintain shut-off. An operator may request an extension of the compliance deadline requirements of this section if it can demonstrate to PHMSA, in accordance with the notification procedures in §30123, that repairing or replacing a valve within 12 months would be economically, technically, or operationally infeasible; and [49 CFR 195.420(f)(1)]

2. designate an alternative compliant valve within 7 calendar days of the finding while repairs are being made and document an interim response plan to maintain safety. Alternative compliant valves are not required to comply with valve spacing requirements of this part. [49 CFR 195.420(f)(2)]

G. An operator using an ASV as an RMV, in accordance with §§30105, 30260, 30418, and 30419, must document, in accordance with §30419.F, and confirm the ASV shut-in pressures on a calendar year basis not to exceed 15 months. ASV shut-in set pressures must be proven and reset individually at each ASV, as required by §30419.F, at least each calendar year, but at intervals not to exceed 15 months. [49 CFR 195.420(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 29:2828 (December 2003), amended LR 49:

§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. [49 CFR 195.452(i)(4)]

a. Where EFRDs are installed on pipeline segments in HCAs and that could affect HCAs with diameters of 6 inches or greater and that are placed into service or that have had 2 or more miles of pipe replaced within 5 contiguous miles within a 24-month period after April 10, 2023, the location, installation, actuation, operation, and maintenance of such EFRDs (including valve actuators, personnel response, operational control centers, supervisory control and data acquisition (SCADA), communications, and procedures) must meet the design, operation, testing, maintenance, and rupture-mitigation requirements of §§30258, 30260, 30402, 30418, 30419, and 30420. [49 CFR 195.452(i)(4)(i)]

b. The EFRD analysis and assessments specified in Paragraph I.4 of this Section must be completed prior to placing into service all onshore pipelines with diameters of 6 inches or greater and that are constructed or that have had 2 or more miles of pipe within any 5 contiguous miles within any 24-month period replaced after April 10, 2023. Implementation of EFRD findings for RMVs must meet §301418. [49 CFR 195.452(i)(4)(ii)]

c. An operator may request an exemption from the compliance deadline requirements of this section if it can demonstrate to PHMSA, in accordance with the notification procedures in §30418, that installing an EFRD by that compliance deadline would be economically, technically, or operationally infeasible. [49 CFR 195.452(i)(4)(ii)]

J. - 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:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

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

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., May 1, 2023, at Office of Conservation,

Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Pipeline Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. PRA 2021-01. All inquiries should be directed to Michael Peikert at the above addresses or by phone to (225) 219-3799. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pipeline Safety

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

The proposed rule changes are not anticipated to have any implementation costs to the state or local governmental units at this time. The proposed rule changes are required as a part of the Department of Natural Resources certification agreement with the US Department of Transportation. The proposed rule changes codify existing federal regulations for: gas gathering, valve installation, minimum rupture detection standards, expanded definition for unusually sensitive areas and minor corrections. The Office of Conservation anticipates it will be able to enforce these regulations using existing staff.

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

The proposed rule changes are anticipated to have no effect on revenue collections of state and local government units. The proposed rule changes do not impose any new fees or change to existing fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by these rule changes will be regulated pipeline operators and underground natural gas storage operators. All proposed changes are to adhere with existing federal regulations that took effect between November 2021 and June 2022. There should be no added economic impact from the state adoption of these federal rules. To the extent an operator is not currently in compliance with the regulations, they will incur costs until compliant. Any costs to bring equipment into compliance are borne by the operator.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub
Commissioner
2303#031

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Corrections Services

Offender Visitation (LAC 22:I.316)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 316, Offender Visitation.

The Department of Public Safety and Corrections, Corrections Services, proposes to revise disciplinary

sanctions regarding visitation, the length of time of suspension of visitation privileges, revise prohibitions against visitation by individuals with criminal convictions, add as an option for prospective visitors to email their visiting request and that the facility is responsible for notifying prospective visitors of their approval or denial of visiting privileges. Require children chairs and toys be available where space allows and that proper sanitation and inspection of all toys occur at the beginning and end of each visiting day. Remove a requirement that visits during hospitalization require over 10 days being hospitalized. Reemphasize staff treatment of visitors. Revise terminology regarding how many convictions a person can have before being potentially ineligible to visit and add language to avoid such a person being retroactively removed from a visiting list. Clarify that being on supervision does not automatically disqualify from visitation and that an approval letter from the ex-offender's/parolee's/probationer's supervising officer shall create a presumption that the ex-offender/parolee/probationer should be eligible for visitation. Revise the employee restriction on visitation once a former employee has been separated from their employment for 10 years.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

§316. Offender Visitation

A. Purpose—to establish the protocol through which offenders may receive visits from persons outside the department in order to preserve family ties and relationships in the community while maintaining safe, secure and orderly management and operation of the institution.

B. Applicability—deputy secretary, chief of operations, communications director, regional wardens and wardens. Each warden shall be responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation and for conveying its content to all offenders, affected employees and visitors.

C. Policy. It is the secretary's policy that authorized visitation be permitted at each institution and that each institution conducts the visiting process in accordance with this regulation and with as much uniformity and consistency as possible while considering the institution's physical limitations and security needs. Thus, the visiting process shall not overly tax the institution's resources or its ability to maintain adequate supervision and security. In this matter, as in all others affecting institutional operations, safety and security are primary considerations. Additionally, maintaining offenders' ties with the community, including their family and loved ones, is vital to the carrying out of the department's mission to successfully reintegrate offenders into society. Any restrictions placed on visiting privileges pursuant to this regulation shall be rationally related to legitimate penological interests.

NOTE: The department understands the importance of visitation in maintaining an offender's relationships; visitation is an integral component of institutional management. The department recognizes that the majority of offenders will be released into the community and that the offender's eventual reintegration may be more successful if a visitation program

permits the maintenance of social relationships. Visiting may improve public safety and encourage offender accountability.

D. Definitions

Attorney Visit—visit by an attorney or authorized representative, such as a paralegal, legal assistant, law clerk and investigator whose credentials have been verified.

Contact Visit—visitation in an area free of obstacles or barriers that prohibit physical contact between offender and visitors.

Contraband—

a. For the purpose of this regulation, and pursuant to R.S. 14:402, *contraband* means:

i. any controlled dangerous substance as defined in R.S. 40:961 et seq. or any other drug or substance that, if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic or intoxicating effect. This shall not apply to a drug or substance that has been prescribed by a physician, if:

(a) the drug or substance is in a container issued by the pharmacy or other place of dispensation;

(b) the container identifies the prescription number, prescribing physician, and issuing pharmacist or other person; and

(c) the container is not concealed upon the body of the person;

NOTE: Only prescribed medication that is lifesaving or life sustaining shall be permitted and medication shall be limited in quantity to no more than that required for the duration of the visit. Visitors must advise institutional staff at the visiting desk that he/she is in possession of medication. See Section H. Visiting Guidelines for more information on medication allowed during visitation.

ii. a dangerous weapon or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape;

iii. explosives or combustibles;

iv. plans for the making or manufacturing of a dangerous weapon or other instrumentality customarily use or intended for probable use as a dangerous weapon or to aid in an escape, or for the making or manufacturing of explosives or combustibles, or for an escape from an institution;

v. an alcoholic beverage or other beverage that produces or may produce an intoxicating effect;

vi. stolen property;

vii. any currency or coin over the amount allowed at the institution; (see section h. visiting guidelines for more information on cash money allowed during visitation)

viii. any article of food, toiletries, or clothing;

ix. any telecommunications equipment or component hardware, including but not limited to:

(a) cellular phones;

(b) pagers;

(c) beepers;

(d) global satellite system equipment;

(e) subscriber identity module (sim) cards;

(f) portable memory chips;

(g) batteries;

(h) chargers; and

(i) cameras or recording devices.

x. Any sketch, painting, drawing or other pictorial rendering produced in whole or in part by a capital offender.

NOTE: Exceptions may be authorized by the warden. See Section H. Visiting Guidelines for more information.

Emergency—any significant disruption of normal facility or agency procedure, policy, or activity caused by riot, escape, fire, natural disaster, employee action, or other serious incident.

Employee—any person employed full-time, part-time or on temporary appointment by the department.

Excessive Contact—prolonged or frequent physical contact between a visitor and an offender that exceeds the brief embrace and kiss upon meeting and leaving and handholding. Excessive is not casual contact, but rather a pattern of contact beyond rule limits.

Immediate Family Member—includes the offender’s father, mother, siblings, legal spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a “step,” “half” or adoptive relationship and those persons with the same relationship of the offender’s legal spouse and any others indicated on the offender’s master record as having raised the offender. Verification of an offender’s immediate family member may be required.

Intake Status—the status applicable to an offender within the 30-day period of time following his placement into the custody of the department. During this time, staff conducts intake processing of the offender including, but not limited to, medical and mental health assessments, custody classification and identification of programming needs and assignments.

Minor Child—anyone under the legal age of majority (18 years).

Non-Contact Visiting—visitation in an area that restricts offenders from having physical contact with visitors. Physical barriers usually separate the offender from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers. Non-contact visiting may also include video visitation.

Serious Bodily Injury—for the purpose of this regulation, bodily injury that involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Sex Crime Involving a Minor Child—any conviction of a sex offense as defined in R.S. 15:541 that was committed, attempted or conspired in which a minor child was involved, victimized or the intended victim.

Suspension of Visiting—the discontinuation of an offender’s visiting privileges for a determinate period of time excluding approved clergy visits, attorney visits and special visits.

Terminally Ill Offender—for the purpose of this regulation, any offender who is diagnosed with a terminal illness and death is expected within one year. The medical condition of a terminally ill offender is usually permanent in nature, and carries a poor prognosis.

Video Visitation—a method of visitation that allows offenders to visit through electronic media. Video visitation is considered a special visit.

E. Visitation Eligibility

1. Offenders Eligibility

a. All offenders, except those offenders in intake status or as specifically provided herein, shall be eligible to apply for visitation while housed in a departmental facility.

b. Offenders in Intake Status

i. Visitation shall not be allowed for offenders in intake status. If the intake process exceeds 30 days, the offender may request a special visit with immediate family members in accordance with the reception center’s visiting procedures. Once an offender is removed from intake status, visitation with immediate family members may be authorized by the receiving facilities warden or designee, who shall be an assistant warden or higher specified by facility policy, at the request of an offender until the offender’s visitation application process is complete.

c. Offenders Transferred to Another Facility

i. Offenders transferring to another institution may be authorized to visit with their approved visitors at the receiving institution at the discretion of the receiving facility’s warden or designee, who shall be an assistant warden or higher specified by facility policy.

d. Offenders With No Established Visiting Record

i. Offenders entering an institution with no established visiting record may be granted tentative approval to visit immediate family members upon the request of the offender and at the discretion of the warden or designee, who shall be and assistant warden or higher specified by facility policy. Disapproval of such requests shall be based upon legitimate security considerations. These immediate family members must be claimed on their master record; verification may be required.

2. Prospective Visitor Eligibility

a. Any persons may apply to visit an offender housed in a departmental facility upon the offender’s request.

b. A prospective visitor’s prior criminal conviction alone shall not disqualify them from visiting an offender. However, an individual may be deemed ineligible to visit an offender where the nature of the crime reasonably suggests that their presence on facility grounds may impair or threaten the security or stability of the facility. This determination shall be made with written justification by the warden or designee, who shall be an assistant warden or higher.

i. Victims

(a). Visits from the offender’s direct victim(s) shall be prohibited except in accordance with established procedures.

ii. Ex-Offenders/Parolees/Probationers

(a). A prospective visitor’s status as an ex-offender, parolee, or probationer shall not disqualify them from visiting an offender. An approval letter completed by the applicant’s supervising officer shall create a presumption that the applicant should be eligible for visitation. A person who has been convicted of a felony in any state or federal jurisdiction who has not been finally discharged from an institution or from probation or parole supervision for more

than two years without an intervening criminal record may only be denied approval for visitation at the discretion of the unit head or designee, who shall be an assistant warden or higher specified by facility policy, with approval of the chief of operations. This determination shall be made with written justification of the unit head or designee's determination that the prospective visitor's presence on facility grounds may impair or threaten the security or stability of the facility.

(b). A person who in the previous five years had three or more felony convictions may be considered ineligible to be on an offender's visiting list or, if already on an offender's visiting list, may be removed at the discretion of the unit head or designee, who shall be an assistant warden or higher specified by facility policy, upon receiving the requisite number of convictions and approval by the chief of operations.

iii. Employees/Former Employees

(a). Visitation by current employees, or former employees of the department who have been separated from their employment within the past 10 years, may be permitted for immediate family members only. Employees or former employees who separated within the designated time frame and who worked primarily in the prison-setting shall submit requests to visit an incarcerated family member to the warden or designee of the applicable facility, who shall be an assistant warden or higher specified by facility policy. Employees or former employees who did not work primarily in the prison setting (e.g. headquarters) shall submit requests to visit an incarcerated family member to the chief of operations.

c. Exceptions to the provisions of this section, including approving a visit by a person who is otherwise not eligible to visit offenders, may be specifically authorized by the warden or designee, who shall be an assistant warden or higher specified by facility policy, on a case-by-case visit and in accordance with Paragraph F.11 of this Section.

F. Procedures

1. The unit head or designee shall ensure the procedures governing visitation as outlined in this regulation and visiting guidelines (Section H.) be made available to the offender within 24 hours after arrival at the facility to include, but not limited to:

- a. facility address/phone number, directions to facility, and information about local transportation;
- b. days and hours of visitation;
- c. approved dress code and identification requirements for visitors;
- d. items authorized in visitation room;
- e. special rules for children;
- f. authorized items that visitors may bring to give to the offender (e.g. photos); and
- g. special visits.

2. Visitation Application Process

a. Application for Visiting Privileges

i. The communications director shall ensure the application for visiting privileges is posted on the department's website.

ii. Offenders may send prospective visitors an application for visiting privileges. Alternatively, offenders may submit a request for an application for visiting privileges to be emailed to a prospective visitor to the facility's visitation department. The visitation department

shall process the form, attempt to email the application to the prospective visitor, complete the bottom portion of the form, and return a copy of the form to the offender advising him of the status of the request. The forms shall be made available to the offender as part of the intake process and upon request thereafter.

iii. All prospective visitors must complete the application for visiting privileges and submit the completed document via mail or email. The document shall be submitted directly to the facility housing the offender the visitor wishes to visit. The mailing and email addresses for submission of the visitor application shall be made available via the department's website and shall be provided on the written visitation application. Upon receipt of an emailed application, the visitation department shall notify the sender that the application has been received. Faxes of the application are not acceptable. The application shall be completed fully and honestly. Failure to provide all requested information may result in a delay in the processing of the application or a denial of visiting privileges.

iv. Parents/legal guardians shall be required to complete the application for visiting privileges for a minor child wishing to visit and shall sign the application on behalf of the minor child.

v. The warden shall designate by facility policy the section/staff assigned to receive, review and process the application for visiting privileges in accordance with this regulation.

vi. In accordance with established procedures, all visitors and offenders shall be provided equal opportunities to participate in the visitation process in accordance with the offender's security classification and housing assignment.

b. Criminal History Screening

i. The warden, or designated section/staff as specified by facility policy, shall ensure that each adult applying to visit an offender undergoes a criminal history screening through one of the following methods:

(a). criminal history background questionnaire completed by local law enforcement;

(b). CAJUN 2 inquiry;

(c). National Crime Information Center (NCIC);

or

(d). Louisiana Computerized Criminal History (LACCH).

ii. In addition, approved adult visitors shall be re-screened for criminal history every two years in accordance with the provisions of this Section.

iii. When an active criminal warrant is found, the application shall be reviewed and local law enforcement shall be notified of the information provided. The information on the applicant's criminal history is treated as confidential and shall not be released to the offender.

c. Notification of Approval/Denial

i. The warden, or designated section/staff as specified by facility policy, shall be responsible for rendering a decision regarding the approval or denial of each application for visiting privileges, as well as notifying the offender and the applicant in writing of such decision. Notifying the applicant of the facility's decision shall be the responsibility of the facility, and not the responsibility of the offender.

ii. Notification by the facility shall be accomplished in the same method used by the applicant to submit their application (email or mail).

iii. The warden, or designated section/staff specified by facility policy, shall ensure that each approved application for visiting privileges is in the respective offenders' file prior to visiting.

3. Establishing and Maintaining Visiting Lists

a. Visiting List

i. Offenders shall be responsible for completing the initial request for visitors to request visitors, including providing the correct name, address, date of birth, race and sex of all prospective visitors.

ii. The initial request for visitors shall serve as the offender's visiting list.

b. Approved Visitors

i. Each offender shall be permitted up to 10 approved visitors on his or her visiting list.

NOTE: At the discretion of the warden or designee, who shall be an assistant warden or higher specified by facility policy, an offender participating in a special recognition program (i.e. PRIDE Program) may be allowed to have up to 15 approved visitors placed on his visiting list.

ii. Legal advisors, one approved religious advisor of the offender's faith and minor children shall not be counted toward the maximum number of approved visitors; however, the names of the legal advisors, one approved religious advisor, and minor children shall still appear on the offender's visiting list.

iii. Minor children may visit on any of the regular visiting days when accompanied by an adult visitor on the offender's approved visiting list. Both the minor child and the adult visitor accompanying the minor child must be visiting the same offender at the same time. Exceptions to being accompanied by an adult may be specifically authorized by the warden or designee, who shall be an assistant warden or higher specified by facility policy, and include, but are not limited to, the following:

(a). minor spouse;

(b). emancipated minors (judgment of emancipation required as proof); or

(c). minors visiting as part of approved institutional programs such as school groups, church groups, parenting groups, etc.

c. Visitors May Only be on One Offender's Visiting List

i. A visitor shall be allowed on only one offender's visiting list per institution, unless that visitor is an immediate family member of more than one offender. If a visitor is the immediate family member of more than one offender and wishes to be on multiple family members' visiting lists, the burden of proof and documentation shall be the responsibility of the offender and his family. Visitors may request that they be removed from one offender's visitor's list and placed on another offender's list in accordance with this regulation.

d. Offender Request to Change the Visiting List

i. Each offender shall be allowed to request changes (additions and/or deletions) to his approved visiting list upon arrival at the receiving institution and every four months by completing request for changes to approved visiting list.

ii. A request for changes to approved visiting list shall be made available to offenders to request changes to their approved visiting list.

e. Visitor Request to be Removed from the Visiting List

i. A person may be removed from the offender's approved visiting list at his or her own request to the institution's warden or designated section/staff as specified by facility policy. If a visitor requests such removal, the visitor must wait six months before applying to visit the same or another offender. Exceptions shall be made for the offender's parents and the adult/minor children of the offender. Other exceptions may be granted by the warden or designee, who shall be an assistant warden or higher as specified by facility policy.

f. Offender Refusal to See an Approved Visitor

i. An offender may refuse to see a visitor; however, the offender shall be required to sign a statement to that effect and the statement shall be filed in the offender's master record. Should the offender refuse to sign a statement, documentation of the refusal shall be placed in the offender's master record.

4. Treatment of Visitors

a. Employees shall be professional in their interaction with visitors at all times and shall ensure their conduct is in accordance with established policies and procedures. Failure to display professional and courteous conduct with visitors throughout the visitation process may result in disciplinary action up to and including dismissal.

b. Employees shall not subject visitors to unnecessary delay or inconvenience in accomplishing a visit.

c. Staff shall not make unnecessary or inappropriate comments regarding visitors' belongings or clothing that might cause embarrassment and shall be respectful toward visitors and their belongings at all times.

d. Reasonable Accommodations

i. Reasonable accommodation shall be made to ensure that all parts of the facility that are accessible to the public are accessible and usable by visitors with disabilities. Visitors requesting accommodations shall submit advance notice of the accommodation requested to the facility's warden or facility ADA coordinator.

e. Service Dogs

i. Visitors with a disability may be accompanied by a service dog that is specially trained to aid them. No person with a disability shall be denied the use of a service dog.

ii. Employees shall not ask a visitor with a disability the nature or extent of their disability or require documentation for proof that the dog has been certified, trained, or licensed as a service dog.

iii. In order to determine whether a dog qualifies as a service dog, employees may ask the following questions:

(a). Is the service dog required because of a disability?

(b). What work or task has the service dog been trained to perform?

iv. At the discretion of the warden or designee, who shall be an assistant warden or higher specified by facility policy, employees may ask a visitor with a service

dog to remove the service dog from the premises in the following circumstances:

(a). the service dog is out of control and the visitor with the service dog does not take effective action to control the dog; or

(b). the service dog is not housebroken.

v. If a visitor with a service dog is asked to remove the service dog from the premises, the warden or designee, who shall be an assistant warden or higher specified by facility policy, shall ensure the following:

(a). the visitor is offered the opportunity to visit without the service dog; and

(b). an unusual occurrence report (miscellaneous) is completed to document the request to remove the service dog, the offer to visit without the service dog, and the visitor's decision regarding the offer.

vi. Visitors with service dogs shall be liable for any damage done to the premises, facility, operators, or occupants by the service dog.

vii. Vaccination requirement.

5. Number and Duration of Visits

a. The unit head or designee may limit the number of visitors an offender may receive, the length of visits, and the days and hours on which visits may occur based on the institution's schedule, space, and personnel resources, or when there are substantial reasons to justify such limitations (e.g. visitation may jeopardize the safety and security of the institution or visitors).

6. Designated Visiting Areas

a. Contact or Noncontact Visiting Areas

i. Designated visiting areas shall permit informal communication including the opportunity for physical contact. Noncontact visiting shall be used only in instances of substantiated security risk.

ii. Unit specific operational procedures shall designate the location(s) for offender visitation and whether the areas shall permit contact visiting or noncontact visiting.

iii. Family visiting and contact visiting shall be permitted to the extent possible. Minor children may be prohibited from participating in noncontact visiting at the discretion of the unit head or designee.

b. Visiting Room

i. Each facility, except reception centers, shall designate at least one location that shall be used for offender visitation. These areas shall be locations that ensure the safety and security of the facility and the persons involved. Visiting rooms shall be accessible to offenders with disabilities.

c. Visiting Area for Minor Children

i. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall take into consideration the impact that visits with parents or grandparents in a correctional setting may have on young children, especially pre-school age children. When possible and taking into consideration the physical environment and space capabilities, the visiting area(s) shall make special accommodations to entertain and occupy the minds of these children. These accommodations may include a separate room adjoining the main visiting area that is bright, inviting, and comfortable or a similar space within the main visiting room. Appropriate age books, games and toys shall be available in these areas. At all times, children must be

supervised by the adult visitor who is accompanying the minor child on the visit. The use of this type of area shall be accomplished without the need for additional staff to supervise the area.

ii. No less than two child size chairs, crayons, and coloring books shall be available for pre-school age children at all facilities where space allows. Proper sanitation and a safety inspection of all toys shall occur at the beginning and end of each visiting day.

d. Visiting Area for Offenders in Segregated Housing

i. Offenders who are housed in segregated housing shall have opportunities for visitation unless there are substantial reasons for withholding such privileges at the discretion of the warden or designee, who shall be an assistant warden or higher specified by facility policy.

7. Supervision of Visiting Areas

a. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall ensure that staff provides direct visual supervision of the entire visitation area at all times. While mirrors and cameras can compensate for blind spots, staff shall position themselves throughout the visitation area to maintain a direct line of sight on interactions between offenders and visitors.

b. Staff shall immediately intervene on inappropriate behavior, including, but not limited to any behavior involving a violation of visiting guidelines.

c. Notices shall be posted informing visitors of the potential for monitoring anywhere in the visiting area. Staff of the same gender as the visitor shall monitor the restrooms during visits if there is reasonable suspicion that a visitor or offender may engage or be engaging in some form of inappropriate behavior.

8. Visitor Searches

a. There shall be adequately designed space to permit screening and searching of visitors.

b. In order to prevent the introduction of contraband or other prohibited items, visitors shall be subject to a search of their vehicles, possessions, and/or person in accordance with established policies and procedures.

c. Visitors and permitted service dogs as outlined in Subparagraph F.4.e may be subject to body scanning and/or the use of a metal detection system to identify external and/or internal contraband or other prohibited items that are in possession of a visitor. A visitor's refusal of the use of body scanning and/or a metal detection system may result in the denial of the visitation.

d. The following individuals may, upon request, elect not to undergo body scanning, but instead shall undergo other search techniques outlined in established policies and procedures that are deemed appropriate by the warden or designee, who shall be an assistant warden or higher specified by facility policy:

i. pregnant women;

ii. persons receiving radiation treatment for medical conditions; and

iii. infants and children 12 years and younger.

NOTE: Pregnant women and persons receiving radiation treatment must produce a doctor's note on a prescription pad verifying their health condition.

e. Signs shall be posted in the area(s) where visitors are initially processed and in the visiting rooms/areas notifying visitors that drug detection canines may be in use

at the facility and visitors shall be subject to search by these canines.

9. Visiting Guidelines

a. Visiting guidelines shall serve as the department's visiting rules and shall apply to all types of visitation outlined in this regulation.

b. The unit head or designee shall ensure visiting guidelines are posted in visiting areas and visitors are informed in writing of visiting guidelines.

c. Visitation is a privilege and not a right. Violation of visiting guidelines may result in any of the following:

- i. termination of the visit;
- ii. restriction of the offender's visiting privileges (either noncontact visiting or suspension of visitation privileges) (See section F.18. of this regulation for more information);
- iii. suspension of the visitor's privileges (See section H. of this regulation for more information);
- iv. banning of the visitor from entering the institution or its grounds; and/or
- v. criminal charges as circumstances warrant.

10. Unit-Specific Visiting Procedures

a. The communications director shall ensure the following unit-specific visiting information be posted on the department's website:

- i. each institution's address and phone number;
- ii. directions to each institution;
- iii. information regarding local transportation to each institution; and
- iv. visiting days and hours of each institution.

11. Special Visits

a. Special visits may be granted on a case-by-case basis with the prior approval of the warden or designee, who shall be an assistant warden or higher specified by facility policy. Unit operational procedures shall specify the parameters for such approval, with consideration given to sources of transportation, accessibility to the facility by visitors, the distance a visitor must travel, and any other special circumstances.

b. The following visits shall be considered special visits:

- i. a visit that is permitted at a time and/or place at which visits are not normally permitted;
- ii. a visit with a visitor on the offender's approved visiting list that is beyond the limits of the number and length of visits established by the institution's policy;
- iii. a visit with a visitor who is not on the offender's approved visiting list (i.e. out-of-state family members or friends);
- iv. a visit with a visitor who is otherwise not eligible to visit offenders;
- v. a visit with a visitor on the offender's visiting list when the offender is subject to suspension of visiting as outlined below in Paragraph F.18 of this Section;
- vi. video visitation as outlined below in Paragraph F.12 of this Section;
- vii. a visit with a visitor on the offender's visiting list when the offender is hospitalized in an off-site hospital, in accordance with the hospital's visiting rules, guidelines and designated visiting hours. (it shall be the responsibility of the chaplain or other designee to coordinate the visits with security staff); and

viii. a visit with an immediate family member when the offender is admitted to an intensive care unit (ICU) or trauma center due to a serious bodily injury or due to being a terminally ill offender for the duration of the offender's admission to the ICU or trauma center, unless the warden or designee, who shall be an assistant warden or higher specified by facility policy, provides written (fax, email, or hand delivered letter) notice within six hours of the offender's admission to the ICU or trauma center to the specific immediate family member or members seeking visitation why such visitation cannot be granted, pursuant to R.S. 15:833(A).

(a). If the offender's admission to the ICU or trauma center occurs between 8:00 p.m. and 4:00 a.m., the warden or designee shall provide the required written notification within 24 hours of the time the serious bodily injury occurred.

(b). Pursuant to R.S. 15:833(A), the warden or designee shall attempt to notify the offender's immediate family within eight hours of the medical decision to transport the offender to the ICU or trauma center.

(c). Based on extenuating circumstances, the warden or designee may extend the definition of an offender's immediate family member.

12. Video Visitation

a. Video visitation involves open internet capability requiring on-site supervision at both locations when in use and shall not involve or allow connection to the department's network.

b. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall ensure that all laptops, laptop connection cards or wireless internet connection cards are maintained in a secure location when not in use that is not accessible by offenders or other unauthorized persons.

c. The warden or designee, who shall be an assistant warden or higher specified by facility policy, may approve the set-up and use of video visitation and shall ensure that a staff member or approved volunteer is assigned to monitor the visit at an appropriate, conducive visitation area.

d. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall be responsible for ensuring that staff and/or volunteers are present at the remote location of the video visitation. Staff and/or volunteers at the remote location shall document that they and the approved visitor(s) are the only individuals present for the video visitation.

e. Any other person present is required to have written permission from the warden or designee, who shall be an assistant warden or higher specified by facility policy, to participate in the video visitation.

13. Picnic Visits

a. When the institution's schedule, space, and personnel resources permit, picnic visits may be authorized by the warden or designee, who shall be an assistant warden or higher specified by facility policy. The warden or designee shall be responsible for designating the area of the institution for the picnic visit and authorizing any foods or other items that may be permitted during picnic visits.

14. Court Ordered Visitation with an Incarcerated Parent

a. Pursuant to the provisions of R.S. 9:364.1, a court may authorize visitation with an incarcerated parent. As part of such visitation order, the court shall include restrictions, conditions and safeguards as are necessary to protect the mental and physical health of the child and minimize the risk of harm to the child. In considering the supervised visitation of a minor child with an incarcerated parent, the court shall consider the best interests of the child. In cases of court ordered visitation, the department cannot deny the visit. However, such visitation shall be in conformance with all other rules and regulations that pertain to visiting.

NOTE: For the purpose of this section, "court" means any district court, juvenile court, or family court having jurisdiction over the parents and/or child at issue.

15. Visitation at Functions Events Held By Offender Organizations

a. The warden or designee, who shall be an assistant warden or higher specified by facility policy, may authorize offender organizations to hold special functions or events when the institution's schedule, space, and personnel resources permit.

b. Visitors attending the function or event shall be subject to the same security processing that applies to traditional visitation. Special guests (speakers/presenters) attending the function or event shall be processed at the direction of the warden or designee, who shall be an assistant warden or higher specified by facility policy.

16. Visitation with Sex Offenders

a. Visitation between incarcerated sex offenders and visitors requires the following exceptions to visitation eligibility and procedures outlined in Paragraph E., F.3., and F.6 of this Section.

i. Visitation Eligibility between Incarcerated Sex Offenders and Minors

(a). The following sex offenders shall be ineligible to visit with any minor child, including their own biological minor child or minor stepchild:

(i). offenders who have a current or prior conviction for a sex crime involving a minor child family member, or

(ii). offenders who have a documented history of sex abuse with a minor child family member.

(b). The following sex offenders may be authorized to visit with their own biological minor child or minor stepchild at the discretion of the warden:

(i). offenders who have a current or prior conviction for a sex crime involving a minor child when the minor child is not a family member.

(c). The following sex offenders may be authorized to visit with any minor child at the discretion of the warden or his designee:

(i). Offenders who have successfully completed or are participating satisfactorily in sex offender treatment. (Treatment staff who teach the sex offender treatment class shall be involved in the decision-making process for this type of visit.)

ii. Establishing and Maintaining Visiting Lists between Incarcerated Sex Offenders and Minors

(a). The legal guardian shall submit a written request to the warden and shall accompany the minor child during the visit. The legal guardian may be permitted to name another individual (other than the legal guardian) who

is on the offender's visiting list to accompany the minor child for a visit. The legal guardian shall provide a written, notarized statement authorizing a specific individual to accompany the minor child.

17. Emergency Situations during Visitation

a. If the warden determines an emergency exists or is likely to develop, the warden may suspend visitation. If visitation is suspended, all visits and visiting activities shall be immediately terminated and visitors escorted from the facility.

18. Restriction of an Offender's Visiting Privileges

a. Noncontact Visiting

i. Offenders who are housed in segregated housing shall be limited to noncontact visiting when the institution's space and personnel resources permit.

ii. Any offender who pleads guilty or has been found guilty at a disciplinary board hearing of any of the following for the first time shall be subject to noncontact visiting for up to six months, to be determined by the warden or designee who shall be an assistant warden or higher specified by facility policy:

(a). violation of disciplinary rule number 21, sex offenses, aggravated;

(b). assault on staff; or

(c). any Schedule B disciplinary rule violation that occurs in the visitation area.

iii. Any offender who pleads guilty or has been found guilty at a disciplinary board hearing of any of the following for the second or more time within the past five years shall be subject to noncontact visiting for up to one year, to be determined by the warden or designee who shall be an assistant warden or higher specified by facility policy:

(a). violation of disciplinary rule no. 21, sex offenses, aggravated;

(b). assault on staff; or

(c). any Schedule B disciplinary rule violation that occurs in the visitation area.

b. Suspension of Visiting

i. Any offender who pleads guilty or has been found guilty at a disciplinary board hearing of a rule violation directly related to visitation may be subject to suspension of visiting in accordance with established policies and procedures. Offenders shall not be subject to suspension of visitation as a sanction for a rule violation unrelated to visitation.

ii. No offender shall be subject to suspension of visiting for six consecutive months without the approval of the chief of operations. In no event shall an offender be subject to suspension of visiting for 12 consecutive months.

iii. An offender who is currently subject to suspension of visiting may be granted a special visit, as outlined above in Paragraph F.11 of this Section.

c. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall ensure that at the conclusion of an offender's restriction of visiting privileges (noncontact visiting or suspension of visiting), the offender's visiting privileges are reinstated.

19. Restriction of a Visitor's Visiting Privileges

a. Suspension of Visiting

i. Any visitor who introduces contraband into or upon the grounds of an institution, including inside personal vehicles, or commits any illegal activity on the grounds of an

institution shall be subject to suspension of visiting at the discretion of the warden or designee. The suspension of visiting may be temporary (removal from visiting list for a fixed period of time) or indefinite (removal from a visiting list for an undetermined amount of time), depending upon the severity of the offense and at the discretion of the warden or designee.

(a). For the purposes of this regulation, the warden's designee shall be an assistant warden or higher specified by facility policy.

ii. Suspension of a visitor's visiting privileges at a particular institution shall include suspension of a visitor's visiting privileges at all department facilities.

iii. Procedures for Suspension of Visiting for a Visitor

(a). The warden or designee shall review the visitor's offense(s) and determine if the visitor's suspension of visiting privileges is temporary or indefinite;

(b). The warden or designee shall notify the visitor in writing that he has been removed from all applicable visiting lists, the reason why, whether the removal is temporary or indefinite, and that he may appeal the suspension of visiting in writing to the secretary within 15 calendar days of the warden's notification;

(c). If the visitor exercises this appeal right, the secretary or designee shall review the appeal and investigate, as appropriate, within 30 days of the appeal letter. The warden or designee may submit a report to the secretary setting forth any information that he feels may assist in making the decision. The secretary or designee shall render a written decision granting or denying the appeal and shall notify the visitor and the warden of the decision in a timely manner.

iv. Procedures for Reinstatement of a Visitor's Visiting Privileges

(a). Reinstatement of visiting privileges for visitors who have been removed from visiting lists shall only be considered upon written request from the offender and in accordance with this regulation.

(b). Reinstatement of visiting privileges for visitors who have been removed on a temporary basis shall only be considered after the fixed period of time for the removal has elapsed or in accordance with the secretary's decision upon appeal.

(c). Reinstatement of visiting privileges for visitors who have been removed on an indefinite basis shall only be considered after 12 months have elapsed since the visitor was removed from the visitor list and only once every 12 months thereafter or in accordance with the secretary's decision upon appeal.

(d). Should reinstatement be denied, the offender shall be notified in writing of the denial and that reconsideration shall only be available at the next opportunity for changes to the offender's visiting list.

G. Monitoring Requirements/Reports

1. Each facility shall maintain a record for each offender documenting all of the offender's visits. All visiting records/information obtained on an offender by institutional staff shall be transferred with the offender when the offender is reassigned to another institution within the department.

This includes transfers to local jails and transitional work programs. The offender's current visiting information shall be utilized by the transitional work program to allow for visitation.

2. Each visit with a minor child shall be documented in the offender's visiting record.

3. The chief of operations shall ensure that data relative to offender visitation shall be submitted in accordance with established policies and procedures.

4. The warden or designee, who shall be an assistant warden or higher specified by facility policy, shall ensure data relative to offender visitation shall be submitted in the department's offender management system as appropriate.

H. Visiting Guidelines

1. The department understands the importance of visitation in maintaining an inmate's relationships; visitation is an integral component of institutional management. The department recognizes that the majority of inmates will be released into the community and that the inmate's eventual reintegration may be more successful if a visitation program permits the maintenance of social relationships. Visiting may improve public safety and encourage inmate accountability.

2. The visiting guidelines outlined in this document shall serve as the department's visiting rules and shall apply to all types of visitation.

3. Please see the department's website www.doc.la.gov for unit-specific visiting information, such as:

- a. each institution's address and phone number;
- b. directions to each institution;
- c. information regarding local transportation to each institution; and
- d. visiting days and hours of each institution.

4. Visitation is a privilege and not a right. Violation of the guidelines outlined in this document may result in any of the following:

- a. termination of the visit;
- b. restriction of the inmate's visiting privileges (either noncontact visiting or suspension visiting);
- c. suspension of the visitor's visiting privileges;
- d. banning of the visitor from entering the institution or its grounds; and/or
- e. criminal charges as circumstances warrant.

5. Visitation Application Process

a. Each inmate is responsible for initiating the visitation application process by sending the application for visiting privileges to persons they wish to visit.

b. Each prospective visitor must complete the visitation application. The completed form may be mailed or emailed to the facility housing the inmate the visitor wishes to visit. Both the mailing and email address of each institution may be found on the department's website www.doc.la.gov.

i. Parents/legal guardians shall be required to complete the application for a minor child wishing to visit and shall sign the application on behalf of the minor child. Faxes of the application are not acceptable. The application must be completed fully and honestly. Failure to provide all requested information may result in a delay in the processing of the application or a denial of visiting privileges.

c. All prospective visitors must undergo a criminal history screening. Persons with convictions or pending criminal charges may be considered ineligible to visit.

d. Each inmate is responsible for completing his or her visiting list. The inmate shall be given information on the process for deleting and adding visitors to his or her visiting list and staff are available to help when needed.

6. Visiting Lists

a. Each inmate shall be permitted up to 10 approved visitors on his or her visiting list.

NOTE: At the discretion of the warden or designee, an inmate participating in a special recognition program (i.e. PRIDE Program) may be allowed to have up to 15 approved visitors placed on his visiting list.

i. Legal advisors, one approved religious advisor of the inmate's faith and minor children will not be counted toward the maximum number of approved visitors; however, the names of the legal advisors, one approved religious advisor, and minor children will still appear on the inmate's visiting list.

b. A visitor will be allowed on only one inmate's visiting list per institution, unless that visitor is an immediate family member of more than one inmate. Visitors may request that they be removed from one inmate's visiting list and placed on another inmate's visiting list.

c. If a visitor is the immediate family member of more than one inmate and wishes to be on multiple family members' visiting lists, the burden of proof and documentation is the responsibility of the inmate and his family. Examples of documentation may include marriage certificates, birth certificates, obituaries, court documents, or other documentation that clearly shows familial relationship.

d. An inmate may refuse to see a visitor.

7. Visitor Identification and Registration upon Entry to Institution

a. All visitors shall register upon entry into the institution. Each visitor shall register his or her name, address, and relation to inmate.

b. All visitors age 18 years and older shall be required to produce valid picture identification before entering the visiting area each time they visit. The only forms of identification accepted by the department are:

i. a valid driver's license from the state of residence;

ii. a valid state photo identification card from the state of residence;

iii. a valid military photo identification card (active duty only); or

iv. a valid passport.

8. Dress Code for Visitors

a. Visiting areas are designed to cultivate a family atmosphere for family and friends of all ages. Visitors shall dress and act accordingly. Visitors shall wear clothing that poses no threat to the safety, security, good order and administrative manageability of the facility.

b. The following are considered improper dress for visitation and are prohibited:

i. clothing that is similar to clothing worn by inmates, for example:

- (a). blue chambray shirts;
- (b). gray or white sweatshirts;
- (c). gray or white sweatpants;
- (d). solid white or solid gray t-shirts;

EXCEPTION: babies and toddlers

ii. clothing that is similar to clothing worn by correctional officers, for example:

- (a). camouflage;
- (b). blue battle dress uniforms;

EXCEPTION: babies and toddlers

iii. clothing that exposes the bare shoulders, for example:

- (a). spaghetti straps;
- (b). strapless;
- (c). tube tops;
- (d). halter tops;
- (e). tank tops;
- (f). strapless dresses;

iv. tops that expose the midriff;

v. sheer or transparent clothing;

vi. clothing with revealing holes or tears higher than one inch above the kneecap;

vii. mini-skirts, skirts, shorts, skorts, culottes, dresses or any "bottom" that is shorter than one inch above the kneecap while standing or that have deep/revealing slits;

EXCEPTION: babies and toddlers

viii. swim suits;

ix. tights or pants fitting like tights (e.g. yoga pants, leggings, jeggings, leotards, stirrups, spandex, lycra or spandex-like pants, aerobic/exercise tights);

EXCEPTION: babies and toddlers

x. exposed undergarments;

xi. tops with no undergarments underneath;

EXCEPTION: babies and toddlers

xii. clothing or accessories with obscene or profane writing, images or pictures;

xiii. gang or club-related clothing or insignia indicative of gang affiliation;

xiv. no shoes;

EXCEPTION: Babies who are carried.

xv. house slippers or shower shoes;

xvi. hats or other head coverings;

EXCEPTION: Babies and toddlers, or those required by religious beliefs

xvii. any other dress that the warden or designee deems improper dress for visitation.

c. Visitors wearing improper clothing for visitation as outlined above in Paragraph F.2 should be given the opportunity to change into appropriate clothing and return to the visiting area to participate in visitation. Visitors wearing improper clothing for visitation shall not be prohibited from returning to participate in visitation once they have corrected the clothing issue.

i. A visitor without appropriate clothing shall be offered department-approved alternative clothing items to borrow from the facility at no cost. Borrowed clothing shall be screened with "VISITOR." Visitors shall return borrowed clothing to facility staff when exiting the facility.

9. Visitor Searches

a. Visitors shall be subject to a search of their vehicles, possessions and persons. This is necessary to preclude the introduction of contraband or other prohibited items into the institution.

b. Visitors may also be subject to body scanning and/or the use of a metal detection system to identify external and/or internal contraband or other prohibited items that are on or in a visitor. A visitor's refusal of the use of body scanning and/or a metal detection system may result in

the denial of the visitation. The following individuals will not be subject to body scanning, but instead will undergo other search techniques that are deemed appropriate by the warden or designee:

- i. pregnant women;
- ii. persons receiving radiation treatment for medical conditions; and
- iii. infants and children 12 years and younger.

NOTE: Pregnant women and persons receiving radiation treatment must produce a doctor's note verifying their health condition.

c. Drug detection canines may be in use at the facility and visitors shall be subject to search by these canines.

10. Personal Vehicles

a. All personal vehicles must be parked in the designated parking area and, when unattended, must be locked with the windows up and the keys removed. Loitering in the designated parking area or anywhere on the institutional grounds is prohibited.

b. Visitors must adhere to posted speed limits on the institutional grounds.

11. Intoxication. Visitors are prohibited from entering institutional grounds while under the influence of drugs, alcohol, or any other intoxicating substance.

12. Contraband (Pursuant to R.S. 14:402)

a. The introduction of contraband is a felony and punishable by a fine up to \$2,000 and imprisonment up to five years with or without hard labor.

b. No person shall introduce contraband into or upon the grounds of any state correctional institution.

c. No person shall possess contraband upon the grounds of any state correctional institution. (This includes parked, locked personal vehicles.)

d. No person shall send contraband from any state correctional institution.

e. Contraband is prohibited from being brought into the institution or stored anywhere on institutional grounds.

f. Contraband includes:

i. any controlled dangerous substance (as defined in R.S. 40:961 et seq.) or any other drug or substance that if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic or intoxicating effect; (This does not apply to a drug or substance that has been prescribed by a physician. See Section H.13. "Medication" for more information on exceptions.)

NOTE: The introduction of any controlled dangerous substance (as defined in R.S. 40:961 et seq.) upon the grounds of any state correctional institution is considered distribution of a controlled dangerous substance and is subject to the penalties in R.S. 40:961 et seq.

ii. a dangerous weapon, or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape;

iii. explosives or combustibles;

iv. plans for the making or manufacturing a dangerous weapon or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape, or for the making or manufacturing of explosives or combustibles, or for an escape from an institution;

v. an alcoholic beverage or other beverage, which produces or may produce an intoxicating effect;

vi. stolen property;

vii. any currency or coin over the amount allowed at the institution; (See Section H.14. "Money" for more information.)

viii. any article of food, toiletries, or clothing, unless authorized by the warden; (See Section H.17. "Visitation with Minor Children" for information on exceptions.)

ix. any telecommunications equipment or component hardware, including but not limited to:

(a). cell phones;

(b). pagers;

(c). beepers;

(d). global satellite system equipment;

(e). sim cards;

(f). portable memory chips;

(g). batteries;

(h). chargers;

(i). cameras or recording devices;

x. any sketch, painting, drawing or other pictorial rendering produced in whole or in part by a capital inmate, unless authorized by the warden.

13. Medication

a. A drug or substance is not considered contraband if:

i. the drug or substance is in a container issued by the pharmacy or other place of dispensation;

ii. the container identifies the prescription number, prescribing physician, and issuing pharmacist or other person; and

iii. the container is not concealed upon the body of the person.

b. Only prescribed medication that is life-saving or life-sustaining (e.g. nitroglycerine pills, inhalers, oxygen, etc.) shall be permitted.

c. Medication shall be limited in quantity to no more than that required for the duration of the visit.

d. Visitors must advise institutional staff at the visiting desk that he/she is in possession of medication.

14. Money

a. Vending Machines/Concessions. Visitors are allowed to bring only enough cash money for vending machines and/or concessions in the institution's visiting area.

b. Kiosk Machines for Inmate Accounts. Financial transactions for inmate accounts shall be in the form of cash and/or credit/debit card payments and shall be made at the kiosk machines in the institution's visiting area. (Contractor fees may apply to this transaction.)

c. All other money from permissible sources may be accepted and processed in accordance with established policies and procedures.

15. Supervision of Visiting Areas

a. Staff will provide direct visual supervision of entire visitation area at all times.

b. Monitoring may also be in use in the visitation area and visitors shall be subject to this monitoring.

16. Contact during Visiting

a. Inmates who have contact visiting are permitted to visit in an area free of obstacles or barriers that prohibit physical contact.

b. During contact visiting, inmates and visitors may exchange a brief embrace and kiss upon meeting and leaving and may hold hands. Contact that exceeds these parameters is prohibited.

c. Inmates who have noncontact visiting are restricted from having physical contact with visitors by a physical barrier (e.g. screen or glass). Voice communication is typically accomplished through phones or speakers.

17. Visitation with Minor Children

a. Minor children may visit on any of the regular visiting days when accompanied by an adult visitor on the inmate's approved visiting list. Both the minor child and the adult visitor accompanying the minor child must be visiting the same inmate at the same time.

b. At all times, children must be supervised by the adult visitor who is accompanying the minor child on the visit.

c. If an infant is visiting, the following items shall be permitted:

- i. four diapers;
- ii. one clear plastic bag of baby wipes;
- iii. two jars of vacuum-sealed baby food;
- iv. one plastic baby spoon;
- v. two plastic bottles of milk, juice, or water;
- vi. one change of clothes;
- vii. one baby blanket, width and length not to exceed 48 inches.

d. The infant's items (except the baby blanket) must be stored in a single clear plastic container and are subject to search. The infant may keep his/her baby blanket on his/her person.

e. Infants and small children may be permitted to sit on the lap of the visitor and/or inmate that he/she is visiting.

18. Visitation between Sex Offenders and Minor Children

a. The following inmates are ineligible to visit with any minor child, including their own biological minor child or minor stepchild:

- i. inmates who have a current or prior conviction for a sex crime involving a minor child family member; or
- ii. inmates who have a documented history of sex abuse with a minor child family member.

b. The following sex offenders may be authorized to visit with their own biological minor child or minor stepchild at the discretion of the warden:

- i. sex offenders who have a current or prior conviction for a sex crime involving a minor child when the minor child is not a family member.

c. The following sex offenders may be authorized to visit with any minor child at the discretion of the warden:

- i. sex offenders who have successfully completed or are participating satisfactorily in sex offender treatment. (Treatment staff who teach the sex offender treatment class shall be involved in the decision-making process for this type of visit.)

19. Court Ordered Visitation between Parent and Minor Children (Pursuant to R.S. 9:364.1, a court may authorize visitation with an incarcerated parent. As part of such visitation order, the court shall include restrictions, conditions and safeguards as necessary to protect the mental and physical health of the child and minimize the risk of harm to the child. In considering the supervised visitation of a minor child with an incarcerated parent, the court shall consider the best interests of the child.

I. Definitions for Visiting Guidelines

1. *Contact Visiting*—visitation in an area free of obstacles or barriers that prohibit physical contact between inmate and visitors.

2. *Immediate Family Member*—includes the inmate's father, mother, siblings, legal spouse, children, grandparents, grandchildren, aunts, uncles, and legal guardians including those with a "step," "half" or adoptive relationship and those persons with the same relationship of the inmate's legal spouse and any others indicated on the inmate's master record as having raised the inmate. Verification of an inmate's immediate family member may be required.

3. *Minor Child*—anyone under the legal age of majority (18 years).

4. *Noncontact Visiting*—visitation in an area that restricts inmates from having physical contact with visitors. Physical barriers usually separate the inmate from the visitors with screens and/or glass. Voice communications between the parties are typically accomplished with phones or speakers. Noncontact visiting may also include video visitation.

5. *Sex Crime Involving a Minor Child*—any conviction of a sex offense as defined in R.S. 15:541 that was committed, attempted or conspired in which a minor child was involved, victimized or the intended victim.

6. *Suspension of Visiting*—the discontinuation of an inmate's visiting privileges for a determinate period of time, excluding approved clergy visits, attorney visits and special visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:833(A).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 5:2 (January 1979), amended LR 11:1096 (November 1985), repromulgated LR 29:2851 (December 2003), amended by the Department of Public Safety and Corrections, Corrections Services, LR 32:406 (March 2006), LR 35:1248 (July 2009), LR 37:2177 (July 2011), LR 38:835 (March 2012), LR 41:1764 (September 2015), LR

Family Impact Statement

Amendment to the current Rule should not have any known or foreseeable impact on family formation, 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 poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule should not have any known or foreseeable costs and/or benefits to directly affected persons, small businesses, or non-government groups.

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.

Public Comments

Written comments may be addressed to Natalie Laborde, Executive Counsel, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on April 10, 2023.

James M. Le Blanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Offender Visitation

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

There will be no costs or savings to state or local governmental units as a result of the proposed rule change.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 316, Offender Visitation.

The Department of Public Safety and Corrections, Corrections Services, proposes to revise disciplinary sanctions, add an option to email visiting requests, add requirements, clarify language, and make technical revisions to Offender Visitation.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

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.

Thomas C. Bickham, III
Undersecretary
2304#027

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Public Tag Agents
(LAC 55:III.Chapter 16)

Under the authority of R.S. 47:532.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby proposes to amend and repromulgate sections in Chapter 16, and to adopt new Sections in Chapter 16 regarding public tag agents. The new and amended sections address the qualifications of applicants, the application process including background checks, office locations, performance

audits, grounds to suspend or revoke a contract, advertising, surety bonds, driver's license issuance, dishonored or denied payments, and administrative actions for failing to comply with all requirements in statute, this Rule, and the contract. This Rule shall become effective upon the promulgation of the Rule in the *Louisiana Register*.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 16. Public Tag Agents

§1601. Definitions

(Formerly §1551)

A. As used in Chapter 16, the following terms have the meanings described below.

Commissioner—Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Driver Privacy Protection Act—the federal Driver Privacy Protection Act of 1994 (DPPA) (Title XXX of P.L. 103-322), 18 U.S.C. §2721 et seq., as implemented by the department in the *Louisiana Administrative Code*, Title 55, Part III, Chapter 5, Subchapter B.

Personal Information—information which includes the full name, complete physical address, and date of birth, driver's license number, and Social Security number.

Public Tag Agent (PTA)—a person, firm, association, or corporation contracted with the Office of Motor Vehicles which is, by contract, engaged primarily in the collection of registration license taxes and sales and use tax and the issuance of registration certificates, certificate of title and license plates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), repromulgated LR 49:330 (February 2023), amended LR 49:

§1603. Authority; Businesses and Governmental Entities

(Formerly §1553)

A. R.S. 47:532.1 authorizes the commissioner to establish a system of public tag agents authorized to collect the registration license taxes, as well as applicable sales and use taxes, and issue registration certificates and license plates to motor vehicles. An agent may be either a municipal or parish governing authority, a new motor vehicle dealer or his agent, or an auto title company. Public tag agents shall also be authorized to receive and process applications filed for certificates of title, duplicate certificates of titles, corrected certificates of title, recordation of liens, mortgages, or security interests against motor vehicles, conversions of plates, transfers of plates, replacements of lost or stolen plates and/or stickers, renewals of registration, duplicate registrations, and additional applications or transactions authorized by the commissioner.

B. The commissioner and a public tag agent, shall enter into a contract which shall state the required procedures for the implementation of authorized activities. See §1569 for a copy of the contract.

C. With the exception of the requirements for a surety bond, all rules and regulations as well as all contractual

provisions shall apply to municipal and parish governing authorities acting as public tag agents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), repromulgated LR 49:330 (February 2023), amended LR 49:

§1605. Convenience Fee (Formerly §1555)

A. Public tag agents 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 the amount authorized in R.S. 47:532.1(C) and shall be retained by the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), amended LR 27:1927 (November 2001), repromulgated LR 49:330 (February 2023), amended LR 49:

§1607. Administrative Actions (Formerly §1557)

A.1. The assistant secretary or his designee may suspend, revoke, cancel, or terminate the public tag agent's contract upon a violation by the agent or any agent's officers, directors, employees, owners, or other representatives of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III.Chapter 16 R.S. 47:532.1 or R.S. 47:532.2. In lieu of any of the previously listed actions, the deputy secretary may take other administrative action for such a violation including but not limited to the imposition of a fine or other sanction.

2. Additionally, the assistant secretary or his designee may suspend, revoke, cancel, or terminate the status of any person who is an employee, officer, director, or other representative of the public tag agent upon a violation of any responsibility or requirement established pursuant to the contractual agreement. LAC 55:III. 16, R.S. 47:532.1 or R.S. 47:532.2. It shall be the responsibility of the public tag agent to ensure that all employees, officers, directors, or other representatives of the public tag agent are familiar with these responsibilities and requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2415 (December 1999), amended LR 27:1927 (November 2001), repromulgated LR 49:330 (February 2023), amended LR 49:

§1608. Qualifications for Public Tag Agent Owners and Employees

A. Qualifications for a Public Tag Agent Owner. To contract with the department as a public tag agent, the owner/applicant shall:

1. be a citizen of the United States or be lawfully present in the United States;
2. have earned at least a high school diploma, GED or its equivalent;
3. have a business location within the state of Louisiana where the public tag agent office will operate;
4. provide proof of registration with the secretary of state to do business in the state of Louisiana;
5. possess any required business license;

6. the department may deny an application and refuse to grant the applicant authority to act as a public tag agent or revoke a public tag agents status as a result of any of the following actions by the applicant, or by any of the applicant's employees, officer's, directors, managers, representatives, or owners:

a. operating as an auto title company or public tag agent without a license or authorization for each location, with an expired license or authorization, or without a valid surety bond on file with the Office of Motor Vehicles;

b. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a short fall in the collection of taxes owed;

c. the forwarding to the Office of Motor Vehicles by a public tag agent of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a short fall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;

d. conviction of, or an entry plea of guilty or nolo contendere to, any felony or conviction of, or an entry plea of guilty or nolo contendere to, any criminal charge, an element of which is fraud or theft;

e. fraud, deceit, or perjury in obtaining any license issued under this Chapter;

f. any material misstatement of fact or omission of fact in any application for the issuance of an authorization for a public tag agent;

g. current or previous owner, employee, officer, director, manager or representative of a public tag agent or any other business regulated by DPS whose license or contract has been revoked;

h. conviction of a crime involving violence, dishonesty, deceit, or an offense involving moral turpitude.

i. there is current prosecution or pending charge against for any offense listed in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1609. Applications (Formerly §1559)

A. Those persons interested in becoming a public tag agent may inquire at the following address.

Attention: PTA Administration
Office of Motor Vehicles
Post Office Box 64886
Baton Rouge, LA 70896
Or by email at PTAAdmin@la.gov

B. Initial Application Process for a public tag agent. The application process is a two-step approval process.

1. The following must be submitted for the initial public tag agent application:

a. completed initial application;

i. an application packet will be provided to the applicant upon receipt of an inquiry as stated above;

b. letter of reference from three individuals or businesses. Reference letter must include contact information;

c. a background check form completed by each applicant, any of the applicant's employees, officers,

directors, managers, representatives, owners, or anyone that will have access to data or documents collected by the PTA which will be governed by 18 U.S.C. 2721;

i. the completed background check form must be surrendered to Louisiana State Police, along with the required fee;

d. non-refundable application fee of \$200 payable by certified check or money order made payable to DPS;

e. If the Office of Motor Vehicles is unable to determine if the applicant is authorized to conduct business in Louisiana, additional documents may be required.

2. Following approval of the initial stage of the public tag agent application, a second stage application packet will be sent to the applicant. The following must be submitted for the second stage approval:

a. if the PTA is listed as a corporation or LLC, articles of incorporation must be submitted;

b. PTA bond form;

c. contract will be provided by OMV and must be executed by the PTA;

d. network connectivity questionnaire;

e. EFT authorization agreement completed by the PTA's financial instruction;

f. photographs of PTA office location including all public and private areas of the building.

C. Any person making application for the purpose of processing vehicle title and registration transactions for the department must be contracted with the department as an auto title company or make application simultaneously with the public tag agent application unless the applicant provides sufficient documentation indicating why it will not be issuing temporary registration markers.

D. No person shall act as a public tag agent until after submitting an application to the department on the approved form, and after the application has been approved by the department.

E. No person shall act as an employee, officer, director, or other representative of a public tag agent until after the person submits an application to the department on the approved form, and after the application has been approved by the department.

F. Every person engaged in the operation of a public tag agent shall apply for and procure a contract with DPS. No public tag agent shall advertise without having first obtained a contract with DPS. No person shall for remuneration hold himself as a qualified or licensed public tag agent without obtaining a contract from DPS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2416 (December 1999), repromulgated LR 49:330 (February 2023), LR 49:

§1611. Eligibility, Suspension, Revocation, or Cancellation of Public Tag Agent's Authority (Formerly §1561)

A. Contracts shall be issued for two years and be renewable on a biennial basis. The initial contract will be valid from the date of issuance until May 31st of the year closest to but not to exceed two years.

B. Contracts shall be nontransferable. In the event of a change of ownership, application for a new contract shall be made and the old contract and certificate shall be

surrendered to DPS before a new contract can be executed with the new owner.

C. If the public tag agent certificate is lost or destroyed, a duplicate shall be issued for a \$25 application fee upon receipt of a statement of fact or, in the case of mutilation, upon surrender of such license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2416 (December 1999), repromulgated LR 49:331 (February 2023), LR 49:

§1613. Applications

A. Every initial application or renewal for a public tag agent shall be accompanied by an application fee of \$100 per year, collected biennially, per location.

B. An \$8 fee shall be assessed when a public tag agent relocates and a new certificate is issued or if a duplicate certificate is required.

C. Every application for renewal of a public tag agent shall be accompanied by an application fee of \$200, collected biennially, per location.

D. Application fees shall not be prorated or refunded. Applications not completed within 90 days shall be voided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1615. Background Checks

A. Every owner, employee, officer, directors, managers, or representative who will have access to restricted areas of the contracted location, information or data regulated by the Driver Privacy Protection Act, or paperwork or documents submitted to the public tag agent as a result of their public tag agent contract shall have a background check performed by Louisiana State Police.

B. Applicants shall submit electronic fingerprints for the purpose of conducting a background check.

C. Fingerprint cards will not be accepted for the purpose of completing a background check unless prior approval is granted by the department.

D. Cleaning crews or janitorial services that require regular access to secure areas of the building must pass a background check prior to gaining access to the building.

E. Exceptions

1. Maintenance or trade persons that would need infrequent access to the contracted location or access is limited to an isolated incident may be permitted to restricted areas of the building if all of the following conditions are met:

a. all documents protected by the Driver Privacy Protection Act has been secured in a locked cabinet or area that is inaccessible to the maintenance or trade person;

b. all inventory has been locked in a cabinet or area that cannot be accessed;

c. all computers are either turned off or locked so protected information cannot be viewed;

d. an authorized person remains with the unauthorized person at all times.

2. Computer Technician

a. Computer technicians that do not have a computer signon must be accompanied by the authorized person with a signon at all times. The authorized person

shall be responsible for any potential data breach or misuse of information.

b. Computer technicians that work for the PTA and will need unaccompanied access to restricted data must submit a background check and be issued a user signon.

c. PTA must provide the name and contact information for any computer technicians that handles the PTAs IT needs to PTA Administration. PTA must make notification when they no longer do business with the computer technician.

3. A runner that has not submitted a background check and has been approved by PTA Administration may:

a. may pick up inventory items such as license plates, temporary registration markers, vehicle title stock, etc.;

b. may not pick up or drop off paperwork that contains information restricted under DPPA;

c. may not access any restricted area of the OMV/PTA office where DPPA restricted information may be viewed;

d. the PTA must notify PTA Administration of any runners that will be picking up inventoried items prior to the date of pick up;

e. runner must provide identification which will be verified prior to inventory being released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1617. Office Location

A. The business location of a PTA must be approved prior to being contracted to do business at that location.

B. The PTA office cannot be co-located with other business such as insurance companies, driving schools, tow facilities, etc. unless the PTA office is separated by a permanent wall and locking door.

C. The PTA office shall not transact additional business from the PTA location that is a conflict of interest or that will reflect negatively on the department.

D. Computers configured for or used by the PTA cannot be used to aid in other co-located businesses.

E. All doors including entrance, back and side doors must have dead bolt locks.

F. All windows must remain secure.

G. Security System. Building alarm system must be installed and monitored.

H. Security cameras are mandatory for all PTA's that provide driver's license services.

I. Security cameras cannot be facing a processing monitor where it may be possible to view restricted information from a remote location or by an unauthorized person.

J. There must be a counter separating customers from the restricted areas of the building. All computer screens, paperwork and registration documents must be behind the counter and out of view of customers.

K. All inventoried items such as license plates, titles and unprocessed paperwork must be secured in a locked storage room, cabinet or file cabinet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1619. Audit

A. A public tag agent will be audited on a biennial basis.

B. PTA may also be audited on an as needed basis or when additional services are requested by the PTA prior to a biennial audit being conducted.

C. A final audit with an error rate greater than or equal to 20 percent will disqualify a PTA from opening additional locations or making application for additional services. The Commissioner or their designee may, after review or the audit findings provisionally authorize additional locations or services until the next audit.

D. A PTA final audit with an error rate equal to or greater than 30 percent or who through audit have been determine to have made substantial errors resulting in incorrect taxes being collected, improper issuance of title or registration or unauthorized modification to vehicle or drivers records may be required to attend re-training. PTA shall have ninety days following receipt of the final audit report to correct all audit findings.

E. PTA is responsible for payment of taxes and fees due to the State for any underpayments identified in the audit.

F. Failure to remit payment within 90 days will result in a claim being filed against the PTA bond.

G. The department may suspend PTAs connectivity to the department, non-renew or terminate a PTA's contract based on audit performance or failure to comply with audit findings or fail to complete re-training if required to do so by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1621. Eligibility, Suspension, Revocation, or Cancellation of Public Tag Agent's Authority (Formerly §1611)

A. The following actions by a public tag agent, or by any of the public tag agent's employees, officers, directors, managers, representatives, or owners, may subject the public tag agent to suspension, revocation, or cancellation of the public tag agent's authority by the department. In the alternative, the department may impose restriction on the public tag agent's authority as a result of any of the following actions by the public tag agent or applicant, or by any of the public tag agent's employees, officers, directors, managers, representatives, or owners. The department may also deny an application and refuse to grant the applicant authority to act as a public tag agent as a result of any of the following actions by the applicant, or by any of the applicant's employees, officers, directors, managers, representatives, or owners:

1. failure to remit taxes and fees collected from applicants for title transfers;

2. repeated late filings;

3. operating as an auto title company or public tag agent without a license or authorization for each location, with an expired license or authorization, or without a valid surety bond on file with the Office of Motor Vehicles;

4.a. the issuance of more than one temporary registration (T-marker) to a title applicant; or

b. the issuance of a T-marker without first collecting all taxes and fees and requiring the title applicant to show proof of compliance with the compulsory insurance law;

5. operating from an unlicensed or unauthorized location;

6. changing the ownership of the public tag agent and not reporting in writing to the Office of Motor Vehicles within 30 days from the date of such change;

7. changing the officers or directors of the public tag agent and not reporting in writing to the Office of Motor Vehicles within 30 days from the date of such change;

8. being a principal or accessory to the alteration of documents relevant to a registration or titling transaction that results in material injury to the public records or a short fall in the collection of taxes owed;

9. the forwarding to the Office of Motor Vehicles by a public tag agent of a document relevant to a registration or titling transaction that results in a material injury to the public records, or a short fall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose the same to the Office of Motor Vehicles;

10. conviction of, or an entry plea of guilty or nolo contendere to, any felony or conviction of, or an entry plea of guilty or nolo contendere to, any criminal charge, an element of which is fraud;

11. fraud, deceit, or perjury in obtaining any license issued under this Chapter;

12. failure to maintain at all times during the existence of the authorization, all qualifications required for issuance or renewal of the authorization;

13. any material misstatement of fact or omission of fact in any application for the issuance or renewal of an authorization for a public tag agent;

14. the repeated submission of checks which have been dishonored by the bank on which the check was drawn.

15. Allow unauthorized persons access to restricted information or areas without successfully passing a background check

16. Any item identified in the application section

17. poor performance on multiple audits of work performed by the public tag agent.

B. The department may revoke, suspend, or cancel any approval, license or permit of any employee, officer, director, manager, representative, or owner of a public tag agent who violates any provision of Subsection A of §1561. Any person subject to an order as provided in this Paragraph shall not work for, or be associated with, the public tag agent in any manner unless approved by the department in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2416 (December 1999), repromulgated LR 49:331 (February 2023), amended LR 49:

§1623. Name, Trade Name, Advertisements, and Other Signage of Public Tag Agents (Formerly §1613)

A. No public tag agent shall display any sign, logo, business name, or trade name, or cause to be advertised any sign, logo, business name, or trade name which includes the words "office of motor vehicles," "motor vehicle office," or "motor vehicles office," or any similar phrases, unless the sign, logo, business name, trade name, or advertisement clearly and prominently includes a statement indicating the business's status as a public tag agent.

1. The business's status as a public tag agent must be in font larger than or equal to the font in which the "office or motor vehicles" or "motor vehicle office" is printed.

2. Advertisements must use restraint and be in good taste Advertisements will be reviewed and approved by OMV upon request Advertisements shall not include negative remarks about the department. Office of Motor Vehicles, or its employees or services.

3. PTA's are prohibited from advertising at an office of motor vehicle location including the exterior of the building, parking lot or an area between the parking lot and the roadway.

4. Social media posts which allude to or name the department or Office of Motor Vehicles specifically must be in good taste.

5. PTA shall not publish any communication which would, under any circumstance, undermine or tarnish the name or image of the department.

6. PTA shall not relate themselves with other information, opinions, or positions that would bring adverse criticism or embarrassment upon the department.

B. Advertisements or signage deemed unacceptable shall be removed by the PTA immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2416 (December 1999), repromulgated LR 49:331 (February 2023), amended LR 49:

§1625. Driver Privacy Protection Act (Formerly §1615)

A. Every applicant for a driver's license, certificate of title, or for a new or renewed vehicle registration at a public tag agent's place of business shall be given the opportunity to prohibit the disclosure of personal information as defined in LAC 55, Part III, Chapter 5, §553, Subchapter B, by completing the department's approved form, and submitting the form to the public tag agent. The public tag agent shall forward the properly completed form to the department. The public tag agent shall advise the person submitting the form that any form which is incomplete or which is illegible shall not be processed and shall not be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR25:2416 (December 1999), repromulgated LR 49:331 (February 2023), amended LR 49:

§1627. Bond Requirement (Formerly §1617)

A. All public tag agents other than municipal and parish governing authorities shall furnish security for the faithful performance of their duties as follows.

1. Each public tag agent other than a municipal governing authority 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 public tag agent shall, throughout the entire term of the bond, timely file with the office of motor vehicles all applications delivered to such public tag agent for filing, and all fees and taxes collected by

such public tag agent, the obligation shall be void. If the company does not do so, the obligation of the surety shall remain in full force and effect. A public tag agent having multiple locations need furnish only a single \$125,000 surety bond in addition to any other bonds required by law.

2. Surety bond must be valid for the duration of the public tag agent contract.

3. The surety bond furnished pursuant to §1625 shall be delivered to and filed with the Department of Public Safety and Corrections, Office of Motor Vehicles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2417 (December 1999), repromulgated LR 49:332 (February 2023), amended LR 49:

§1629. Contracts

(Formerly §1619)

A. The commissioner and public tag agents other than municipal and parish governing authorities may enter into contracts which shall state the required procedures for the implementation of LAC 55, Part III, Chapter 16. Such contracts may terminate upon violation of R.S. 47:532.1, LAC 55, Part III, Chapter 15, Subchapter B, or the provisions of the contract between the department and the public tag agent foregoing provisions.

B. The contract between the department and the public tag agent shall be on the form approved by the assistant secretary. The department may require that a public tag agent sign separate contracts to perform the following functions:

1. processing title work and issuing of registration certificates and permanent license plates;
2. conducting testing for, and in the issuance of, class "D" and "E" driver's licenses;
3. processing the filing of electronic liens;
4. processing the reinstatement of driver's licenses and providing status information;
5. processing expedited title transactions;
6. sale of miscellaneous items sold by the department such as motor vehicle inspections stickers, secure power of attorney forms, etc.

C. The contract between the department and the public tag agent shall have a term of two years provided the expiration is consistent with the expiration of the auto title company contract. The department may provide for automatic renewals.

D. Failure to perform the duties outlined in the contracts specified above properly or perform the duties outlined in the contract improperly may result in termination of that contract or suspension of the ability to perform the processes authorized by that contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2417 (December 1999), amended LR 27:1927 (November 2001), repromulgated LR 49:332 (February 2023), amended LR 49:

§1631. Declaratory Orders and Rulings

(Formerly §1621)

A. Any person desiring a ruling on the applicability of any statute, or the applicability or validity of any rule in LAC 55, Part III, Chapter 15, Subchapter B, regarding public tag agents, shall submit a written petition to the

deputy secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the deputy secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition includes reference to a specific transaction handled by the department or a public tag agent, or if the petition relates to the issuance, revocation, cancellation, or denial of any license, permit or authorization, then the person submitting the petition shall also submit proof that he has notified all of the persons involved in the transaction or issuance, revocation, cancellation, or denial of the license, permit or authorization by certified mail, return receipt requested. If the person is unable to notify the involved person or persons after otherwise complying with the notice requirement, he shall so state in his petition.

C. The deputy secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The deputy secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the deputy secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the security provider receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The deputy secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 25:2418 (December 1999), repromulgated LR 49:332 (February 2023), amended LR 49:

§1633 Confidentiality

(Formerly §1623)

A. The public tag agent, 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 public tag agent shall forward all request for information commonly referred to as public records request to the department for a response.

C. The public tag agent shall be responsible for the disclosure of any information in connection with the processing of any transaction on behalf of the department. The public tag agent 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. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1927 (November 2001), repromulgated LR 49:332 (February 2023), amended LR 49:

**§1635. Driver's License Issuance
(Formerly §1625)**

A. A public tag agent may contract with the department to administer the necessary tests and issue, or renew identification cards, handicap hang tag identification cards, and driver's licenses transactions deemed acceptable by the department. The written knowledge test and the driving or skills test shall be administered in accordance with the provisions of LAC 55:III.Chapter 1.Subchapter C.

B. The public tag agent's third party examiner shall utilize only department approved visual screening equipment. In lieu thereof, each examiner may opt to utilize the standard Snellen wall-chart for visual acuity. The visual acuity testing shall be administered in a manner approved by the department.

C. A public tag agent shall develop controls to secure the materials and equipment necessary to issue driver's licenses. Such controls shall be submitted in writing to the department. A public tag agent shall not issue any driver's licenses until the controls required by this Section have been approved by the department in writing. Once approved, the controls shall be implemented as written. Any changes to the control approved by the department shall be approved in writing prior to implementation.

D. The department shall designate the types of driver's license and identification card transactions a public tag agent may perform, such as renewals and duplicates. Such designation shall be at the sole discretion of the department. Identification cards include the photographic identification issued with a handicap hangtag.

E. Qualifications for Issuance of Driver's Licenses and Identification Cards. In addition to the qualification requirements contained in statute and this Chapter, a public tag agent shall meet these additional requirements in order to be approved to perform driver's license and identification card transaction designated by the department.

1. Insurance. The insurance policy shall provide coverage and a defense for the state of Louisiana and the Department of Public Safety and Corrections, as well as the employees of the state and the department:

a. a policy for professional liability/errors and omissions with minimum coverage of \$1,000,000;

b. a policy for general liability with minimum coverage of \$1,000,000.

2. A security system installed by a company licensed and approved by the Office of State Fire Marshal. This system shall be monitored 24 hours a day by a monitoring company.

3. A video surveillance system which at a minimum monitors all entrances, the driver's license camera station, and the secure supply room. Such system shall be installed by a company licensed and approved by the Office of State Fire Marshal. The video images shall be retained by the system for a minimum of 30 days with the ability to save the video indefinitely if so requested by the department.

F. Camera Station

1. The public stag agent shall purchase the camera station from the current vendor providing the credential

issuance solution for the department. The public stag agent shall receive prior approval from the department before purchasing the camera station.

2. A public tag agent may only dispose of a camera station in a manner approved by the department.

3. PTA must obtain written approval from the department prior to disposing of driver's license camera equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE; Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1927 (November 2001), amended LR 40:370 (February 2014), repromulgated LR 49:333 (February 2023), amended LR 49:

**§1637. Other Transactions
(Formerly §1627)**

A. The department may contract with public tag agents to perform other transactions authorized in R.S. 47:532.1. In such case, the public tag agent shall use the equipment and procedures required by the department to process these transactions. The public tag agent shall use an approved written control plan to secure any materials or equipment as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), repromulgated LR 49:333 (February 2023), amended LR 49:

§1639. Dishonored or Denied Payments

A. The department may immediately suspend, revoke, or cancel this contract upon written notice to the public tag agent if the public tag agent that has more than one payment (whether in the form of an electronic ACH debit or paper draft) dishonored or returned to the department as unpaid by the bank or financial institution of the public tag agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

§1641. Suspension, Revocation and Penalty Assessment

A. All regulations outlined in this Chapter or in any contract between the public tag agent and the department shall be adhered to by the public tag agent and its employees. DPS may suspend or revoke any public tag agent contract issued under these rules and regulations upon discovery of satisfactory evidence of violations.

1. Any PTA owner or employee who has been arrested for any of the aforementioned violations, shall be immediately suspended and shall remain suspended until a final disposition of the charges are received by DPS.

2. The owner or employee of a public tag agent who is arrested, suspended or denied for any violation of this chapter shall not have access to or be involved in the administrative duties of the public tag agent.

B. Appeal Rights

1. Notice of Suspension, or Revocation

a. A PTA whose contract is revoked or suspended shall be notified in writing by DPS either by mail.

2. General Provisions

a. Except as otherwise provided by these rules, any notice shall be served by certified mail, return receipt

requested, or hand delivered to the permanent address that is provided in the application or latest amendment thereto, on file with DPS. Notice shall be presumed to have been given in the event an incorrect or incomplete address is supplied to DPS by the applicant or if the applicant fails to accept properly addressed certified mail.

b. In cases of serious violations of the law or these rules, or in situations in which the law calls for prompt suspension or revocation, or violations which present Injury to the public, DPS may provide notice. Such notice shall be promptly documented and confirmation in writing shall be provided to the applicant.

c. Any request for an administrative hearing for a fine, suspension or revocation of a license or third-party tester agreement shall be made in writing and sent to DPS (Public Tag Agent Administration, P.O. Box 64886, Baton Rouge, LA 70896) within 30 calendar days. The action and/or penalty shall become final if the request for an administrative hearing is not submitted timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 49:

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 April 21, 2023, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at P. O. Box 64886, Baton Rouge, LA 70896, or faxed to (225)925-6303.

Public Hearing

A public hearing on the proposed Rule will be held on April 24, 2023, 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. NOTE: R.S 49:961 is the

statute cite in Act 663 of the 2022 Regular Session and may change based upon subsequent codification by the Louisiana Law Institute.

Karen St. Germain
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Tag Agents

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

The proposed rule will not result in any costs or savings to state or local governmental units. The proposed rule repromulgates the previously adopted section regarding public tag agents into a new chapter, Chapter 16, which is necessary to make room for the addition of new sections.

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. The proposed rule reflects current practices and does not establish new fees or impact collections of any fees currently authorized by law.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule does not have any effect on the estimated costs and/or economic benefits of affected persons or non-governmental groups. The proposed rule reflects current practices. The requirements are applied uniformly statewide.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated or foreseen impact on competition and employment.

Jill Jarreau
Administrator
2303#039

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Uniform Construction Code Council

Uniform Construction Code—Energy Codes
(LAC 17:I.103 and 107)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby gives notice that it proposes to amend and adopt the following Rule. The purpose of adopting and amending the currently adopted construction codes is to replace them with more recent technology, methods and materials for the 2021 editions of the *International Residential Code and International Energy Conservation Code*. It is also to satisfy the legislative requirements of ACT 635 of the 2022 Regular Session.

Title 17

CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Adoption of the Louisiana State Uniform Construction Code

(Formerly LAC 55:VI.Chapter 3)

§107. International Residential Code

(Formerly LAC 55:VI.301.A.3.a)

A.1. ...

* * *		
Amend	Section R 1006.1, Exterior Air.	Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion
Amend	Section 1101.4 Above Codes Programs	The code official serving as the authority having jurisdiction for building codes, shall be permitted to deem a national or state energy-efficiency program to exceed the energy efficiency required by this code. Buildings approved in writing by such an energy-efficiency program shall be considered to be in compliance with this code. The requirements identified in Table N1105.2, as applicable, shall be met and the building thermal envelope is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables 402.1.1 and 402.1.3 of the 2009 International Energy Conservation Code.
Adopt	Section 1101.4.1 National Green Building Standard	Buildings complying with ICC 700-2020 National Green Building Standard and achieving an equivalent energy performance as demonstrated by a third-party certification organization shall be deemed to exceed the energy efficiency required by this code.
Adopt	Section 1101.4.2 Energy Star Certification	Buildings receiving Energy Star Certification shall be deemed to exceed the energy efficiency required by this code.
Repeal	Section 1101.5 Information on Construction Documents	
Amend	Section N1101.7 Climate Zones	Climate zones from Figure N1101.7 or Table N1101.7 shall be used for determining the applicable requirements in Sections N1101 through N1113. Locations not indicated in Table N1101.7 shall be assigned a climate zone in accordance with Section N1101.7.2. However, for energy purposes only, all of Louisiana shall be a climate zone 2A. East and West Carroll parishes shall be assigned a warm humid climate zone.
Adopt	Section N1101.9.1, Louisiana Insulation Certificate requirement.	A State of Louisiana Insulation Certificate shall be permanently posted in a utility area.
Adopt	Section N1101.9.2, Louisiana Insulation Certificate Template.	

State of Louisiana Insulation Certificate

(Permanently attach this certificate in a utility area near the Energy Efficiency Certificate)

Date Installed _____
Permit Number _____

Area Insulated	Total R-value		Installed Thickness (3.5, 5.5, etc.)	Spray Foam Density (lbs./ft. ³)	Ignition Barrier Provided (Y/N)	Thermal Barrier (Y/N)
Attic roofline (under sheathing)		at	inches			
Attic floor (above ceilings)		at	inches			
Cathedral ceiling		at	inches			
Exterior Walls		at	inches			
Knee walls		at	inches			
Band joist (between levels)		at	inches			
Under first floor (in crawl space)		at	inches			
Basement/crawl space walls		at	inches			

Jobsite Address	
General Contractor License No.	
Insulation Contractor (firm)	
Installer/Applicator Name	
Product Manufacturer(s)	
Product Name(s) & batch no.	

Supplemental Packet Contents:	Uploaded to permitting office (X)	Copy to General Contractor (X)	Copy to Homeowner (X or No Owner)
Insulation Certificate (copy)			
Insulation MSDS or Finished Foam Safety Data Sheets (SDS)			
Product Technical Data Sheets			
Spray Foam Applicator's Training Certificate (from manufacturer or SPFA)			
Performance Testing Report (blower door) with name of 3 rd party provider			

Amend	Section N1101.13 Application	Residential buildings shall comply with Section N1101.13.1, N1101.13.2, N1101.13.3 or N1101.13.4.
Repeal	Section N1101.13.5	
Amend	Table N1102.1.2	

Table N1102.1.2 (R402.1.2)

Maximum Assembly U-Factors^a and Fenestration Requirements

Climate Zone	Fenestration U-Factor ^f	Skylight U-Factor	Glazed Fenestration SHGC ^{d,e}	Ceiling U-Factor	Frame Wall U-Factor	Mass Wall U-Factor ^b	Floor U-Factor	Basement Wall U-Factor	Crawl Space Wall U-Factor
0	0.50	0.75	0.25	0.035	0.084	0.197	0.064	0.360	0.477
1	0.50	0.75	0.25	0.035	0.084	0.197	0.064	0.360	0.477
2	0.40	0.65	0.25	0.030	0.084	0.165	0.064	0.360	0.477
3	0.30	0.55	0.25	0.030	0.060	0.098	0.047	0.091 ^c	0.136
4 except Marine	0.30	0.55	0.40	0.024	0.045	0.098	0.047	0.059	0.065
5 and Marine 4	0.30	0.55	NR	0.024	0.045	0.082	0.033	0.050	0.055
6	0.30	0.55	NR	0.024	0.045	0.060	0.033	0.050	0.055
7 and 8	0.30	0.55	NR	0.024	0.045	0.057	0.028	0.050	0.055

For SI: 1 foot = 304.8 mm.

a. Nonfenestration U-factors shall be obtained from measurement, calculation or an approved source.

b. Mass walls shall be in accordance with Section R402.2.5. Where more than half the insulation is on the interior, the mass wall U-factors shall not exceed 0.17 in Climate Zones 0 and 1, 0.14 in Climate Zone 2, 0.12 in Climate Zone 3, 0.087 in Climate Zone 4 except Marine, 0.065 in Climate Zone 5 and Marine 4, and 0.057 in Climate Zones 6 through 8.

c. In Warm Humid locations as defined by Figure R301.1 and Table R301.1, the basement wall U-factor shall not exceed 0.360.

d. The SHGC column applies to all glazed fenestration.

Exception: In Climate Zones 0 through 3, skylights shall be permitted to be excluded from glazed fenestration SHGC requirements provided that the SHGC for such skylights does not exceed 0.30.

e. There are no SHGC requirements in the Marine Zone.

f. A maximum U-factor of 0.32 shall apply in Marine Climate Zone 4 and Climate Zones 5 through 8 to vertical fenestration products in-stalled in buildings located either:

1. Above 4,000 feet in elevation above sea level, or
2. In windborne debris regions where protection of openings is required by Section R301.2.1.2.

Amend

Table 1102.1.3

Table N1102.1.3 (R402.1.3)

Insulation Minimum R-Values and Fenestration Requirements By Component^a

Climate Zone	Fenestration U-Factor ^{b,1}	Skylight ^b U-Factor	Glazed Fenestration SHGC ^{b,e}	Ceiling R-Value	Wood Frame Wall R-Value ^g	Mass Wall R-Value ^h	Floor R-Value	Basement ^{e,G} Wall R-Value	Slab ^d R-Value & Depth	Crawl Space ^{e,G} Wall R-Value
0	NR	0.75	0.25	30	13 or 0 & 10ci	3/4	13	0	0	0
1	NR	0.75	0.25	30	13 or 0 & 10ci	3/4	13	0	0	0
2	0.40	0.65	0.25	38	13 or 0 & 10ci	4/6	13	0	0	0
3	0.30	0.55	0.25	38	13 or 0 & 10ci	8/13	19	5ci or 13 ^f	0	5ci or 13 ^f
4 except Marine	0.30	0.55	0.40	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	8/13	19	10ci or 13	10ci, 4 ft	10ci or 13
5 and Marine 4	0.30	0.55	0.40	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	13/17	30	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 19 or 13 & 5ci
6	0.30	0.55	NR	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	15/20	30	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 19 or 13 & 5ci

7 and 8	0.30	0.55	NR	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	19/21	38	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 1 9 or 13 & 5ci
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For SI: 1 foot = 304.8 mm.

NR = Not Required.

ci = continuous insulation.

a. *R*-values are minimums. *U*-factors and SHGC are maximums. Where insulation is installed in a cavity that is less than the label or design thickness of the insulation, the installed *R*-value of the insulation shall be not less than the *R*-value specified in the table.

b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

Exception: In Climate Zones 0 through 3, skylights shall be permitted to be excluded from glazed fenestration SHGC requirements provided that the SHGC for such skylights does not exceed 0.30.

c. “5ci or 13” means R-5 continuous insulation (ci) on the interior or exterior surface of the wall or R-13 cavity insulation on the interior side of the wall. “10ci or 13” means R-10 continuous insulation (ci) on the interior or exterior surface of the wall or R-13 cavity insulation on the interior side of the wall. “15ci or 19 or 13 + 5ci” means R-15 continuous insulation (ci) on the interior or exterior surface of the wall; or R-19 cavity insulation on the interior side of the wall; or R-13 cavity insulation on the interior of the wall in addition to R-5 continuous insulation on the interior or exterior surface of the wall.

d. R-5 insulation shall be provided under the full slab area of a heated slab in addition to the required slab edge insulation *R*-value for slabs, as indicated in the table. The slab-edge insulation for heated slabs shall not be required to extend below the slab.

e. There are no SHGC requirements in the Marine Zone.

f. Basement wall insulation shall not be required in Warm Humid locations as defined by Figure N1101.7 and Table N1101.7.

g. The first value is cavity insulation; the second value is continuous insulation. Therefore, as an example, “13 + 5” means R-13 cavity insulation plus R-5 continuous insulation.

h. Mass walls shall be in accordance with Section N1102.2.5. The second *R*-value applies where more than half of the insulation is on the interior of the mass wall.

i. A maximum *U*-factor of 0.32 shall apply in Climate Zones 3 through 8 to vertical fenestration products installed in buildings located either:

1. Above 4,000 feet in elevation, or
2. In windborne debris regions where protection of openings is required by Section R301.2.1.2.

Amend	Section N1102.2.1, Ceilings with attics.	
Adopt	Exception	
	Item (1.)	(1.) When the thermal covering at the roof line creates an unvented attic: (a.) Proper sizing or modification of the HVAC system to the current code is required. (b.) Any insulation between the sealed, conditioned attic space and the living space must be removed.
Adopt	Item (2.)	(2.)(a) The space under appliances located in a sealed, conditioned attic may remain in place if sealed from the attic space, it is less than 10% of the total conditioned attic floor, and the appliances are approved for use in a sealed attic. (b.) There shall be no outside attic ventilation and all openings must be blocked with rigid material and are sealed, in accordance with the ICC IRC Chapter 8 “Roof-Ceiling Construction
Amend	Section N1102.2.3 Eave Baffle	For air-permeable insulation in vented attics, a baffle shall be installed adjacent to soffit and eave vents.-Baffles shall maintain an opening equal to or greater than the size of the vent. The baffle shall extend over the top of the attic insulation. The baffle shall be permitted to be any solid material.
Amend	Section N1102.2.7, Floors.	
Repeal		Subfloor insulation shall provide or be installed in permanent contact with a rigid air barrier material. If the building is cooled with air conditioning subfloors in any vented crawl space shall be insulated with an airtight, class II vapor retarder insulation system (perm < 1.0).
Adopt	Exception	
Adopt	Item (1.)	(1.) Plastic Spray Foam cannot be applied to finish flooring where no subfloor exists.
Repeal	Section N1102.4.1.1 Installation.	
Amend	Section N1102.4.1.2 Testing	The building or dwelling unit shall be tested for air leakage. The maximum air leakage rate for any building or dwelling unit under any compliance path shall not exceed 5.0 7.0 air changes per hour or 0.28 cubic feet per minute (CFM) per square foot [0.0079 m ³ /(s × m ²)] of dwelling unit enclosure area. Testing shall be conducted in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). Effective July 1, 2024, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door

		test reports from these certified individuals to verify the minimum requirements of Section N1102.4.1.2. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope have been sealed. Where multiple dwelling units or other occupiable conditioned spaces are contained within one building thermal envelope, each unit shall be considered an individual testing unit, and the building air leakage shall be the weighted average of all testing unit results, weighted by each testing unit's enclosure area. Units shall be tested separately with an unguarded blower door test as follows:
Adopt	Item (1.)	(1).Where buildings have fewer than eight testing units, each testing unit shall be tested.
Adopt	Item (2.)	(2) For buildings with eight or more testing units, the greater of seven units or 20 percent of the testing units in the building shall be tested, including a top floor unit, a ground floor unit and a unit with the largest testing unit enclosure area. For each tested unit that exceeds the maximum air leakage rate, an additional two units shall be tested, including a mixture of testing unit types and locations.
Amend	Exception	When testing individual dwelling units, an air leakage rate not exceeding 0.30 cubic feet per minute per square foot [0.008 m ³ /(s × m ²)] of the dwelling unit enclosure area, tested in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch water gauge (50 Pa), shall be permitted in all climate zones for: 1. Attached single- and multiple-family building dwelling units. 2. Buildings or dwelling units that are 1,500 square feet (139.4 m ²) or smaller. Effective July 1, 2024, when a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested in accordance with Section N1102.4.1.2, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3
Amend	Section N1102.4.1.3 Leakage Rate	Where complying with Section N1101.13.1, the building or dwelling unit shall have an air leakage rate not exceeding 7.0air changes per hour in Climate Zones 0, 1 and 2, and 7.0 air changes per hour in Climate Zones 3 through 8, when tested in accordance with Section N1102.4.1.2.
Amend	Section N1102.4.4 Rooms containing fuel-burning appliances.	In Climate Zones 2 through 8, where open combustion air ducts provide combustion air to open combustion fuel-burning appliances, the appliances and combustion air opening shall be located outside the building thermal envelope or enclosed in a room that is isolated from inside the thermal envelope. Such rooms shall be sealed and insulated in accordance with the envelope requirements of Table N1102.1.3, where the walls, floors and ceilings shall meet a minimum of the basement wall R-value requirement. The door into the room shall be fully gasketed and any water lines and ducts in the room insulated in accordance with Section N1103. The combustion air duct shall be insulated where it passes through conditioned space to an R-value of not less than R-8.
Repeal	Section N1102.4.6 Electrical and communication outlet boxes (air-sealed boxes)	
Amend	Section N1103.3.1 Ducts located outside conditioned space	Supply and return ducts located outside conditioned space shall be insulated to an R-value of not less than R-8.
Amend	Section 1103.3.2 Ducts located in conditioned space.	
Amend	Item 3.3	A minimum R-10 insulation installed in the cavity width separating the duct from unconditioned space
Amend	Section N1103.3.3 Ducts buried within ceiling insulation.	In Climate zone 2A Supply and Return ductwork shall not be buried in insulation
Amend	Section N1103.3.5 Duct Testing	Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum sealing requirements of Section N1103.3.4. Ducts shall be pressure tested in accordance with ANSI/RESNET/ICC 380 or ASTM E1554 to determine air leakage by one of the following methods:

Amend	Exceptions	
Adopt	Item (1.)	(1.) A duct air-leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.
Adopt	Item (2.)	(2.) HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.
Amend	Section N1103.3.6 Duct Leakage	
Amend	Item (1.)	(1.) Rough-in test: The total leakage shall be less than or equal to 6.0 cubic feet per minute (113.3 L/min) per 100 square feet (9.29 m ²) of conditioned floor area where the air handler is installed at the time of the test. Where the air handler is not installed at the time of the test, the total leakage shall be less than or equal to 4.0 cubic feet per minute (85 L/min) per 100 square feet (9.29 m ²) of conditioned floor area.
Amend	Item (2.)	(2.) Post construction test: Total leakage shall be less than or equal to 8.0 cubic feet per minute (113.3 L/min) per 100 square feet (9.29 m ²) of conditioned floor area or leakage to outside shall be less than or equal to 4 cfm per 100 sq feet of conditioned floor area.
Repeal	Item (3.)	
Amend	Section N1103.3.7 Building Cavities	Building framing cavities directly adjacent to and within shall not be used as ducts or plenums.
Amend	Section N1103.6 Mechanical Ventilation	The buildings complying with Section N1102.4.1 providing mechanical ventilation shall comply with the requirements of Section M1505 or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.
Amend	Section N1104.1 Lighting equipment	All permanently installed lighting fixtures, excluding kitchen appliance lighting fixtures, shall contain only high-efficacy lighting sources not less than 90 percent of the permanently installed lighting fixture.
Repeal	Section N1104.1.1 Exterior Lighting	
Repeal	Section N1104.2 Interior lighting controls	
Repeal	Section N1104.3 Exterior Lighting controls	
Amend	Section N1106.2 ERI Compliance	
Repeal	Item (1.)	(1.) The requirements of the sections indicated within Table N1106.2
Amend	Section N1106.3.2 On-site renewables are included	Where on-site renewable energy is included for compliance using the ERI analysis of Section N1106.4, the building thermal envelope shall be greater than or equal to the levels of efficiency and SHGC in Table R402.1.1 or R402.1.3 of the 2009 International Energy Conservation Code.
Amend	Section N1106.4 Energy Rating Index	The Energy Rating Index (ERI) shall be determined in accordance with RESNET/ICC 301 Energy used to recharge or refuel a vehicle used for transportation on roads that are not on the building site shall not be included in the ERI reference design or the rated design.
Amend	Section N1106.5 HERS-based compliance	Compliance based on an HERS analysis requires that the rated proposed design and confirmed built dwelling be shown to have an HERS less than or equal to the value of 58.
Adopt	Exceptions	
Adopt	Item (1.)	(1.)HERS calculation method shall be an equivalent to the ERI analysis in calculating compliance
Adopt	Item (2.)	(2.)Other alternate means of home energy rating as approved by the building official
Amend	Section M1307.3.1, Protection from Impact.	Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers.
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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

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

Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:79 (January 2018), amended LR 44:2218 (December 2018), repromulgated LR 45:916 (July 2019), amended LR 45:1789 (December 2019), amended LR 48:2582 (October 2022), LR 49:

**§115. National Electric Code
(Formerly LAC 55:VI.301.A.7)**

A. ...

* * *		
Adopt	Article 702.2(D) Permanent mounted residential generators.	When a permanently mounted residential generator is installed it shall meet the manufacturer's installation instructions. Carbon Monoxide alarms shall be added and installed as per the International Residential Code Section R 315 amendment found in the Louisiana State Uniform Construction Code.
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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512

(September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2387 (November 2015), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:95 (January 2018), repromulgated LR 45:932 (July 2019), amended LR 48:

**§117 International Energy Conservation Code
(Formerly LAC 55:VI.301.A.7)**

A. International Energy Conservation Code (IECC) 2021 Edition and standards referenced in that code for regulation of construction in this state.

Amend	Section C301.2 Warm Humid counties	In Table C301.1, Warm Humid counties are identified by an asterisk but East Carroll and West Carroll shall be listed as Climate Zone 2A Hot Humid Climate
Amend	Section C402.1.3 Insulation component R-value-based method	
Amend	Table C402.1.3 Opaque Thermal Envelope Insulation Component Minimum Requirements, R-Value Method ^a	
Adopt	Exception	For those following a prescriptive path the requirement for slab insulation for unheated slabs Group R, Climate Zone 3, shall not be required and the table shall be listed as NR under that column.
Amend	Section C402.5.9 Vestibules	
Amend	Exceptions	
Amend	Item 1	Buildings in <i>Climate Zones</i> 0 through 1.
Amend	Section C403.4.1	The supply of heating and cooling energy to each zone shall be controlled by individual thermostatic controls capable of responding to temperature within the zone. Where humidification or dehumidification or both is provided, not fewer than one humidity control device shall be provided for each humidity control system. Where cooling is provided, the system shall be capable of limiting relative humidity levels to 60% relative humidity. Supplemental dehumidification equipment may be used to meet this requirement.”
Amend	Section C403.5 Economizers	
Amend	Item 2	Individual fan systems with cooling capacity greater than or equal to 65,000 Btu/h (15.8 kW) in buildings having other than a <i>Group R</i> occupancy,
Amend	Exception	
Amend	Item 1	Individual fan systems not served by chilled water for buildings located in Climate Zones 0A, 0B, 1A,1B,2A and 3A
Amend	Item 6	Systems that include a heat recovery system in accordance with Section C403.10.5 and Section C403.10.6
Amend	Section C403.5.3.3 High-limit shutoff	
Amend	Table C403.5.3.3 High-Limit Shutoff Control Setting For Air Economizers ^b	Remove Climate Zones 2A and 3A from the Fixed Dry Bulb Device Type
Amend	Section C403.7.4.2 Spaces other than nontransient dwelling units	
Amend	Exception	
Amend	Item 8	Where the total air exhausted from spaces served by an outdoor air system is less than 60% of the design outdoor air flow rate.
Amend	Section C403.7.6.1 Temperature setpoint controls	

Amend	Item 2	When the guestroom is unrented and unoccupied, the controls shall automatically raise the cooling setpoint to not lower than 78°F (27°C) and lower the heating setpoint to not higher than 60°F (16°C). Unrented and unoccupied guestroom mode shall be initiated within 16 hours of the guestroom being continuously occupied or where a networked guestroom control system indicates that the guestroom is unrented and the guestroom is unoccupied for more than 20 minutes. A networked guestroom control system that is capable of returning the thermostat setpoints to default occupied setpoints 60 minutes prior to the time a guestroom is scheduled to be occupied is not precluded by this section. Cooling that is capable of limiting relative humidity with a setpoint not lower than 65-percent relative humidity during unoccupied periods is not precluded by this section.
Repeal	Section C405.5.3 Gas Lighting	
Adopt	Residential Provisions	
Amend	Section R102.1.1 Above code programs	The code official serving as the authority having jurisdiction for building codes, shall be permitted to deem a national or state energy-efficiency program to exceed the energy efficiency required by this code. Buildings approved in writing by such an energy-efficiency program shall be considered to be in compliance with this code. The requirements identified in Table N1105.2, as applicable, shall be met and the building thermal envelope is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables 402.1.1 and 402.1.3 of the 2009 International Energy Conservation Code.
Adopt	Section R102.1.2 National Green Building Standard	Buildings complying with ICC 700-2020 National Green Building Standard and achieving an equivalent energy performance as demonstrated by a third-party certification organization shall be deemed to exceed the energy efficiency required by this code.
Adopt	Section R102.1.3 Energy Star Certification	Buildings receiving Energy Star Certification shall be deemed to exceed the energy efficiency required by this code.
Repeal	Section R103.2 Information on Construction Documents	
Amend	Section R301.1 Climate Zones	Climate zones from Figure N1101.7 or Table N1101.7 shall be used for determining the applicable requirements in Sections N1101 through N1113. Locations not indicated in Table N1101.7 shall be assigned a climate zone in accordance with Section N1101.7.2. However, for energy purposes only, all of Louisiana shall be a climate zone 2A. East and West Carroll parishes shall be assigned a warm humid climate zone.
Adopt	Section R401.3 Louisiana Insulation Certificate requirement.	A State of Louisiana Insulation Certificate shall be permanently posted in a utility area.
Adopt	Section R401.3.1 Louisiana Insulation Certificate Template.	

State of Louisiana Insulation Certificate
(Permanently attach this certificate in a utility area near the Energy Efficiency Certificate)

Date Installed _____
Permit Number _____

Area Insulated	Total R-value		Installed Thickness (3.5, 5.5, etc.)	Spray Foam Density (lbs./ft. ³)	Ignition Barrier Provided (Y/N)	Thermal Barrier (Y/N)
Attic roofline (under sheathing)		at	inches			
Attic floor (above ceilings)		at	inches			
Cathedral ceiling		at	inches			
Exterior Walls		at	inches			
Knee walls		at	inches			
Band joist (between levels)		at	inches			
Under first floor (in crawl space)		at	inches			
Basement/crawl space walls		at	inches			

Jobsite Address	
General Contractor License No.	
Insulation Contractor (firm)	
Installer/Applicator Name	
Product Manufacturer(s)	
Product Name(s) & batch no.	

Supplemental Packet Contents:	Uploaded to permitting office (X)	Copy to General Contractor (X)	Copy to Homeowner (X or No Owner)
Insulation Certificate (copy)			
Insulation MSDS or Finished Foam Safety Data Sheets (SDS)			
Product Technical Data Sheets			
Spray Foam Applicator's Training Certificate (from manufacturer or SPFA)			
Performance Testing Report (blower door) with name of 3 rd party provider			

Amend	Section R401.2 Application	Residential buildings shall comply with Section N1101.13.1, N1101.13.2, N1101.13.3 or N1101.13.4.
Repeal	Section R401.2.5	
Amend	Table R402.1.2	

**Table R402.1.2
Maximum Assembly U-Factor^a and Fenestration Requirements**

Climate Zone	Fenestration U-Factor ^f	Sky-Light U-Factor	Glazed Fenestration SHGC ^{d,e}	Ceiling U-Factor	Wood Frame Wall U-Factor	Mass Wall U-Factor ^b	Floor U-Factor	Basement Wall U-Factor	Crawl Space Wall U-Factor
0	0.50	0.75	0.25	0.035	0.084	0.197	0.064	0.360	0.477
1	0.50	0.75	0.25	0.035	0.084	0.197	0.064	0.360	0.477
2	0.40	0.65	0.25	0.030	0.084	0.165	0.064	0.360	0.477
3	0.30	0.55	0.25	0.030	0.060	0.098	0.047	0.091 ^c	0.136
4 except Marine	0.30	0.55	0.40	0.024	0.045	0.098	0.047	0.059	0.065
5 and Marine 4	0.30	0.55	NR	0.024	0.045	0.082	0.033	0.050	0.055
6	0.30	0.55	NR	0.024	0.045	0.060	0.033	0.050	0.055
7 and 8	0.30	0.55	NR	0.024	0.045	0.057	0.028	0.050	0.055

For SI: 1 foot = 304.8 mm.

- a. Nonfenestration U-factors shall be obtained from measurement, calculation or an approved source.
- b. Mass walls shall be in accordance with Section R402.2.5. Where more than half the insulation is on the interior, the mass wall U-factors shall not exceed 0.17 in Climate Zones 0 and 1, 0.14 in Climate Zone 2, 0.12 in Climate Zone 3, 0.087 in Climate Zone 4 except Marine, 0.065 in Climate Zone 5 and Marine 4, and 0.057 in Climate Zones 6 through 8.
- c. In Warm Humid locations as defined by Figure R301.1 and Table R301.1, the basement wall U-factor shall not exceed 0.360.
- d. The SHGC column applies to all glazed fenestration.
Exception: In Climate Zones 0 through 3, skylights shall be permitted to be excluded from glazed fenestration SHGC requirements provided that the SHGC for such skylights does not exceed 0.30.
- e. There are no SHGC requirements in the Marine Zone.
- f. A maximum U-factor of 0.32 shall apply in Marine Climate Zone 4 and Climate Zones 5 through 8 to vertical fenestration products installed in buildings located either:
 1. Above 4,000 feet in elevation above sea level, or
 2. In windborne debris regions where protection of openings is required by Section R301.2.1.2 of the *International Residential Code*.

Amend	Table R402.1.3	
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Climate Zone	Fenestration U-Factor ^{b,i}	Skylight ^b U-Factor	Glazed Fenestration SHGC ^{b,e}	Ceiling R-Value	Wood Frame Wall R-Value ^g	Mass Wall R-Value ^h	Floor R-Value	Base-Ment ^{e,g} Wall R-Value	Slab ^d R-Value & Depth	Crawl Space ^{e,g} Wall R-Value
0	NR	0.75	0.25	30	13 or 0 & 10ci	3/4	13	0	0	0
1	NR	0.75	0.25	30	13 or 0 & 10ci	3/4	13	0	0	0
2	0.40	0.65	0.25	38	13 or 0 & 10ci	4/6	13	0	0	0
3	.30	0.55	0.25	38	13 or 0 & 10ci	8/13	19	5ci or 13 ^f	0	5ci or 13 ^f
4 except Marine	.30	0.55	0.40	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	8/13	19	10ci or 13	10ci, 4 ft	10ci or 13
5 and Marine 4	0.30 ⁱ	0.55	0.40	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	13/17	30	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 19 or 13 & 5ci
6	0.30 ⁱ	0.55	NR	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	15/20	30	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 19 or 13 & 5ci
7 and 8	0.30 ⁱ	0.55	NR	60	30 or 20 & 5ci ^h or 13 & 10ci or 0 & 20ci ^h	19/21	38	15ci or 19 or 13 & 5ci	10ci, 4 ft	15ci or 19 or 13 & 5ci

**Table R402.1.3
Insulation Minimum R-Values and Fenestration Requirements By Component^a**

For SI: 1 foot = 304.8 mm. NR = Not Required.

ci = continuous insulation.

- a. R-values are minimums. U-factors and SHGC are maximums. Where insulation is installed in a cavity that is less than the label or design thickness of the insulation, the installed R-value of the insulation shall be not less than the R-value specified in the table.

<p>b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration. Exception: In Climate Zones 0 through 3, skylights shall be permitted to be excluded from glazed fenestration SHGC requirements provided that the SHGC for such skylights does not exceed 0.30.</p> <p>c. "5ci or 13" means R-5 continuous insulation (ci) on the interior or exterior surface of the wall or R-13 cavity insulation on the interior side of the wall. "10ci or 13" means R-10 continuous insulation (ci) on the interior or exterior surface of the wall or R-13 cavity insulation on the interior side of the wall. "15ci or 19 or 13 + 5ci" means R-15 continuous insulation (ci) on the interior or exterior surface of the wall; or R-19 cavity insulation on the interior side of the wall; or R-13 cavity insulation on the interior of the wall in addition to R-5 continuous insulation on the interior or exterior surface of the wall.</p> <p>d. R-5 insulation shall be provided under the full slab area of a heated slab in addition to the required slab edge insulation R-value for slabs, as indicated in the table. The slab-edge insulation for heated slabs shall not be required to extend below the slab.</p> <p>e. There are no SHGC requirements in the Marine Zone.</p> <p>f. Basement wall insulation is not required in Warm Humid locations as defined by Figure R301.1 and Table R301.1.</p> <p>g. The first value is cavity insulation; the second value is continuous insulation. Therefore, as an example, "13 + 5" means R-13 cavity insulation plus R-5 continuous insulation.</p> <p>h. Mass walls shall be in accordance with Section R402.2.5. The second R-value applies where more than half of the insulation is on the interior of the mass wall.</p> <p>i. A maximum U-factor of 0.32 shall apply in Climate Zones 3 through 8 to vertical fenestration products installed in buildings located either:</p> <ol style="list-style-type: none"> 1. Above 4,000 feet in elevation, or 2. In windborne debris regions where protection of openings is required by Section R301.2.1.2 of the International Residential Code. 		
Amend	Section R402.2.1, Ceilings with attics	
Adopt	Exception	
	Item (1.)	(1.) When the thermal covering at the roof line creates an unvented attic: (a.) Proper sizing or modification of the HVAC system to the current code is required. (b.) Any insulation between the sealed, conditioned attic space and the living space must be removed.
Adopt	Item (2.)	(2.)(a) The space under appliances located in a sealed, conditioned attic may remain in place if sealed from the attic space, it is less than 10% of the total conditioned attic floor, and the appliances are approved for use in a sealed attic. (b.) There shall be no outside attic ventilation and all openings must be blocked with rigid material and are sealed, in accordance with the ICC IRC Chapter 8 "Roof-Ceiling Construction
Amend	Section R402.2.3 Eave Baffle	For air-permeable insulation in vented attics, a baffle shall be installed adjacent to soffit and eave vents.-Baffles shall maintain an opening equal to or greater than the size of the vent. The baffle shall extend over the top of the attic insulation. The baffle shall be permitted to be any solid material.
Amend	Section R402.2.7 Floors	
Repeal		Subfloor insulation shall provide or be installed in permanent contact with a rigid air barrier material. If the building is cooled with air conditioning subfloors in any vented crawl space shall be insulated with an airtight, class II vapor retarder insulation system (perm < 1.0).
Adopt	Exception	
Adopt	Item (1.)	(1.) Plastic Spray Foam cannot be applied to finish flooring where no subfloor exists.
Repeal	Section R402.4.1.1 Installation.	
Amend	Section R402.4.1.2 Testing	The building or dwelling unit shall be tested for air leakage. The maximum air leakage rate for any building or dwelling unit under any compliance path shall not exceed 7.0 air changes per hour or 0.28 cubic feet per minute (CFM) per square foot [0.0079 m ³ /(s × m ²)] of dwelling unit enclosure area. Testing shall be conducted in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals).Effective July 1, 2024, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.1.2. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope have been sealed. Where multiple dwelling units or other occupiable conditioned spaces are contained within one building thermal envelope, each unit shall be considered an individual testing unit, and the building air leakage shall be the weighted average of all testing unit results, weighted by each testing unit's enclosure area. Units shall be tested separately with an unguarded blower door test as follows:
Adopt	Item (1.)	(1.)Where buildings have fewer than eight testing units, each testing unit shall be tested.
Adopt	Item (2.)	(2) For buildings with eight or more testing units, the greater of seven units or 20 percent of the testing units in the building shall be tested, including a top floor unit, a ground floor unit and a unit with the largest testing unit enclosure area. For each tested unit that exceeds the maximum air leakage rate, an additional two units shall be tested, including a mixture of testing unit types and locations.
Amend	Exception	When testing individual dwelling units, an air leakage rate not exceeding 0.30 cubic feet per minute per square foot [0.008 m ³ /(s × m ²)] of the dwelling unit enclosure area, tested in accordance with ANSI/RESNET/ICC 380, ASTM E779 or ASTM E1827 and reported at a pressure of 0.2 inch water gauge (50 Pa), shall be permitted in all climate zones for: 1. Attached single- and multiple-family building dwelling units. 2. Buildings or dwelling units that are 1,500 square feet (139.4 m ²) or smaller. Effective July 1, 2024, when a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested in accordance with Section N1102.4.1.2, the dwelling unit shall be provided with whole- house mechanical ventilation in accordance with Section M1507.3
Amend	Section R402.4.1.3 Leakage Rate	Where complying with Section N1101.13.1, the building or dwelling unit shall have an air leakage rate not exceeding 7.0 air changes per hour in Climate Zones 0, 1 and 2, and 7.0 air changes per hour in Climate Zones 3 through 8, when tested in accordance with Section N1102.4.1.2.

Amend	Section R402.4.4 Rooms containing fuel-burning appliances.	In Climate Zones 2 through 8, where open combustion air ducts provide combustion air to open combustion fuel-burning appliances, the appliances and combustion air opening shall be located outside the building thermal envelope or enclosed in a room that is isolated from inside the thermal envelope. Such rooms shall be sealed and insulated in accordance with the envelope requirements of Table N1102.1.3, where the walls, floors and ceilings shall meet a minimum of the basement wall R-value requirement. The door into the room shall be fully gasketed and any water lines and ducts in the room insulated in accordance with Section N1103. The combustion air duct shall be insulated where it passes through conditioned space to an R-value of not less than R-8.
Repeal	Section R402.4.6 Electrical and communication outlet boxes (air-sealed boxes)	
Amend	Section R403.3.1 Ducts located outside conditioned space	Supply and return ducts located outside conditioned space shall be insulated to an R-value of not less than R-8.
Amend	Section 403.3.2 Ducts located in conditioned space.	
Amend	Item 3.3	A minimum 10 insulation installed in the cavity width separating the duct from unconditioned space
Amend	Section R403.3.3 Ducts buried within ceiling insulation.	In Climate zone 2A Supply and Return ductwork shall not be buried in insulation
Repeal	Item 1	
Repeal	Item 2	
Repeal	Item 3	
Amend	Section R403.3.5 Duct Testing	Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum sealing requirements of Section N1103.3.4. Ducts shall be pressure tested in accordance with ANSI/RESNET/ICC 380 or ASTM E1554 to determine air leakage by one of the following methods:
Amend	Exceptions	
Repeal		A duct air-leakage test shall not be required for ducts serving heating, cooling or ventilation systems that are not integrated with ducts serving heating or cooling systems.
Adopt	Item (1.)	(1.) A duct air-leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.
Adopt	Item (2.)	(2.) HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.
Amend	Section R403.3.6 Duct Leakage	
Amend	Item (1.)	(1.) Rough-in test: The total leakage shall be less than or equal to 6.0 cubic feet per minute (113.3 L/min) per 100 square feet (9.29 m ²) of conditioned floor area where the air handler is installed at the time of the test. Where the air handler is not installed at the time of the test, the total leakage shall be less than or equal to 4.0 cubic feet per minute (85 L/min) per 100 square feet (9.29 m ²) of conditioned floor area.
Amend	Item (2.)	(2.) Post construction test: Total leakage shall be less than or equal to 8.0 cubic feet per minute (113.3 L/min) per 100 square feet (9.29 m ²) of conditioned floor area or leakage to outside shall be less than or equal to 4 cfm per 100 sq feet of conditioned floor area.
Repeal	Item (3.)	
Amend	Section R403.3.7 Building Cavities	Building framing cavities directly adjacent to and within shall not be used as ducts or plenums.
Amend	Section R403.6 Mechanical Ventilation	The buildings complying with Section N1102.4.1 providing mechanical ventilation shall comply with the requirements of Section M1505 or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.
Amend	Section R404.1 Lighting equipment	All permanently installed lighting fixtures, excluding kitchen appliance lighting fixtures, shall contain only high-efficacy lighting sources not less than 90 percent of the permanently installed lighting fixture.
Repeal	Section R404.1.1 Exterior Lighting	
Repeal	Section R404.2 Interior lighting controls	
Repeal	Section R404.3 Exterior Lighting controls	
Amend	Section R406.2 ERI Compliance	
Repeal	Item (1.)	(1.) The requirements of the sections indicated within Table N1106.2
Amend	Section R406.3.2 On-site renewables are included	Where on-site renewable energy is included for compliance using the ERI analysis of Section N1106.4, the building thermal envelope shall be greater than or equal to the levels of efficiency and SHGC in Table R402.1.1 or R402.1.3 of the 2009 International Energy Conservation Code.
Amend	Section R406.4 Energy Rating Index	The Energy Rating Index (ERI) shall be determined in accordance with RESNET/ICC 301 Energy used to recharge or refuel a vehicle used for transportation on roads that are not on the building site shall not be included in the ERI reference design or the rated design.
Amend	Section R406.5 HERS-based compliance	Compliance based on an HERS analysis requires that the rated proposed design and confirmed built dwelling be shown to have an HERS less than or equal to the value of 58.
Adopt	Exceptions	
Adopt	Item (1.)	(1.)HERS calculation method shall be an equivalent to the ERI analysis in calculating compliance
Adopt	Item (2.)	(2.)Other alternate means of home energy rating as approved by the building official

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 49:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family formation/functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

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 the R.S. 49:973.

Small Business Analysis

In compliance with Act 820, of the 2008 Regular Legislative Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.6.

Provider Impact Statement

As described in HCR 170 of the 2014 Regular Legislative Session, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider’s ability to provide the same level of service as described in HCR 170.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Mark Joiner, Office of State Fire Marshal, 8181 Independence Blvd. Baton Rouge, LA 70806. Written comments may also be hand-delivered to Mark Joiner, Office of State Fire Marshal, 8181 Independence Boulevard, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before April 10, 2023 at 4:30 p.m. If necessary, a public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a).

Chief Daniel H. Wallace
State Fire Marshal

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Uniform Construction Code
Energy Codes**

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

This proposed rule change may result in initial construction costs to both state and local governmental units. However,

based on testimony from the Federal Emergency Management Agency (FEMA), the insurance savings will overtake the initial construction costs in three to five years. Therefore, this proposed rule is anticipated to result in long term savings for both state and local governmental units. Furthermore, by adopting the International Building Code (IBC) and International Residential Code (IRC) revisions on freeboard standards, both state and local governments will qualify for federal grants to help offset the initial costs. The anticipated insurance savings and increased federal grants opportunities will vary due to the size and scope and number of the projects in the flood hazard areas.

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

The proposed rule change will not affect revenue collections for state or local governments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will result in indeterminable net savings and costs in commercial and residential construction costs. The initial costs will vary for owners and contractors due to the proximity to bodies of water and coastal communities. While maximizing safety and resiliency as a result of the permitted use of the required freeboard in the adopted national standards, the overall savings should overcome the initial investment costs. This resiliency should help attract insurance companies thus increasing the availability and lowering the premiums to consumers.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule changes will not affect competition or employment.

Daniel Wallis
Fire Marshal
2303#039

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Uniform Construction Code Council**

**Uniform Construction Code—Freeboard Requirements
(LAC 17:I.103 and 107)**

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby gives notice that it proposes to amend and adopt the following Rule. The purpose of adopting and amending the currently adopted construction codes is to replace them with more recent technology, methods and materials for the 2021 editions of the *International Residential Code and International Building Code* and to also comply with more current FEMA regulations.

**Title 17
CONSTRUCTION**

Part I. Uniform Construction Code

**Chapter 1. Adoption of the Louisiana State Uniform Construction Code
(Formerly LAC 55:VI.Chapter 3)**

**§103. International Building Code
(Formerly LAC 55:VI.301.A.1)**

A. *International Building Code* (IBC), 2021 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

* * *		
Amend	Item (3.)	(3.) Glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.
Amend	Section 1612.42, Design and Construction.	The design and construction of buildings and structures located in flood hazard areas, including coastal high hazard areas and coastal A zones, shall be in accordance with Chapter 5 of ASCE 7 and ASCE 24. The local jurisdictions, utilizing flood plain manager, shall have the authority to adopt higher freeboard amounts as needed (CRS, etc.) but shall not have the authority to adopt freeboard amounts less than those required in ASCE-24.
Amend	Section 1613.1, Scope.	Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

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

Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:75 (January 2018), repromulgated LR 45:912 (July 2019), amended LR 45:1786 (December 2019), LR 48:2578 (October 2022), LR 49:

**§107. International Residential Code
(Formerly LAC 55:VI.301.A.3.a)**

A.1. ...

* * *		
Amend	Section R322.2.1, General	Buildings and structures constructed in whole or in part in flood hazard areas, including A or V Zones and Coastal A Zones, as established in Table R301.2, and substantial improvement and repair of substantial damage of buildings and structures in flood hazard areas, shall be designed and constructed in accordance with the provisions contained in this section. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area. Buildings and structures located in whole or in part in identified floodways shall be designed and constructed in accordance with ASCE 24. The local jurisdictions, utilizing flood plain managers, shall have the authority to adopt higher freeboard amounts as needed (CRS, etc.) but shall not have the authority to adopt freeboard amounts less than those required in ASCE-24
Amend	Section R506.2.3	A minimum 6 mil (0.006 inch) vapor retarder conforming to ASTM E1745 Class A requirements with joints lapped not less than 6 inches (152 mm) shall be placed between the concrete floor slab and the base course or the prepared subgrade where a base course does not exist.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire

Marshall, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, Uniform Construction Code Council, LR 44:79 (January 2018), amended LR 44:2218 (December 2018), repromulgated LR 45:916 (July 2019), amended LR 45:1789 (December 2019), amended LR 48:2582 (October 2022), LR 49:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family formation/functioning, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

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 the R.S. 49:973.

Small Business Analysis

In compliance with Act 820, of the 2008 Regular Legislative Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.6.

Provider Impact Statement

As described in HCR 170 of the 2014 Regular Legislative Session, the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider’s ability to provide the same level of service as described in HCR 170.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted via the U.S. Mail to Mark Joiner, Office of State Fire Marshal, 8181 Independence Blvd. Baton Rouge, LA 70806. Written comments may also be hand-delivered to Mark Joiner, Office of State Fire Marshal, 8181 Independence Boulevard, Baton Rouge, LA 70806. All written comments are required to be signed by the person submitting the comments, dated, and received on or before April 10, 2023 at 4:30 p.m. If necessary, a public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a).

Chief Daniel H. Wallace
State Fire Marshal

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Uniform Construction Code
Freeboard Requirements**

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

This proposed rule change may result in savings for state and local governments as they promulgate the 2021 International Energy Conservation Code (IECC) and the 2021 International Residential Code (IRC), Chapter 11- Energy. The IECC revisions may result in indeterminable savings for local governmental units while not affecting the expenditures of state government. Furthermore, the IECC revisions may result in net savings for state and local governmental units to the extent they utilize the new technologies outlined in the proposed rule change, though the savings will likely occur over an extended time. These savings will vary due to the size and scope of the projects.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in indeterminable net savings in commercial and residential construction costs and/or operating and maintenance costs for owners and contractors, while maximizing safety and energy efficiency, as a result of the permitted use of new technologies and a revision of building standards for which high-efficiency systems must be installed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Daniel Wallis
Fire Marshal
2303#038

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of Transportation and Development
Office of Operations**

Combination or Double Tandem Load Permit
(LAC 73:I.Chapter 21)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:961 et seq., and through the authority granted in Title 32:387.2 of the Revised Statutes that the Department of Transportation and Development, Office of Operations, Weights and Enforcement Section, proposes to adopt Part I, Chapter 21, of Title 73 entitled "Combination or Double Tandem Load Permit", to allow the issuance of a Combination or Double Tandem Load Permit, a special biannual permit for the operation of a combination of vehicles or tandem loads hauling divisible or non-divisible container imports or exports to and from any port facility in the state.

Title 73

WEIGHTS, MEASURES AND STANDARDS

Part I. Weights and Standards

Chapter 21. Combination or Double Tandem Load Permit

§101. General Information

A. Authority. DOTD has statutory authority to issue a special biannual permit for the operation of a combination of vehicles or tandem loads hauling divisible or non-divisible container imports or exports to and from any port facility in the state.

B. Definitions. Terms as defined in R.S. 32:1 shall retain their definitions, unless the term is specifically defined in this Subsection. As used in this Section, unless the context clearly indicates otherwise, the following terms shall have the following meanings.

Axle Group—a combination of two or more consecutive axles considered together in determining their combined load effect on a highway (as tandem, tridem, or quadrum axle groups).

Department—refers to the Louisiana Department of Transportation and Development (DOTD).

Destination Point—the location where the packer’s seal is broken.

Divisible Container Import/Export—a load consisting of two non-divisible containers, hauled in tandem, rendering the load divisible.

Gross Weight—the weight of a vehicle and/or combination of vehicles plus the weight of any load thereon.

Hazardous Material—per CFR 49:385.402(b), a substance or material that the U.S. Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce that has been designated as hazardous in 49 U.S.C. §5103 (Revised October 2015). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table detailed in 49 CFR §172.101 (Revised December 2022) and materials that meet the criteria for hazard classes and divisions detailed in 49 CFR §173.1 (Revised September 2005).

Individual Axle—any of the two, three, or four axles which make up the tandem, tridem, or quadrum axle groups.

Interstate Highway—a fully controlled access highway which is a part of the National System of Interstate and Defense Highways.

Length—the total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

Non-divisible Container Import/Export—a freight container, as defined by 49 U.S.C. §5901(4), that retains the original unbroken official seal throughout transit from the point of origin until reaching the destination point.

Point of Origin—the location where the packer’s seal is affixed.

Quadrum Axle—any four consecutive axles whose centers are more than 40 inches but not more than 96 inches apart. A quadrum axle shall be designed to equalize the load between axles.

Sealed Containerized Load—sealed containers being used in international transport in conjunction with a maritime shipment. Pursuant to 49 U.S.C. §5901(4), containers used in providing transportation in interstate commerce.

Tandem Axle—any two consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tandem axle shall be designed to equalize the load between the axles.

Trailer—an unpowered vehicle towed by a powered vehicle, commonly used for the transport of goods and materials.

Tridem Axle—any three consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tridem axle shall be designed to equalize the load between axles.

Truck Tractor—a non-cargo carrying power unit used in combination with a semitrailer.

Vehicle—any device by which a person or things may be transported upon a public highway or bridge. A trailer or semi-trailer shall be a separate vehicle.

Width—the total outside transverse dimension of a vehicle including any load or load holding devices thereon,

but, excluding approved safety devices and tire bulge due to load.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1, R.S. 32:2, R.S. 32:387 and R.S. 32:387.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

§103. Obtaining the Combination or Double Tandem Load Permit

A. General. The permit shall be obtained prior to the movement of the vehicle begins or the vehicle enters Louisiana.

B. Location. The permit shall be issued by the truck permit office at DOTD in Baton Rouge.

C. Application Procedure

1. The permit may be obtained by appearing in person at the permit office in Baton Rouge, by calling the permit office and providing the requisite information, or by completing the form electronically through the online permitting system.

2. All information required on a permit form shall be furnished at the time the permit is requested.

3. The applicant shall have the exact amount for payment.

4. The permit will be issued to the truck tractor, either physically or electronically. It shall be available for inspection at all times by the proper authorities.

D. Routes

1. All routes shall be approved by DOTD.

2. Only one route will be approved per application, and the permit is only valid for the approved route.

3. Each additional route requires an additional permit application, subsequent approval, and payment of the permit fee.

E. Fees. The permit fee is \$3,000 biannually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, R.S. 32:387 and R.S. 32:387.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

§105. Regulations

A. The permit authorizes a driver to operate on state maintained roads only (excluding the interstate) provided the vehicle has the required number of axles and does not exceed the maximum gross weight or axle limit (See §107 for Limitations).

B. Either the truck tractor or one of the trailers shall contain a tridem axle.

C. The permittee shall have a copy of the international bill of lading, present in the vehicle and available for inspection, at all times.

D. Containers shall be transferred to or from a ship, vessel, or a rail system designated for international travel.

E. Containers shall remain sealed from the point of origin to the point of destination.

F. Routes. The routes shall be completed via state and federal roadways, excluding the interstate system. Routes shall originate or terminate at one of the following port facilities which are recognized by the Ports Association of Louisiana.

1. Central Louisiana Regional Port (CLRP);
2. Avoyelles;
3. Port of Greater Baton Rouge;

4. The Port of Caddo—Bossier;
5. Columbia;
6. Port Fourchon;
7. Grand Isle Port;
8. Greater Ouachita Port;
9. Port of Iberia;
10. Port of Krotz Springs;
11. Port of Lake Charles;
12. Lake Providence Port;
13. Louisiana International Deep Water Gulf Transfer Terminal Authority (LIGTT);
14. Madison Parish Port;
15. Manchac;
16. Mermentau;
17. Port of Morgan City;
18. Natchitoches Parish Port;
19. Port of New Orleans;
20. Plaquemines Port;
21. Port of Pointe Coupee;
22. Red River;
23. Port of South Louisiana;
24. St. Bernard Port;
25. The Port of Terrebonne;
26. Port of Delcambre (Twin Parish Port District);
27. Port of Vermillion;
28. Port of Vidalia;
29. Port of Vinton;
30. West Calcasieu Port;
31. Cameron Parish Port; and
32. Port of West St. Mary.

G. Safety.

1. The primary concern of the department is the safety of the motoring public and protecting the state’s highway infrastructure system.
2. The registration certificate issued to a vehicle shall be carried at all times in the vehicle and be available for inspection.
3. All traffic and safety laws and regulations shall be obeyed.
4. It shall be the responsibility of each permittee to review the DOTD online route planner to determine if there are any limitations to their approved route(s), prior to traveling.
5. Permittee shall adhere to any and all signage limitations posted in construction zones.
6. The vehicles are not allowed to operate on a load posted bridge.
7. The permit does not authorize the transport of hazardous material or any substances or materials that may pose an unreasonable risk to health, safety, and property when transported in commerce.

a. DOTD reserves the right to decline to issue a permit that would result in the transportation of materials deemed hazardous or that would impose an unreasonable risk to health, safety, and property when transported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, R.S. 32:387 and R.S. 32:387.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

§107. Limitations

A. All combination vehicles or tandem loads shall meet each of the following requirements.

1. It cannot exceed 140,000 pounds (gross weight).
2. It cannot exceed 40,000 pounds per tandem axle spread and 60,000 pounds per tridem axle spread.
3. It cannot exceed 83 feet in length.
4. It shall be equipped with a dual-axle dolly and a dolly safety system with tilt sensors attached to the dolly that provide feedback on tilt information to the driver of the vehicle to ensure safe operations.
5. The truck tractor shall be licensed for 88,000 pounds.

B. The permits issued are not valid on local roads. An applicant requesting a permit shall contact local authorities and provide to DOTD written proof of approval to travel on local roads by the appropriate parish or municipal governing authority, prior to issuance of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, R.S. 32:387 and R.S. 32:387.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

§109. Liability for Damages

A. Every special permit is issued on the condition that the permittee accepts and uses it at their own risk, even though all instructions, directions, and requirements of the department have been followed. Neither the State of Louisiana nor the Department of Transportation and Development or its employees shall incur any liability of any nature from the use of the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, R.S. 32:387, and R.S. 32:387.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

§111. Permit Restrictions

A. Permits are issued on the condition that all requirements and restrictions will be complied with by the permittee. Any additional cost(s) necessitated to comply with these restrictions is to be borne by the permittee.

B. Penalties for any violation of the permit will be assessed in accordance with R.S. 32:388 and R.S. 32:388.1, as well as any other applicable federal or state regulations.

C. If a permittee travels outside of their approved route, DOTD reserves the right to revoke and/or rescind their permit, resulting in the permit being null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2, R.S. 32:387, R.S. 32:387.2, R.S. 32:388, and R.S. 32:388.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Crescent City Connection Division, LR 49:

Family Impact Statement

Adoption of this proposed Rule should not have any known or foreseeable adverse impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The adoption of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The adoption of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The adoption of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The adoption of this proposed Rule will have no known or foreseeable adverse effect on the family earnings and family budget.

5. The adoption of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The adoption of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The adoption of this proposed Rule should not have any known or foreseeable adverse impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The adoption of this proposed Rule will have no known or foreseeable adverse effect on household income, assets, and financial security.

2. The adoption of this proposed Rule will have no known or foreseeable adverse effect on early childhood development and preschool through postsecondary education development.

3. The adoption of this proposed Rule will have no known or foreseeable adverse effect on employment and workforce development.

4. The adoption of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The adoption of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the adoption of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, 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 the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The adoption of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The adoption of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The adoption of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The adoption of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Nicholas A. Fagerburg, Weights and Enforcement Engineer Administrator, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Shawn D. Wilson, Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Combination or Double Tandem Load Permit**

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

The proposed rule is a result of Act 551 of the 2022 Regular Session. Act 551 establishes a new permit authorizing the transport of a combination of vehicles or tandem loads to and from Louisiana ports. Initial costs associated with the implementation would be to publish the Notice of Intent and Rules in the State Register. The Louisiana Department of Transportation and Development (DOTD) will also incur costs for the use of software to produce the new permit. Those costs are not quantifiable by the department, at this time.

Moreover, with the implementation of the proposed rule, the department and the Police Jury Association of Louisiana are concerned that there will be substantial damage to the State's infrastructure, particularly State and local roads, highways, and bridges. There are also concerns about the inability to pay for the consequential damages and subsequent repairs of that infrastructure, as the permit fees will not sufficiently cover these anticipated costs. Those costs are indeterminable at this time, as the routes will be approved upon application, on a case-by-case basis.

The department does not anticipate any savings resulting from the implementation.

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

The proposed rule would include a \$3,000 application fee for a biannual permit, which the Louisiana Department of Transportation and Development will collect. Each permit would require an approved route, and each route would then require an additional permit application and fee. As for local governments, permittees would be required to obtain approval from local parishes and municipalities to travel on roads owned by them. The specific amount of anticipated increased revenue cannot be quantified at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Generally, applicants for the permit will incur a \$3,000 fee for the permit application, and be required to invest any other costs necessary to ensure their equipment meets regulatory requirements. There are also the potential costs for applicants, associated with obtaining permission (i.e. written approval) to travel on local routes from local parishes or municipalities.

Proponents of the legislation indicate that truck drivers, small carriers, and non-governmental groups focused on

environmental, business-related, and road safety will benefit from the proposed rule. In addition, proponents anticipate there will be a reduction in port and road congestion, an increase in efficiency, increased driver pay, and decreased emissions. Further, they assert that small businesses, such as small carriers, will be able to compete with large carriers for drivers resulting in increased revenue from shippers.

The department cannot determine whether the proposed rule change will have an economic benefit on truck drivers, small carriers, and non-governmental groups until the permit goes into effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proponents of the legislation anticipate that the proposed rule and associated permit will make Louisiana ports more

attractive to major importers and exporters. This would stem from a lack of congestion, and the increased efficiency in loading and unloading the vessels. Proponents also contend that Louisiana ports will become increasingly competitive with other Gulf South ports, and more revenue will be generated as import and export volume increase, resulting in more jobs in the trucking industry, warehousing industry, and within the ports themselves.

The department cannot determine whether the proposed rule change will have any benefits on competition and employment until the permit goes into effect.

Shawn D. Wilson, Ph.D.
Secretary
2303#025

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Economic Development Office of Business Development

Louisiana Competes Regional Economic Development
Program “Louisiana Competes Program”
(LAC 19:III.Chapter 25)

The Department of Economic Development published a Notice of Intent in the December 2022, Volume 48, No. 12 issue of the *Louisiana Register*. Upon further review of comments received and discussion with various stakeholders, the department proposes amending §2503 and §2507.B.2 relative to the provisions regarding the permissibility of using funds to develop other property.

Title 19

CORPORATION AND BUSINESS

Part III. Financial Assistance Programs

Chapter 25. Louisiana Competes Regional Economic Development Program—“Louisiana Competes Program”

§2501. Preamble and Purpose

A. The legislature recognizes the strong competition among states to attract new business and industry and to grow existing business and industry.

B. It is further recognized that different regions have different characteristics and attributes which are advantageous to specific sectors of the economy.

C. The legislature believes that local citizens working through regional economic development organizations (“REDO’s”) are uniquely positioned to support the state’s overall economic development efforts by identifying and directing how certain resources are best utilized to take advantage of a region’s distinctive economic potential.

D. The purpose of this program is therefore for the Department of Economic Development, (“LED”) to provide grants to REDO’s to provide locally developed and tailored services directly relating to attracting new business and industry and growing existing business and industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1481 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 49:

§2503. Definitions

Cooperative Endeavor Agreement—that agreement between a regional economic development organization and LED, through which the parties set forth the amount of the grant, the terms, conditions and compliance requirements. Abbreviated as CEA.

Grant—an award from the Louisiana Competes Economic Development Program to a regional economic development organization.

LED—the Louisiana Department of Economic Development.

Louisiana Competes Program—this program, the Louisiana Competes Regional Economic Development Program.

Other Property—property that is not publicly owned, to the extent allowable under Article VII, Section 14 of the Louisiana Constitution or other applicable state law, as approved by LED and subject to §2507.B.2.

Public Site—a site which a public entity owns.

Qualified Expenditure—in accordance with R.S. 39:1484, #2107 of these program rules, and as confirmed and approved by LED.

Regional Economic Development Organization—any of the following eight organizations: the Baton Rouge Area Chamber; the Central Louisiana Economic Development Alliance; Greater New Orleans, Inc.; the Northeast Louisiana Economic Alliance; the North Louisiana Economic Partnership; One Acadiana; the South Central Planning and Development Commission; the Southwest Louisiana Economic Development Alliance, or any of their successors. Abbreviated and also known as “REDO”,

Secretary—the Secretary of the Department of Economic Development

Site—immovable property, with or without improvements thereon, located in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1481 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 49:

§2505. Award Process

A. The secretary shall promulgate administrative rules for the program, in accordance with the Administrative Procedure Act and in consultation with the 8 enumerated REDO’s and the Louisiana Chamber of Commerce Foundation.

B. Within thirty calendar days after adoption of program rules, the REDO’s and the state, through LED, shall enter into an initial cooperative endeavor agreement (“CEA”), which will specify the objectives and intent of the REDO’s, the amount of the award, the terms and conditions of the award and the compliance requirements to be confirmed by LED. REDO obligations shall be limited under the CEA to the following:

1. identifying high-priority sites for the purpose of attracting economic development projects;
2. developing high-priority sites for the purpose of attracting economic development projects;
3. developing and subsequently providing an annual report of all activities related to the objectives of the CEA undertaken in any previous year;
4. maintaining records and an accurate accounting of all expenditures;
5. adhering to state and federal non-discrimination laws;
6. adhering to the provisions of R.S. 39:1602.1;

7. applying a ten percent local match;
a. a REDO shall not expend any grant funds without simultaneously applying local matching funds equaling 10 percent of the cost being paid.

b. local matching funds cannot come from the LED provided Regional Awards and Matching Grant Program Tier 1 funds;

c. funds originating from any lawful source other than the state shall constitute local matching funds.

C. The initial CEA with each REDO shall have a term of two years, which shall automatically renew for successive one-year periods until such times as all initial funds provided for in the CEA have been expended, as verified and confirmed in writing by LED.

D. Funds may be disbursed by LED to REDO's after execution of a CEA on a cost reimbursement basis, or may be direct vendor pay by LED on behalf of REDO, after submission of all required compliance documentation to LED.

E. Each REDO shall receive a grant in the amount of up to one-eighth of the funds appropriated;

1. An initial grant in the amount of up to \$1million shall be allocated to each REDO, in accordance with a total program allocation of \$8 million incorporated in Act 170 of the 2022 Regular Session of the Louisiana Legislature;

2. Thereafter, each REDO shall receive a subsequent grant in the amount of up to one-eighth of any annual funds specifically appropriated to LED for the Louisiana Competes Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1481 et seq.

HISTORICAL NOTE: Promulgated by the Department Economic Development, Office of Business Development, LR 49:

§2507. Qualified Expenditures

A. REDO's shall only use grant funds to pay for qualified expenditures related to the furtherance of economic development within the region it represents.

B. Qualified expenditures are limited to site development costs for publicly owned property or other property to the extent allowable under Article VII, Section 14 of the Constitution of Louisiana and other applicable state law, as approved in writing by LED.

1. Grant awards for development of other property, in proportion to awards for development of publicly owned property, may be limited by the secretary if determined to be in the best interests of the state.

2. Reimbursement of funds expended on other property is contingent upon written evidence being provided to LED that such development costs are allowable under Article VII, Section 14 of the Constitution and any other applicable state law. Such evidence may include but not be limited to a final judicial determination from a court of competent jurisdiction.

C. Eligible site development costs may include but not be limited to the following:

1. studies;
2. surveys;
3. development of plans and specifications;
4. real estate services and transactions, such as option agreements, rights of first refusal and infrastructure improvements may be considered qualified expenditures if they further attributes of the site as a developable property

and adequate supporting documentation is submitted to LED. LED will evaluate submissions on a case by case basis, but would consider the following to be examples of improvements:

a. the construction of water, sewer or rail lines, roads or the development of rights of way.

b. the removal of an existing structure;

5. due diligence;

6. remediation;

7. wetland delineation;

8. professional services for architectural, engineering, legal, construction, and financial services related to site development.

D. Ineligible site development costs may include but not be limited to the following:

1. salaries, wages or benefits;

2. travel expenses incurred by REDO officers, employees or contractors;

3. alcohol;

4. land, building, offices, equipment, or vehicles used primarily for the administrative operations of the REDO.

AUTHORITY NOTE: Promulgated in accordance with. R.S. 39:1481 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 49:

Public Comments

Interested persons should submit written comments on the proposed Rules to Michael Tepper through the close of business on April 26, 2023 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Michael.Tepper@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on April 27, 2023 in the Griffon Conference Room at the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

2303#047

POTPOURRI

Office of the Governor Division of Administration Tax Commission

Public Hearing—Substantive Changes to Notice of Intent Exempt Property, Industrial Exemption Properties, Electronic Tax Roll Export Specifications and Valuation of Oil, Gas, and Other Wells (LAC 61:V.103, 211, 304, and 907)

Pursuant to R.S. 968(H)(2) the Louisiana Tax Commission proposed to amend the original Notice of Intent, published in the December 20, 2022 *Louisiana Register* to include the following changes. These amendments generally provide clarity regarding ITEP contracts, updated information on the Electronic Tax Roll Export Specifications due to constitutional amendments passage, as well as, clarification for other fields and the change to the figures on the Oil & Gas Table have now been determined using a calendar year's information which was not available at the time the Notice

of Intent was published. These amendments do not change the fiscal and economic impact of the proposed rule.

Title 61

REVENUE AND TAXATION

Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§103. Exempt Property

A. - A.24. ...

25. new manufacturing establishments and additions to existing manufacturing establishments to the extent tax exempt by virtue of an approved contract with the State Board of Commerce and Industry, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974. Parish tax assessors shall give retroactive effect to a fully approved ITEP contract or renewal, consistent with the terms of the ITEP contract and the rules and regulations of the State Board of Commerce and Industry, and parish tax assessors shall process change order requests and/or approve refund request applications in order to give retroactive effect to such an ITEP contract or refund;

26. coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes;

27. value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the State Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974;

28. goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998), LR 32:426 (March 2006), LR 34:675 (April 2008), LR 49:

Chapter 2. Policies and Procedures for Assessment and Change Order Practices

§211. Industrial Exemption Properties

A. - C.7. ...

D. Assessors' offices shall review all Industrial Exemption applications and DED contracts issued to determine proper exempt status for ad valorem taxation purposes.

1. If an assessor determines that any portion of an Industrial Exemption is not eligible for ad valorem tax exemption, pursuant to Article VII, Section 21(F) of the Louisiana Constitution of 1974 and rules of the Industrial Tax Exemption Program, the assessor shall informally address concerns to the DED Manager of the Industrial Tax Exemption Program. If informal communication does not satisfactorily answer the assessor's concerns, formal notice shall immediately be submitted to DED, with written ineligibility reasons given.

2. All contract status reports submitted to the assessors' offices by DED and the taxpayer's annual LAT 5-A reports shall be reviewed for accuracy. Any inaccuracies noted shall be reported, in writing, to DED immediately upon discovery.

3. Assessors' offices shall review and confirm contract expiration dates and immediately notify DED, in writing, of any disparity identified. If any exempted manufacturing business is determined to have ceased its operations (business closed) during a contracted exemption period, the assessors' office should provide notice to DED of such cessation.

4. Assessors are urged to obtain rules for the Industrial Tax Exemption Program available at www.lded.state.la.us/come-to-louisiana/business-resources/state-business-incentives/industrial-tax-exemption-program.aspx or by contacting DED's Business Incentives Division.

5. The filing of an advance notice or application for an Industrial Exemption does not exempt property from ad valorem taxes, however, parish tax assessors shall give retroactive effect to a fully approved ITEP contract or renewal, consistent with the terms of the ITEP contract and the rules and regulations of the State Board of Commerce and Industry, and parish tax assessors shall process change order requests and/or approve refund request applications in order to give retroactive effect to such an ITEP contract or refund.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 21(F), R.S. 47:1837, R.S. 47:4301, et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:702 (March 2005), LR 32:427 (March 2006), LR 34:677 (April 2008), LR 49:

Chapter 3. Real and Personal Property

§304. Electronic Change Order Specifications, Property Classification Standards and Electronic Tax Roll Export Specifications

A. - B. ...

* * *

C. Electronic Tax Roll Export Specifications

* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)

assessment_status	Character	2	Yes	“AC” = Active (effective 2024, includes assessments with partial exemptions), “AJ” = Adjudicated, “EX” = Exempt/Tax Free (effective 2024, only to be used for 100% tax exempt assessments), “IE” = Industrial Exemption, “RS” = Restoration and “OT” = Other [IE, RS, and OT codes to be eliminated effective 2024]
homestead_exempt	Numeric	1	Yes	0 = None (default), 1 = Yes (homestead exemption, of any type, at any percentage, is applicable to assessment), 2 = 100% Disabled Veteran Homestead and 3 = 100% Unmarried Surviving Spouse of Active Duty Homestead [Codes 2 and 3 to be eliminated effective 2024]
homestead_percent	Numeric	6.2	No	Homestead Exemption percentage to be applied to assessment (Format: 100.00 (Default) [field to be abandoned effective 2024]

restoration_tax_exempt	Character	1	No	Restoration Tax Abatements on historical property, N = No (Default), Y = Yes [field to be abandoned effective 2024]
tax_acct	Numeric	6	No	Tax account number is required for grouping tax assessments together

usufruct	Character	1	Yes	“N” = No (default) and “Y” = Yes
other_exempt	Numeric	1	No	0 = None (default), 1 = Yes (any other exemption, other than homestead and disabled veteran, of any type, at any percentage, is applicable to assessment) [to be a required field effective 2024]
veteran_exempt	Numeric	1	Yes	0 = None (default), 1 = disabled veteran exemption, at any level, is applicable to assessment, when claimed by disabled veteran, 2 = disabled veteran exemption, at any level, is applicable to assessment, when claimed by surviving spouse of disabled veteran

Assessment Value Information (Avalue.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)

market_value	Numeric	12	Yes	Fair Market Value of item
total_value	Numeric	10	Yes	Total assessed value of item. (total of taxpayer’s share and the homestead credit, other exemption and non-taxable assessed value added together of item.)
homestead_credit	Numeric	6	Yes	Assessed value of item to be credited by Homestead Exemption
homestead_type	Numeric	1	No	0 = None (default), 1 = Default Homestead Exemption (\$7,500 of total assessed value), 2 = 100% Unmarried Surviving Spouse of Active Duty Homestead [to be a required field effective 2024]
homestead_percent	Numeric	6.2	No	Homestead Exemption percentage to be applied to assessment of item (Format: 100.00 (Default) [to be a required field effective 2024]
veteran_exempt_type	Numeric	1	Yes	0 = None (default), 1 = Disability between 50% and 69%, 2 = Disability between 70% and 99%, 3 = 100% disabled
veteran_credit	Numeric	10	Yes	Assessed value of item to be credited by disabled veteran exemption (e.g. \$2,500 for a disability between 50% and 69%, \$4,500 for a disability between 70% and 99%, or the remaining assessed value of item after homestead credit applied for 100% disability)
other_exempt_value	Numeric	10	No	Assessed value of item to be credited by other exemptions (e.g. Industrial, Restoration, Agricultural, Institutional, Religious, Non-profit); [to be a required field effective 2024]
taxpayer_value	Numeric	10	Yes	Assessed value of item to be paid by Taxpayer.
quantity	Numeric	9.2	Yes	Quantity units of item in the number of Front Feet, Square Feet, Lot(s), Acre(s), Improvement(s) or Year(s) for Personal Property
units	Character	1	Yes	Unit of Measure of item (Format: “F” = Front Feet, “S” = Square Feet, “L” = Lots, “A” = Acres, “I” = Improvements and “Y” = Years)
lrc_sub-class_code	Character	4	Yes	LTC Property Sub-Class Code of item
other_exempt	Numeric	1	Yes	0 = None (default), 1 = Commerce/Industry (Ten Year Exemption), 2 = Agricultural, 3 = Institutional, 4 = Timber and 5 = Marshland [effective 2024, codes to be revised as follows: 0 = None (default), 1 = Industrial, 2 = Restoration, 3 = Agricultural Buildings, 4 = Institutional (School & Government), 5 = Religious, 6 = Non-Profit

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)

percent	Numeric	6.2	Yes	Percent of assessed value applicable to the millage. (Applies to split district millages, use 100.00 as default value if percent is not applied.)
taxing_body_approval	Numeric	1	No	Indicates if local taxing body related to the millage approved an exemption (or did not vote). 0 = voted to approve exemption/NA (default), 1 = voted to deny exemption [to be a required field effective 2024]
total_tax	Numeric	11.2	Yes	Total taxes assessed to the property. (Format:99999999.99)
homestead_credit	Numeric	11.2	Yes	Homestead exemption share of taxes credited. (Format: 99999999.99)
other_exempt_taxes	Numeric	11.2	No	Amount of taxes credited due to other exemption(s) (other than homestead). (Format: 99999999.99) [to be a required field effective 2024]
taxpayer_tax	Numeric	11.2	Yes	Tax payer’s taxes owed. (Format: 99999999.99)

Tax Exemption Program Information (TEP.txt)				
Field Name	Field Type	Field Length	Required	Comments
tax_year	Numeric	4	Yes	Tax year submitting (ex. 2017, 2018)
* * *				
contract_start_date	Character	10	No	Date original contract started (Format: 01/01/1999)
contract_end_date	Character	10	No	Date original contract ends (Format 01/01/1999)
penalty_years	Numeric	12	No	Specifies the number of penalty years assessed by the Board of Commerce and Industry, if applicable. (Default: 0) [to be a required field effective 2024]
contract_status_type	Character	2	No	"IE" = Industrial Exemption, "RS" = Restoration [field to be abandoned effective 2024]
industrial_exemption_type	Numeric	1	No	1 = Industrial Exemption subject to 80% cap, 2 = Industrial Exemption megaproject subject to 93% cap, 3 = Industrial Exemption at 100% [to be a required field effective 2024]
original_contract_amt	Numeric	12	Yes	Value of the original contract
* * *				
exempt_taxes	Numeric	12	Yes	Total tax amount subject to exemption/abatement
renewed_contract_start_date	Character	10	No	Renewed date contract started (Format: 01/01/1999)
renewed_contract_end_date	Character	10	No	Renewed date contract ends (Format: 01/01/1999)

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:651 (April 2017), LR 44:578 (March 2018), LR 45:532 (April 2019), LR 48:1522 (June 2022), LR 49:

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. - C.1.

D. For the 2023 tax year, the assessed value of the oil and gas wells on an individual property basis is to be limited to a range of 50 percent to 150 percent of the assessed value of the same oil and gas wells in the previous tax year. This limitation is inclusive of only the wells and leasehold equipment (production train) assessed in both years.

1. Oil and Gas Price Forecast Scenario

Table 907.D-1 Oil and Gas Price Forecast Scenario		
Year of Discounted Cash Flow	Oil Price (%)	Gas Price (%)
1	-18.68%	-23.68%
2	-4.71%	-3.98%
3	-4.95%	-4.14%
4	-5.20%	-4.32%
5	-5.49%	-4.52%
Thereafter	0	0

2. Oil and Gas Well Discount Rates

Table 907.D-2 Oil and Gas Well Discount Rates	
Primary Product	Discount Rate (%)
Oil Well	15%
Gas Well	15%
Leasehold Equipment	6%

3. Minimum Leasehold Equipment Value

Table 907.D-3 Minimum Leasehold Equipment Value		
Onshore/Offshore	Average Production Depth (feet)	Value Per Foot (\$)
Onshore	1 – 1,499	0.50
Onshore	1,500 – 2,499	0.75
Onshore	2,500 – 9,999	1.00
Onshore	10,000 or greater	1.50
Offshore *	All Depths	2.00

* Includes production platforms/barges.

4. Serial Number to Percent Good Conversion Chart

Table 907.D-4 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2022	253176	Higher	97
2021	252613	253175	93
2020	252171	252612	90
2019	251497	252170	86
2018	250707	251496	82
2017	249951	250706	78
2016	249476	249950	74
2015	248832	249475	70
2014	247423	248831	65
2013	245849	247422	60
2012	244268	245848	55
2011	242592	244267	50
2010	240636	242591	45
2009	239277	240635	40
2008	236927	239276	35
2007	234780	236926	31
2006	232639	234779	27
2005	230643	232638	24
2004	229010	230642	22
2003	227742	229009	21
2002	Lower	227741	20 *
VAR.	900000	Higher	50

* Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

E. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12- Personal Property Tax Report - Oil and Gas Property.

3. Surface equipment will be assessed in 5 major categories, as follows:

- a. oil and gas equipment (surface equipment not considered leasehold equipment);
- b. tanks (surface equipment not considered leasehold equipment);
- c. inventories (material and supplies);
- d. field improvements (docks, buildings, etc.);
- e. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.D-4. When determining the value of equipment associated with a single well, use the age of that well to determine the appropriate percent good. When determining the value of equipment used on multiple wells, the average age of the wells within the lease/field will determine the appropriate year to be used for this purpose.

a. January 1, 2016 the allowance of depreciation by use of the appropriate percent good will be based on the actual age of the equipment, if known or available, and will apply only to surface equipment with an original purchase cost of \$2,500 or more.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

7. Surface Equipment—Property Description

* * *

8. Service Stations

* * *

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:580 (March 2018), repromulgated LR 44:917 (May 2018), LR 45:534 (April 2019), LR 46:561 (April 2020), LR 47:465 (April 2021), LR 48:1523 (June 2022), LR 49:

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed substantive changes. Written comments must be directed to Michael Matherne, Tax Commission Administrator, Louisiana Tax Commission, 1051 North 3rd St., Baton Rouge, LA 70802 or P.O. Box 66788, Baton Rouge, LA 70896, and must be received no later than 4:00 pm, April 7, 2023.

Public Hearing

A public hearing on these proposed substantive changes, will be held on Wednesday, April 26, 2023, at 9:00 am, at the Louisiana State Capitol, 900 North Third St., Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, please contact (225) 219-0339.

Lawrence E. Chehardy
Chairman

2303#024

POTPOURRI

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

Office for Citizens with Developmental Disabilities

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Children’s Choice Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.12101)

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 for Citizens with Developmental Disabilities published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2418-2421) to amend LAC 50:XXI.12101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in

the Children’s Choice Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department’s original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 9. Children’s Choice Waiver

Chapter 121. Reimbursement Methodology

§12101. Unit of Reimbursement

A. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months..

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

c. - d. Repealed.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. – e.ii. ...

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination 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:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments;

A.3.a.iv. – B.3. ...

4. Direct Service Worker Wages and Workforce Bonus Payments

a. – a.iv. ...

b. Establishment of Direct Service Worker Workforce Bonus Payments.

i. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

ii. Direct service workers who provided services from April 1, 2021 to October 31, 2022 that worked with participants must receive at least \$250 of this \$300 bonus payment paid to providers. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

iii. Bonus payments will end October 31, 2022.

iv. ...

v. – v.(b). Repealed.

c. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

i. ...

(a). – (d). Repealed.

ii. – v.(b). ...

d. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

i. 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). the failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(ii). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(iii). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). Direct Service Worker Workforce Bonus Payments;

(i). the failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(ii). the number of eligible I/DD HCBS direct service workers who are identified as having been not been paid the \$250 monthly workforce bonus payments; or

(iii). the persistent failure to pay eligible I/DD HCBS direct service workers the monthly \$250 monthly workforce bonus payments; or

(c). failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

(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, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128

(January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), LR 49:

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#059

POTPOURRI

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

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
New Opportunities Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.14301)

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 for Citizens with Developmental Disabilities published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2423-2425) to amend LAC 50:XXI.14301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in the New Opportunities Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address the

concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 143. Reimbursement

§14301. Unit of Reimbursement

- A. – E. ...
- F. Direct Service Worker Wages and Workforce Bonus Payments
 - 1. – 1.e. ...
 - 2. Establishment of Direct Service Worker Workforce Bonus Payments
 - a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.
 - b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.
 - c. Bonus payments will end October 31, 2022.
 - d. ...
 - e. – e.ii. Repealed.
 - 3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments
 - a. The wage enhancement and bonus payments reimbursed to providers shall be subject to audit by LDH
 - i. – iv. Repealed.
 - b. – e.ii. ...
 - 4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments
 - a. 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:
 - i. Direct Service Worker Wage Floor
 - (a). failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;
 - (b). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or
 - (c). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;
 - ii. Direct Service Worker Workforce Bonus Payments
 - (a). failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;
 - (b). the number of I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or
 - (c). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

iv. Repealed.

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 of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 44:58 (January 2018), LR 45:44 (January 2019), LR 46:1682 (December 2020), LR 48:41 (January 2022), LR 48:1558 (June 2022), LR 49:

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#060

POTPOURRI

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

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Residential Options Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.16903 and 16905)

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 for Citizens with Developmental Disabilities published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48:2425-2428) to amend LAC 50:XXI.16903 and adopt §16905 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend and adopt provisions governing reimbursement in the Residential

Options Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community-Based Services Waivers

Subpart 13. Residential Options Waiver

Chapter 169. Reimbursement

§16903. Direct Service Worker Wages and Bonus Payments

A. - A.5. ...

B. Establishment of Direct Service Worker Workforce Bonus Payments

1. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

2. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

3. Bonus payments will end October 31, 2022.

4. ...

5. - 5.b. Repealed.

C. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

1. ...

a. - d. Repealed.

2. - 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. failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

iii. the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

b. Direct Service Worker Workforce Bonus Payments

i. failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

ii. the number of eligible I/DD HCBS direct service workers who are identified as having not been paid the \$250 monthly workforce bonus payments; or

iii. the persistent failure to pay wage eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

c. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

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, 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 48:42 (January 2022), LR 49:

§16905. Support Coordination

A. Establishment of Support Coordination Workforce Bonus Payments

1. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for those months for each support coordination worker that worked with participants for those months.

2. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

3. – 4. Repealed.

B. Audit Procedures for Support Coordination Workforce Bonus Payments

1. – 5.b. ...

C. Sanctions for Support Coordination Workforce Bonus Payments

1. The support coordination 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 pay support coordination workers the \$250 monthly workforce bonus payments;

b. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

c. the persistent failure to pay the \$250 monthly workforce bonus payments; or

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 for Citizens with Developmental Disabilities, LR 48:

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#061

POTPOURRI

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

Office for Citizens with Developmental Disabilities

Public Hearing-Substantive Changes to Proposed Rule
Home and Community-Based Services Waivers
Supports Waiver
Direct Service Worker Wages and Bonus Payments
(LAC 50:XXI.6101)

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 for Citizens with Developmental Disabilities published a Notice of Intent in the September 20, 2022 edition of the *Louisiana Register* (LR 48: 2430-2432) to amend LAC 50:XXI.6101 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Notice of Intent proposed to amend provisions governing reimbursement in the Supports Waiver in order to establish workforce bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions. Upon further discussion with various stakeholders, the department published a Potpourri announcing substantive revisions to the provisions of the September 20, 2022 Notice of Intent (*Louisiana Register*, Volume 49, Number 1). The department subsequently decided not to proceed with the substantive revisions proposed in the January 20, 2023 Potpourri.

This Potpourri announces substantive changes to the provisions proposed in the September 20, 2022 Notice of Intent.

Taken together, all of these revisions to the September 20, 2022 Notice of Intent will closely align the proposed Rule

with the department's original intent and address the concerns brought forth during subsequent discussions with stakeholders relative to the Notice of Intent as originally published.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Unit of Reimbursement

A. - H.1.e. ...

2. Establishment of Direct Service Worker Workforce Bonus Payments

a. Providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each direct service worker that worked with participants for those months.

b. The direct service worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end October 31, 2022.

d. ...

e. - e.ii. Repealed.

3. Audit Procedures for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. ...

i. - iv. Repealed.

b. - e.ii. ...

4. Sanctions for Direct Service Worker Wage Floor and Workforce Bonus Payments

a. 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 an action will depend upon the following factors:

i. Direct Service Worker Wage Floor

(a). failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

(b). the number of I/DD HCBS direct service workers identified as having been paid less than the wage floor minimum of \$9 per hour; or

(c). the persistent failure to pay I/DD HCBS direct service workers the wage floor minimum of \$9 per hour;

ii. Direct Service Worker Workforce Bonus Payments

(a). failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments;

(b). the number of eligible I/DD HCBS direct service workers identified as having not been paid the \$250 monthly workforce bonus payments; or

(c). the persistent failure to pay eligible I/DD HCBS direct service workers the \$250 monthly workforce bonus payments; or

iii. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

iv. Repealed.

I. ...

1. Establishment of Support Coordination Workforce Bonus Payments

a. Support coordination providers who provided services from April 1, 2021 to October 31, 2022 shall receive bonus payments of \$300 per month for each support coordination worker that worked with participants for those months.

b. The support coordination worker who provided services to participants from April 1, 2021 to October 31, 2022 must receive at least \$250 of this \$300 bonus payment paid to the provider. This bonus payment is effective for all eligible support coordination workers of any working status, whether full-time or part-time.

c. - d. Repealed.

2. Audit Procedures for Support Coordination Workforce Bonus Payments

a. - e.ii. ...

3. Sanctions for Support Coordination Workforce Bonus Payments

a. The support coordination 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:

i. failure to pay support coordination workers the \$250 monthly workforce bonus payments;

ii. the number of employees identified as having been paid less than the \$250 monthly workforce bonus payments;

iii. the persistent failure to pay the \$250 monthly workforce bonus payments; or

I.3.a.iv. - 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 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281(October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), 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 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43(January 2022), LR 48:1579 (June 2022), LR 49:

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data,

views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., May 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#062

POTPOURRI

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

Public Hearing—Substantive Changes to Proposed Rule
Nursing Facilities—Licensing Standards
(LAC 48:I.Chapter 97 and 9911)

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 published a Notice of Intent in the December 20, 2022 edition of the *Louisiana Register* (LR 48:3034-3045) to amend LAC 48:I.Chapter 97 and §9911 as authorized by R.S. 36:254 and 40:2009.1-2009.44. This Notice of Intent proposed to continue the provisions of the November 18, 2022 Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to comply with the requirements of the following Acts of the 2022 Regular Session of the Louisiana Legislature: Act 253 required the Department of Health to amend provisions governing the licensing of nursing facilities to provide requirements for generators or other department approved alternate electrical power sources; Act 461 required the department to promulgate provisions concerning healthcare workplace violence; and Act 522 directed the department to promulgate requirements and standards for nursing home emergency preparedness plans (*Louisiana Register*, Volume 48, Number 12).

The department has determined that additional, non-technical revisions are necessary to the provisions of §9701 and §9767 of the December 20, 2022 Notice of Intent. Taken together, these revisions will closely align the proposed Rule with the department’s original intent.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

* * *

Unlicensed Sheltering Site—any location within or outside the state of Louisiana that is not licensed as a nursing facility by the LDH in accordance with the R.S. 40:2009.3, or licensed as a nursing facility by another state, when such location is used for evacuation purposes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:

§9767. Emergency Preparedness

- A. - A.2....
- a. - d. Repealed.
- A.3. - B.1. ...
- a. - d.iii. Repealed.
- 2. - 3.b....
- i. - vi. Repealed.

NOTE: Repealed.

- B.4. - C.1.t.vi. ...
- 2. - 17.f. Repealed.
- D. Unlicensed Sheltering Sites
- 1. - 3. ...

4. If any unlicensed sheltering site is located outside of Louisiana, including nursing homes, the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

- D.5. - K.6. ...
- K.7. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding these substantive changes to the proposed Rule.

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for Thursday, April 27, 2023 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., March 1, 2023.

Dr. Courtney N. Phillips
Secretary

2303#063

POTPOURRI

Department of Justice

Occupational Licensing Review Program
Accepting Participants for FY 2023-2024

The Department of Justice is currently accepting occupational licensing boards into the Department of Justice Occupational Licensing Review Program established by La. 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 2023-2024 Fiscal Year will be accepted into the program through May 31, 2023. For information about participating in the program, contact Terrence “Joe” Donahue, Jr., Assistant Attorney General,

Terrence “Joe” Donahue, Jr.
Assistant Attorney General

2303#040

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek	003	11046
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek	001	12816
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek	002	12817
H. L. McKee & J. P. McKee Jr.	Monroe	M	J A Peek est	002	100546
H. L. McKee & J. P. McKee Jr.	Monroe	M	Berry	001	106593
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek Estate	001	151131
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek Estate	003	151169
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek Estate	004	151245
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek	005	169690
H. L. McKee & J. P. McKee Jr.	Monroe	M	Peek	004	221792
J. M. Harper Et Al	Caddo Pine Island	S	R T Glassell	A-1	78351
James J. Roberson	Collinsburg	S	Roberson	001	157208
Joe Pugh	White Sulphur Springs	M	O N Edwards et al	002	58022
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	004	50715
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	005	50857

Operator	Field	District	Well Name	Well Number	Serial Number
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	006	50858
Lark Production, Inc.	Caddo Pine Island	S	Muslow	003	52631
Lark Production, Inc.	Caddo Pine Island	S	Muslow	005	52632
Lark Production, Inc.	Caddo Pine Island	S	Muslow	006	52633
Lark Production, Inc.	Caddo Pine Island	S	Muslow	004	52634
Lark Production, Inc.	Caddo Pine Island	S	Muslow	007	53034
Lark Production, Inc.	Caddo Pine Island	S	Muslow	008	53096
Lark Production, Inc.	Caddo Pine Island	S	Muslow	009	53154
Lark Production, Inc.	Caddo Pine Island	S	Muslow	010	53288
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	008	54601
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	007	54602
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	009	54603
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	013	59177
Lark Production, Inc.	Caddo Pine Island	S	Muslow	011	59374
Lark Production, Inc.	Caddo Pine Island	S	Muslow	012	59375
Lark Production, Inc.	Caddo Pine Island	S	Muslow	013	59376
Lark Production, Inc.	Caddo Pine Island	S	Muslow	014	59495
Lark Production, Inc.	Caddo Pine Island	S	Muslow	015	59496

Operator	Field	District	Well Name	Well Number	Serial Number
Lark Production, Inc.	Caddo Pine Island	S	Muslow	016	59497
Lark Production, Inc.	Caddo Pine Island	S	Muslow	018	59498
Lark Production, Inc.	Caddo Pine Island	S	Muslow	017	59499
Lark Production, Inc.	Caddo Pine Island	S	Muslow	020	61068
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	011	62163
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	010	62164
Lark Production, Inc.	Caddo Pine Island	S	Muslow	022	62558
Lark Production, Inc.	Caddo Pine Island	S	Muslow	023	62685
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	014	70992
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	015	71921
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	012	71922
Lark Production, Inc.	Greenwood-Waskom	S	pxy suc; W E Arnold	002	72619
Lark Production, Inc.	Caddo Pine Island	S	Caddo Levee Board	016	91244
Lark Production, Inc.	Greenwood-Waskom	S	Wm Arnold Jr	001	104623
Lark Production, Inc.	Greenwood-Waskom	S	Wm Arnold Jr	002	107504

Operator	Field	District	Well Name	Well Number	Serial Number
Lark Production, Inc.	Caddo Pine Island	S	Muslow	024	146810
Lark Production, Inc.	Caddo Pine Island	S	Muslow	026	147057
Lark Production, Inc.	Greenwood-Waskom	S	Wm Arnold Jr	003	166025
Lark Production, Inc.	Caddo Pine Island	S	Muslow	033	166790
Lark Production, Inc.	Caddo Pine Island	S	Muslow	034	166791
Lark Production, Inc.	Caddo Pine Island	S	Muslow	035	166792
Lark Production, Inc.	Greenwood-Waskom	S	Wm Arnold Jr	004	172574
Lark Production, Inc.	Caddo Pine Island	S	Muslow	027	196415
Lark Production, Inc.	Caddo Pine Island	S	Muslow	028	196594
Lark Production, Inc.	Caddo Pine Island	S	Muslow	029	196595
Lark Production, Inc.	Caddo Pine Island	S	Muslow	030	196596
Lark Production, Inc.	Caddo Pine Island	S	Muslow	031	196597
Lark Production, Inc.	Caddo Pine Island	S	Muslow Swd	032	197208
Lark Production, Inc.	Greenwood-Waskom	S	Wm Arnold Jr swd	003	970514
Lincoln Oil Co.	Leeville	L	Constantin	001	16962
R & W Patrick	Converse	S	gr ra sup; Patrick	001	183890

Richard P. Ieyoub
Commissioner

2303#030

POTPOURRI

Department of Natural Resources Office of Conservation

Public Comment Announcement
Statewide Order No. 29-B
(LAC 43:XIX.3503 and LAC 43:XIX.3507)

The Office of Conservation is seeking comments on the draft proposed regulatory amendment to LAC 43:XIX.Subpart I.Chapter 35. The objective of this draft is to prohibit venting of gas except as authorized in this section. This potpourri announcement is not an agency engagement of the formal Louisiana Administrative Code rulemaking process and is intended only to obtain comments from interested parties prior to taking any further steps toward rulemaking. The deadline for submitting any comments for this potpourri announcement is 4:00 p.m., April 20, 2023, as detailed in the Public Comments section located at the end of this announcement. The following details the agency's draft proposed path to obtain the objective stated above.

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The purpose of this proposed amendment is to prohibit venting of gas except as authorized in this section.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 35. Gas/Oil Ratios, Allowables and Venting of Natural Gas

§3503. Definitions

A. Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this Statewide Order.

Base Gas/Oil Ratio—amount of natural gas, in cubic feet, which may be produced with one barrel of oil from a well recognized by the Office of Conservation as an oil well without reduction of the base oil allowable.

Base Oil Allowable—amount of oil, in barrels per day, which may be produced from a well recognized by the Office of Conservation as an oil well before application of the base gas/oil ratio.

Commissioner—the Commissioner of Conservation of the state of Louisiana.

Control Devices—equipment or technologies that thermally combust, chemically convert, or otherwise destroy or recover air contaminants. Examples of control devices may include but are not limited to open flares, enclosed combustion devices (ECDs), thermal oxidizers (TOs), vapor recovery units (VRUs), fuel cells, condensers, catalytic converters (oxidative, selective, and non-selective), or other emission reduction equipment.

Completion Operations—the period that begins with the initial perforation of the well in the completed interval and concludes at the end of separation flowback.

District Manager—the head of any one of the districts of the state of Louisiana under the Office of Conservation, and specifically the manager within whose district the well affected by this Statewide Order is located.

Division—means the Engineering Regulatory Division of the Office of Conservation.

Drill Out—the process of removing the plugs placed during hydraulic fracturing or refracturing. Drill-out ends after the removal of all stage plugs and the initial wellbore cleanup.

Drilling Operations—the period that begins when a well is spud and concludes when casing and cementing has been completed and casing slips have been set to install the tubing head.

Flaring—the controlled combustion of natural gas in a device designed for that purpose.

Flowback—the process of allowing fluids and entrained solids to flow from a well following stimulation, either in preparation for a subsequent phase of treatment or in preparation for cleanup and placing the well into production. The term flowback also means the fluids and entrained solids that emerge from a well during the flowback process. Flowback ends when all temporary flowback equipment is removed from service. Flowback does not include drill out.

Flowback Fluids—means the fluids and entrained solids that emerge from a well during the flowback process.

Flowback Vessel—a vessel that contains flowback.

Horizontal Well—well with the wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal displacement of at least 50 feet in the pool in which the well is completed for production, measured from the initial point of penetration into such pool.

Initial Flowback—the period during completion operations that begins with the onset of flowback and concludes when it is technically feasible for a separator to function.

Oil Allowable—amount of oil authorized to be produced by the Office of Conservation from a well recognized by the Office of Conservation as an oil well.

Natural Gas—gas produced at a wellhead or vented or flared at a separator.

Point of Delivery—point at which gas is vented to the atmosphere, whether from one or more wells or at any type of production facility.

Productivity Test—a test for determination of a reservoir's ability to produce economic quantities of oil or gas.

Production Evaluation—an evaluation of production potential for determination of requirements for infrastructure capacity and equipment sizing.

Production Operations—the period that begins on the earlier of 31 days following the commencement of initial flowback or following completion of separation flowback and concludes when the well is plugged and abandoned.

Separation Flowback—the period during completion operations that begins when it is technically feasible for a separator to function and concludes no later than 30 days after the commencement of initial flowback.

Upset Condition—a sudden unavoidable failure, breakdown, event, or malfunction, beyond the reasonable control of the operator, of any equipment or process that results in abnormal operations and requires correction but does not include an event arising from or related to an operator's negligence, failure to install appropriate equipment, or failure to perform scheduled maintenance.

Venting—the release of uncombusted gas to the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by Department of Conservation, July 20, 1943, amended January 1, 1966, December 1, 1973, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 23:581 (May 1997).

§3507. Venting and Flaring of Gas

A. The flaring and venting of natural gas during drilling, completion, or production operations from any well producing in the state of Louisiana is hereby expressly prohibited except as authorized in this Section. In all exceptions authorized in this section, the operator shall flare rather than vent natural gas except when flaring is technically infeasible or would pose a risk to safe operations or personnel safety, and venting is a safer alternative to flaring.

1. Notice to Division and Emergency Responders

a. **Prior Notice.** As soon as practicable prior to, but no later than two hours before, any planned flaring of natural gas allowed pursuant to this section, operators will provide verbal, written, or electronic notice to the district manager and to the local emergency response authorities.

b. **Subsequent Notice.** In the event of flaring due to an upset condition, operators will provide verbal, or electronic notice as soon as possible, but no later than 12 hours, to the district manager and to the local emergency response authorities.

c. **Recordkeeping.** Operators will maintain records of notice provided pursuant to this section and provide the records to the district manager upon request.

2. Venting and Flaring During Drilling Operations.

a. Operators shall capture or combust gas using best drilling practices and control technologies while maintaining safe operating conditions.

b. If capturing or combusting gas would pose safety risks to onsite personnel, operators may vent and will provide verbal notification to the district manager within 12 hours. If venting pursuant to this section exceeds 24 hours, the operator will seek the district manager approval to continue venting.

c. Combustors will be located a minimum of 100 feet from the nearest surface hole location and enclosed.

3. **Emissions during Completion Operations.** Operators of a well undergoing a completion or a recompletion that begins flowback on or after {effective date of rule} must:

a. During initial flowback, collect and control natural gas from each flowback vessel on and after the date flowback is routed to the flowback vessel by routing natural gas use to a control device that achieves a hydrocarbon control efficiency of at least 95 percent.

i. All flaring must be done in accord with {reference the flaring performance standard in this rule}.

ii. Operators must use an enclosed flowback.
iii. The control device must operate as a closed vent system that captures and routes natural gas to the control device. Unburnt gas shall not be directly vented to the atmosphere.

b. During separation flowback, the operator shall capture and route natural gas from the separation equipment:

i. to a gas flowline or collection system, reinject into the well, or use on-site as a fuel source or other purpose that a purchased fuel or raw material would serve; or

ii. to a flare if routing the natural gas to a gas flowline or collection system, reinjecting it into the well, or using it on-site as a fuel source or other purpose that a purchased fuel or raw material would serve would pose a risk to safe operation or personnel safety.

4. **Venting and Flaring During Production Operations.** The operator shall not vent or flare natural gas except:

a. during an upset condition but not to exceed 24 cumulative hours. Operators will maintain records of the date, cause, estimated volume of gas flared or vented, and duration of each upset condition resulting in flaring or venting, and will make such records available to the district manager upon request;

b. as part of active and required maintenance and repair activity;

c. during a production evaluation or productivity test for a period not to exceed 24 hours unless the operator obtains pre-approval from the district manager in which case not to exceed 60 days;

d. during a bradenhead test, provided venting is limited to 30 minutes;

e. during a packer leakage test, provided venting is limited to 30 minutes;

f. when natural gas does not meet the gathering pipeline specifications, provided the operator analyzes natural gas samples twice per week to determine whether the specifications have been achieved, routes the natural gas into a gathering pipeline as soon as the pipeline specifications are met and provides the pipeline specifications and natural gas analyses to the division upon request;

g. during the commissioning of pipelines, equipment, or facilities only for as long as necessary to purge introduced impurities from the pipeline or equipment;

h. at wells that have commenced production operations prior to {effective date of rule} and that are venting or flaring natural gas because they are not connected to a natural gas gathering line or putting the natural gas to beneficial use, the operator may make a one-time request to the district manager to flare or vent for up to 1 year from {the effective date of the rule}. The request will describe:

i. the estimated volume and content of the gas to be flared or vented;

ii. gas analysis including hydrogen sulfide for the subject well;

iii. for requests based on lack of available infrastructure, the operator will state why the well cannot be connected to infrastructure;

iv. when the well(s) will be connected to infrastructure, why the operator commenced production of the well before infrastructure was available, and whether the mineral owner will be compensated for the vented or flared gas; and

v. options for using the gas instead of flaring or venting, including using the gas as an onsite fuel source, using the gas for another useful purpose that a purchased fuel or raw material would serve, or reinjecting the gas into the well or into another well.

5. Performance Standards

a. All flared gas will be combusted in an enclosed device equipped with an auto-igniter or continuous pilot light and a design destruction efficiency of at least 98% for hydrocarbons.

b. Operators will notify all mineral owners of the volume of oil and gas that is vented, flared, or used on-lease. operators will maintain records of such notice and provide the records to the district manager upon request.

c. The operator shall design completion and production separation equipment and storage tanks for maximum anticipated throughput and pressure to minimize waste.

d. A flare stack constructed after {effective date of rule} shall be securely anchored and located at least 100 feet from the well and storage tanks unless otherwise approved by the division.

e. For facilities constructed after {effective date of rule} facilities shall be designed to minimize waste.

f. Operators have an obligation to minimize waste and shall resolve upset conditions as quickly and safety as is feasible.

6. Measurement or Estimation of Vented and Flared Gas

a. Operators will measure the volume of all gas vented, flared, or used at an oil and gas location by direct measurement.

b. Measuring equipment shall not be designed or equipped with a manifold that allows the diversion of natural gas around the metering element except for the sole purpose of inspecting and servicing the measurement equipment.

c. If metering is not practicable due to circumstances such as low flow rate or low pressure venting and flaring, the operator may estimate the volume of vented or flared natural gas using a methodology that can be independently verified.

d. Operators will notify all mineral owners of the volume of oil and gas that is vented, flared, or used on-lease. operators will maintain records of such notice and provide the records to the district manager upon request.

7. Reporting of Vented and Flared Gas. For any instance of venting or flaring permitted pursuant to this section for a period that exceeds 8 consecutive or 24 cumulative hours, the operator will report:

a. The estimated or measured volume and content of gas vented or flared;

b. Gas analysis of the gas vented or flared, including hydrogen sulfide;

c. Date and time that venting or flaring was discovered or commenced or terminated

d. Explanation, rationale, and cause for the venting or flaring event; and

e. Corrective actions taken to eliminate the cause and recurrence of venting and flaring.

8. Third Party Verification. The division may request that an operator retain a third party to verify any data or information collected or reported pursuant to this Part, make recommendations to correct or improve the collection and reporting of data and information, submit a report of the verification and recommendations to the division by the specified date, and implement the recommendations in the manner approved by the division. If the division and the operator cannot reach agreement on the division's request, the operator may file an application for hearing before the division. The operator, at its own expense, shall retain a third party approved by the division to conduct the activities agreed to by the division and the operator or ordered by the division following a hearing.

9. Natural Gas Management Plan

a. After {effective date of rule}, the operator shall file a natural gas management plan with each APD for a new or recompleted well. The operator may file a single natural gas management plan for multiple wells drilled or recompleted from a single well pad or that will be connected to a central delivery point. The natural gas management plan shall describe the actions that the operator will take at each proposed well to comply with the requirements of Paragraphs 1 through 7 of this Subsection, including for each well:

i. the operator's name;

ii. the name, API number, location and footage;

iii. the anticipated dates of drilling, completion and first production;

iv. a description of operational best practices that will be used to minimize venting during active and planned maintenance; and

v. the anticipated volumes of liquids and gas production and a description of how separation equipment will be sized to optimize gas capture.

b. The operator shall certify that it has determined based on the available information at the time of submitting the natural gas management plan either:

i. it will be able to connect the well to a natural gas gathering system in the general area with sufficient capacity to transport one hundred percent of the volume of natural gas the operator anticipates the well will produce commencing on the date of first production, taking into account the current and anticipated volumes of produced natural gas from other wells connected to the pipeline gathering system; or

ii. it will not be able to connect to a natural gas gathering system in the general area with sufficient capacity to transport one hundred percent of the volume of natural gas the operator anticipates the well will produce commencing on the date of first production, taking into account the current and anticipated volumes of produced natural gas from other wells connected to the pipeline gathering system.

c. If the operator determines it will not be able to connect a natural gas gathering system in the general area with sufficient capacity to transport one hundred percent of the anticipated volume of natural gas produced on the date of first production from the well, the operator shall either shut-in the well until the operator submits the certification required in this section or submit a gas capture plan to the division that evaluates and selects one or more potential alternative beneficial uses for the natural gas until a natural gas gathering system is available, including:

- i. power generation on lease;
- ii. power generation for grid;
- iii. compression on lease;
- iv. liquids removal on lease;
- v. reinjection for underground storage;
- vi. reinjection for temporary storage;
- vii. fuel cell production; and
- viii. other alternative beneficial uses approved by the division that do not result in venting or flaring.

d. If, at any time after the operator submits the natural gas management plan and before the well is spud, the operator becomes aware that the natural gas gathering system it planned to connect the well to has become unavailable or will not have capacity to transport one hundred percent of the production from the well, no later than 20 days after becoming aware of such information, the operator shall submit for the division's approval a new or revised gas capture plan containing the information specified in this section.

e. The division shall deny the APD or conditionally approve the APD if the operator does not:

- i. make the certification required by this section,
- or
- ii. fails to submit an adequate gas capture plan, which includes alternative beneficial uses for all of the anticipated volume of natural gas produced, or
- iii. if the division determines that the operator will not have adequate natural gas takeaway capacity at the time a well will be spud.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974), amended by the Department of Natural Resources, Office of Conservation, LR 40:2597 (December 2014), LR 41:953 (May 2015), repromulgated LR 41:1120 (June 2015).

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4:00 p.m., April 20, 2023, at Office of Conservation, Engineering Regulatory Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Environmental Division, 617 North Third Street, Room 927,

Baton Rouge, LA 70802. Reference Docket No. R A 2023-13. All inquiries should be directed to F. Jonathan Rice at the above addresses or by phone to (225) 342-5540.

Richard P. Ieyoub
Commissioner

2303#050

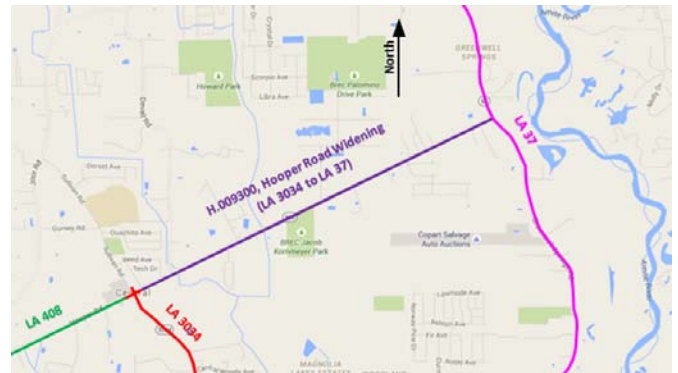
POTPOURRI

Office of Transportation and Development

Construction Management at Risk (CMAR) Project

State Project No. H.009300
Hooper Road Widening (LA 3034 – LA 37)
East Baton Rouge Parish

The Louisiana Department of Transportation and Development (LA DOTD) is announcing its intent to enter into a Construction Management at Risk (CMAR) contract with a CMAR Contractor possessing qualified construction contracting capability for the Hooper Road Widening (LA 3034 – LA 37) Project (the "Project") in East Baton Rouge, Louisiana.



The major elements of the Project as currently proposed may include the following:

Widen and reconstruct existing two-lane Hooper Road (LA 408) between Sullivan Road (LA 3034) and Greenwell Springs Road (LA 37) to four lanes;

- Improvements to the LA 408/LA 3034 and LA 408/LA 37 intersections which may include roundabouts;
- Right-of-way coordination;
- Utility coordination; and
- Maintenance of traffic in a congested urban environment.

The anticipated Pre-construction Services Agreement execution date for the Project is no later than September 2023. The Project's cost is anticipated to not exceed \$50 million.

Responses to this Notice of Intent (NOI) and the following Request for Qualifications (RFQ) will be evaluated to determine the most highly qualified Proposer that is able to provide both pre-construction services and, if successfully negotiated, construction services for the Project.

The LA DOTD is seeking a CMAR Contractor for the Project that is committed to quality; has proven experience in pre-construction and construction services related to the construction of highway and bridge projects; will bring innovative approaches and a collaborative work effort to the Project; will ensure timely completion; and is willing to partner with the LA DOTD and its Designer and Independent Cost Estimator for the mutual success of the Project.

Firms/teams interested in providing the services for the Project should submit a Letter of Interest (LOI) to HooperRoadCMAR@la.gov. All correspondence with the LA DOTD on matters concerning this NOI and the subsequent RFQ for the Project should be made in writing to this E-mail address.

An LOI from firms/teams in response to this NOI will be due by March 30, 2023. The LOI should, at a minimum, name the proposed primary team members (if a team is submitting the LOI) and contact information (name, telephone number, physical address, and E-mail address) for the official point of contact for the firm/team.

Firms/Teams that provide the LA DOTD with an LOI prior to the deadline will be issued the RFQ and placed on a list of interested firms posted to the LA DOTD Website (<http://www.dotd.la.gov>).

Eric Kalivoda, PhD, PE
Secretary

2303#028

POTPOURRI

Department of Transportation and Development

Construction Management at Risk (CMAR) Project

State Project No. H.005121
Federal Project No. H005121
LA 1/LA 415 Connector
West Baton Rouge Parish

The Louisiana Department of Transportation and Development (LA DOTD) is announcing its intent to enter into a Construction Management at Risk (CMAR) contract with a CMAR Contractor possessing qualified construction contracting capability for the LA 1/LA 415 Connector Project (the "Project") in West Baton Rouge, Louisiana.



The major elements of the Project as currently proposed may include the following:

- New connector between LA 1 near LA 988 (Beaulieu Lane) and the Interchange of I-10 and LA 415, which includes a four-lane roadway and bridge(s) over the Gulf Intracoastal Waterway;
- Half-diamond interchange at LA 1;
- Interchange at Sun Plus Parkway with LA 415;
- Modifications to the LA 415 Interchange and I-10 ramps and frontage roads;
- Intersection improvements along LA 1 between Richardson Drive and Riverside Drive, including American Way;
- Right-of-way coordination;
- Utility coordination; and
- Maintenance of traffic in a congested urban environment.

The anticipated Pre-construction Services Agreement execution date for the Project is no later than October 2023. The Project's cost is anticipated to not exceed \$200 million.

Responses to this Notice of Intent (NOI) and the following Request for Qualifications (RFQ) will be evaluated to determine the most highly qualified Proposer that is able to provide both pre-construction services and, if successfully negotiated, construction services for the Project.

The LA DOTD is seeking a CMAR Contractor for the Project that is committed to quality; has proven experience in pre-construction and construction services related to the

construction of highway and bridge projects; will bring innovative approaches and a collaborative work effort to the Project; will ensure timely completion; and is willing to partner with the LA DOTD and its Designer and Independent Cost Estimator for the mutual success of the Project.

Firms/teams interested in providing the services for the Project should submit a Letter of Interest (LOI) to LA415CMAR@la.gov. All correspondence with the LA DOTD on matters concerning this NOI and the subsequent RFQ for the Project should be made in writing to this E-mail address.

An LOI from firms/teams in response to this NOI will be due by April 13, 2023. The LOI should, at a minimum, name the proposed primary team members (if a team is submitting the LOI) and contact information (name, telephone number, physical address, and E-mail address) for the official point of contact for the firm/team.

Firms/Teams that provide the LA DOTD with an LOI prior to the deadline will be issued the RFQ and placed on a list of interested firms posted to the LA DOTD Website (<http://www.dotd.la.gov>).

Eric Kalivoda, PhD, PE
Secretary

2303#029

POTPOURRI

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Hearing—Substantive Change to Notice of Intent
2023-2025 Hunting Regulations and Seasons
(LAC 76:XIX.Chapter 1)

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, 2023 edition of the *Louisiana Register*. The commission proposes to amend the original Notice of Intent to include a proposed change for deer and turkey tagging procedures which specifies that tags can only be utilized by the individual for whom the tag was issued and also prohibits allowing someone else to utilize that individuals tags when completing deer and turkey tagging requirements and to modify the proposed waterfowl dates. The department manages wildlife and their associated habitat and sets the season dates, bag limits and harvesting reporting requirements in Louisiana. Action is being proposed for deer and turkey tagging as the department has concerns about individuals utilizing tags that have been assigned to others so they have the ability to harvest more than the season bag limit. Action is being proposed as public comment has indicated that persons in the west waterfowl zones prefer an earlier closing date.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. - D.13. ...

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain carcass or electronic deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass or electronic tag. Deer tags may only be used by the hunter to whom the tag was issued. Hunters who allow their deer tags to be used by another person, or who use tags issued to another person, are in violation of this Rule and are subject to fines and other administrative penalties, including, but not limited to, the automatic forfeiture of any remaining deer tags for the season for which they are issued. If using physical tag, the parish and date of kill must be documented on the deer tag and the hunter must validate the harvest by calling the validation toll free number or by utilizing the department's website within 72 hours of the kill. Hunters utilizing electronic tags shall electronically tag and validate their harvest before moving the deer. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets.

E.2.-G.20.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016), LR 43:1423 (July 2017), LR 44:1277 (July 2018), LR 45:938 (July 2019), LR 46:961 (July 2020), LR 47:904 (July 2021), LR 48:511 (March 2022), LR 48:1867 (July 2022), LR 49:

§113. General and WMA Turkey Hunting Regulations

A. ...

B. Tags

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Turkey tags may only be used by the hunter to whom the tag was issued. Hunters who allow their turkey tags to be used by another person, or who use tags issued to another person, are in violation of this Rule and are subject to fines and other administrative penalties, including, but not limited to, the automatic forfeiture of any remaining turkey tags for the season for which they are issued. Immediately upon killing a turkey, hunters must attach a carcass tag to or electronically tag the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. If using carcass tags, the date of kill and parish of kill must be recorded on the carcass tag, and the tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within 72 hours of the kill, the hunter must report the kill. Hunters may report turkeys electronically, calling the validation phone number, or using the validation website.

B.2. - G.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December

2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:2581 (November 2010), LR 37:3535 (December 2011), LR 38:2941 (November 2012), LR 40:96 (January 2014), LR 40:1554 (August 2014), LR 41:977 (May 2015), LR 42:1127 (July 2016), LR 43:1426 (July 2017), LR 44:1303 (July 2018), LR 45:964 (July 2019), LR 46:988 (July 2020), LR 47:934 (July 2021), LR 48:1897 (July 2022), LR 49:

§117. Migratory Bird Seasons, Regulations, and Bag Limits

A. Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Mourning and White Winged Doves and fully-dressed Eurasian and Collared Doves	South Zone: Sept. 2-Sept. 17 Oct. 14-Nov. 26 Dec. 16-Jan. 14 North Zone: Sept. 2-Sept. 24 Oct. 7-Nov. 12 Dec. 23-Jan. 21	15 (in aggregate)	45 (in aggregate)
Woodcock	Dec. 18-Jan. 31	3	9
Teal (Blue-winged, Green-winged and Cinnamon)	Sept. 15-Sept. 30	6	18
King and Clapper Rails	Sept. 15-Sept. 30 Nov. 11-Jan. 3	15 (in aggregate)	45 (in aggregate)
Sora and Virginia Rails	Sept. 15-Sept. 30 Nov. 11-Jan. 3	25 (in aggregate)	75 (in aggregate)
Gallinules	Sept. 15-Sept. 30 Nov. 11-Jan. 3	15	45
Snipe	West Zone: Nov. 2-Dec. 3 Dec. 16-Feb. 28 East Zone: Nov. 2-Dec. 3 Dec. 16-Feb. 28	8	24
Ducks, Coots and Mergansers	West Zone: Nov. 4-Nov. 5 (youth and veterans only) Nov. 11-Dec. 3 Dec. 11-Jan. 7 Jan. 13-Jan. 21 East Zone: Nov. 11 (youth and veterans only) Nov. 18-Dec. 3 Dec. 16-Jan. 28 Feb. 3 (youth and veterans only)	Daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 females), 3 wood ducks, 2 canvasbacks, 2 redheads, 1 black duck and 1 pintail. Only 1 scaup may be taken for the first 15 days of the season with 2 per day allowed for the remainder. No mottled ducks may be taken for the first 15 days of the season with 1 per day allowed for the remainder. Daily bag limit on coots is 15. Mergansers-The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers, in addition to the daily bag limit for ducks.	Three times the daily bag limit.
Light Geese (Snow, Blue, and Ross') and White-Fronted Geese	East Zone: Nov. 4-Dec. 3 Dec. 16-Jan. 28 West Zone: Nov. 4-Dec. 3 Dec. 11-Jan. 7 Jan. 13-Jan. 28	Daily bag limit on Light Geese (snow, blue, and ross') is 20. Daily bag limit on White-Fronted Geese is 3.	No possession limit on Light Geese (snow, blue, and ross') Possession limit on White-Fronted Geese is 9.
Canada Geese	East Zone: Nov. 4-Dec. 3 Dec. 16-Jan. 28 West Zone: Nov. 4-Dec. 3 Dec. 11-Jan. 7 Jan. 13-Jan. 28	1	3

B. Conservation Order for Light Geese Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross')	East Zone: Dec. 4-Dec. 15 Jan. 29-Mar. 3 West Zone: Dec. 4-Dec. 10 Jan. 8-Jan. 12 Jan. 29-Mar. 3	No daily bag limit.	No possession limit.

C. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1130 (July 2016), amended LR 43:1427 (July 2017), LR 44:1306 (July 2018), LR 45:966 (July 2019), LR 46:991 (July 2020), LR 47:937 (July 2021), LR 48:1899 (July 2022), LR 49:

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 April 20, 2022 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.

Andrew J. Blanchard
Chairman

2303#036

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