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# Executive Orders

## EXECUTIVE ORDER JBE 19-7

### Licensed Bed Capacity for Nursing Homes

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation Number 111 JBE 2019;

WHEREAS, Tropical Storm Barry is moving toward the Louisiana coast, and is expected to strengthen into a hurricane before it makes landfall on the Louisiana coast on July 13, 2019, bringing heavy rainfall, flooding, and damage to Louisiana;

WHEREAS, this storm and its potential damage continue to pose a threat to citizens and communities across Louisiana and creates conditions that place lives and property in the State in jeopardy;

WHEREAS, the State of Louisiana desires to promote and protect the health, safety, and well-being of all Louisiana residents, and specifically those residents in nursing facilities;

WHEREAS, the State of Louisiana desires to promote and protect the health, safety, and well-being of evacuees from Tropical Storm Barry, and specifically those evacuees needing nursing facility services;

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

WHEREAS, R.S. 40:2116(D)(2) prohibits the Department of Health from approving additional beds in nursing facilities;

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

WHEREAS, the State of Louisiana, recognizing the potential significance of Tropical Storm Barry, desires to minimize the impact of the tropical storm on the residents of nursing facilities; and

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

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 Secretary of the Department of Health may establish such protocols, policies, and procedures as to allow a licensed nursing facility which accepts or receives evacuated residents to temporarily exceed its licensed bed capacity in the event of a declared emergency.

SECTION 2: The Secretary of the Department of Health may establish such protocols, policies, and procedures without strict compliance with the requirements and provisions of the Administrative Procedure Act.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 11th day of July, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#067

## EXECUTIVE ORDER JBE 19-8

### DOTD Disaster Relief for Vehicles, Trucks and Loads

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

WHEREAS, pursuant to Proclamation No. 111 JBE 2019, a state of emergency was declared the 10th day of July 2019, for Tropical Storm Barry and is currently in effect;

WHEREAS, Louisiana Revised Statute 29:724 confers upon the Governor the authority to suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the safety and welfare of the inhabitants of the affected areas of Louisiana and surrounding states require that the movements of operators of commercial motor carriers traveling on the public highways of the State of Louisiana for the purpose of emergency preparedness and disaster relief efforts including, but not limited to, the transportation of fuel, generators, food, and water and necessary provisions and utilities be expedited.

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

SECTION 1: With respect to commercial motor carriers traveling on public highways of the State of Louisiana for the purpose of emergency preparedness and disaster relief efforts, the provisions of Louisiana Revised Statute 32:386 are hereby suspended and the following size and weight restrictions for such vehicles shall be as follows:

A. Maximum gross vehicle weight for vehicles equipped with five (5) or more weight-bearing axles with outer bridge spans of not less than forty (40) feet, but less than fifty-one (51) feet, shall not exceed ninety thousands (90,000) pounds. No single axle vehicle shall exceed twenty thousands (20,000) pounds in weight. No group of two (2) axle vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axle vehicles shall exceed forty-eight thousands (48,000) pounds in weight except with a permit issued by the Louisiana Department of Transportation and Development (hereafter "Department").

B. Maximum gross vehicle weight for vehicles equipped with five (5) or more weight-bearing axles with outer bridge spans of not less than fifty-one (51) feet shall not exceed ninety-five thousands (95,000) pounds. No single axle vehicle shall exceed twenty thousand (20,000) pounds in weight. No group of two (2) axle vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axle vehicles shall exceed forty-eight thousand (48,000) pounds in weight, except with a permit issued by the Department.

C. Maximum gross vehicle weight for vehicles equipped with four (4) weight-bearing axles with outer bridge spans of not less than forty-three (43) feet shall not exceed eighty thousand (80,000) pounds. No single axle vehicle shall exceed twenty thousand (20,000) pounds in weight. No group of two (2) axle vehicles shall exceed forty thousand (40,000) pounds in weight. No group of three (3) axle vehicles shall exceed forty-eight thousand (48,000) pounds in weight, except with a permit issued by the Department.

D. Maximum dimensions shall not exceed fourteen (14) feet wide, fourteen (14) feet high, and ninety-five (95) feet long on Interstate highways and fourteen (14) feet wide, thirteen (13) feet six (6) inches high, and ninety-five (95) feet long on non-Interstate highways. Carriers, owners, and/or drivers of any vehicle being operated under this Order are responsible for verifying in advance that the actual dimensions and weight of the vehicle/load are acceptable for all routes being traveled. This includes, but is not limited to, areas deemed by Federal, state, or local officials as inaccessible due to damages caused by Tropical Storm Barry, overhead structures and/or construction areas.

E. Any vehicle greater than eight (8) feet six (6) inches wide and less than or equal to fourteen (14) feet wide may travel during daylight hours only, beginning thirty (30) minutes before sunrise and ending thirty (30) minutes after sunset.

SECTION 2: The commercial vehicle regulatory requirements regarding the purchase of trip permits for registration and fuel for commercial motor carriers engaged in disaster relief efforts in the state of Louisiana shall be waived. This permit waiver also applies to such vehicles/loads with weights and dimensions not exceeding those described in Section 1(A) through (D) above. However, such permits shall be obtained from the Louisiana

Department and Transportation and Development for vehicles exceeding those weights.

SECTION 3: Nothing in this Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or carrier, owner or driver of any vehicle from compliance with any restrictions other than those specified, or from any statute, rule, order, or other legal requirement not specifically waived herein.

SECTION 4: Nothing in this Order shall be construed or interpreted as being applicable to travel on non-state maintained highways, or as being applicable to construction and building projects that are not in support of Tropical Storm Barry recovery and repair efforts.

SECTION 5: This Order is effective upon signature and shall be applicable through Friday, July 26, 2019, unless 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 12th day of July, 2019

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#065

#### EXECUTIVE ORDER JBE 19-9

Hurricane Barry—Emergency Temporary Suspension of Licensure Requirements for Medical Professionals and Personnel Licensed Out-of-State and Emergency Medical Technicians Licensed Out-of-State

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, the Governor declared a state of emergency in Proclamation No. 111 JBE 2019;

WHEREAS, pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760, *et seq.*, a state of public health emergency was declared to exist in the entire State of Louisiana by Proclamation Number 112 JBE 2019;

WHEREAS, Hurricane Barry has caused or will cause significant flooding that is currently straining and is expected to continue to strain medical infrastructure throughout the state;

WHEREAS, such flooding poses a threat to citizens and communities across Louisiana and creates conditions which place lives and property in a state of jeopardy;

WHEREAS, many citizens have suffered or will suffer injury and/or illness;

WHEREAS, the number of medical professionals and personnel currently available to the State to respond to this emergency is insufficient and there is a need to immediately supplement their number in order to serve those affected by this disaster;

WHEREAS, there is a need to immediately supplement the number of licensed Emergency Medical Technicians, including the designations of Emergency

Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT- Intermediate (EMT-I), and EMT-Paramedic (EMT-P), currently available to the State to respond to this emergency in order to serve those who might be affected by it;

WHEREAS, Emergency Medical Technicians, including the designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basis (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P), licensed in states other than Louisiana are available to provide medical aid and assistance to those persons affected by this emergency;

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

WHEREAS, Louisiana Revised Statute 29:766 authorizes the Governor, during a declared state of public health emergency, to suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, the Secretary of the Department of Health and the State Health Officer have requested that the Louisiana state statutes, laws, rules, and regulations related to licensing of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-D, and EMT-Paramedic (EMT-P), medical professionals and personnel be temporarily suspended for those such persons duly licensed to practice in other states who wish to provide their services in Louisiana to those persons needing medical services as a result of this emergency.

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

SECTION 1: The Louisiana state licensure laws, rules, and regulations for medical professionals and personnel (including but not limited to, physicians, nurses, or any "health care professional" as defined in La. R.S. 22:2392) are hereby suspended for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of or in connection with this disaster, provided that said out-of-state or out-of-country medical professionals and personnel possess a current medical license in good standing in their respective state or country of licensure, practice in good faith and within the scope of practice limitations set forth

in La. R.S. 29:788, and cease practicing in Louisiana upon the termination or rescission of this Order, or any extension thereof.

SECTION 2: The Louisiana state licensure laws, rules, and regulations regarding the licensure of Emergency Medical Technicians, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), and EMT-Paramedic (EMT-P) are hereby temporarily suspended for Emergency Medical Technicians duly licensed to practice in other states who wish to provide their services to those persons needing services as a result of or in connection with this declared emergency. An individual currently licensed and in good standing as an Emergency Medical Technician, including designations of Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-D, and EMT-Paramedic (EMT-P), in another state may practice in Louisiana, subject to the following conditions, qualifications, and parameters:

A. The individual must be duly licensed and in good standing in another state.

B. The individual must practice in good faith and within the scope of practice limitations set forth in La. R.S.29:788.

C. The individual must cease practicing in Louisiana upon the termination or rescission of this Order, or any extension thereof.

SECTION 3: All out-of-state or out-of-country medical professionals and personnel and all out-of-state Emergency Medical Technician (EMT), Advanced EMT, Paramedic, EMT-Basic (EMT-B), EMT-Intermediate (EMT-I), EMT-Paramedic (EMT-P), offering services in the state of Louisiana by authority of this Order shall submit to the State Health Officer, or his designee at the Office of Public Health within the Louisiana Department of Health, a copy of their respective professional license and photo identification, together with any other forms or documents the State Health Officer may require, by contacting the Office of Public Health, Louisiana Volunteers in Action (LAVA) program (<https://www.lava.dhh.louisiana.gov/index.php>) at 225-354-3569, 225-354-3573, 225-354-3566, or [dhhvol@la.gov](mailto:dhhvol@la.gov).

SECTION 4: This Order is effective upon signature and shall apply retroactively from Friday, July 12, 2019 until Friday, July 26, 2019, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 13th day of July, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#066

**EXECUTIVE ORDER JBE 19-10**

**Bond Allocation 2019 Ceiling**

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the "Act"), as amended (hereafter the "Code"), restricts the total principal amount of certain private activity bonds (hereafter the "Bonds") that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the "ceiling") among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order No. JBE 2016-35 was issued to establish: (a) the manner in which the ceiling shall be determined, (b) the method to be used in allocating the ceiling, (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations; and

WHEREAS, the Town of Madisonville (hereafter the "Town") has applied for an allocation of the 2019 ceiling, to be used in connection with the financing by Gulf South Pipeline Company, LP of the costs of constructing and acquiring extensions, improvements and replacements to and for the natural gas system of the Town (hereafter the "Project") and paying the costs of issuance.

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 bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2019 ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Town of Madisonville	Gas Utility Revenue Bonds, Series 2019B

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana's Private Activity Volume Cap" submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2019, provided that such bonds are delivered to the initial purchasers thereof on or before September 1, 2019.

SECTION 4: This Order is effective upon signature and shall remain 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 the State

of Louisiana in the City of Baton Rouge, on this 16th day of July, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#067

**EXECUTIVE ORDER JBE 19-11**

**Protecting Health Coverage in Louisiana Task Force  
Amending Executive Order Number JBE 19-4**

WHEREAS, the Protecting Health Coverage in Louisiana Task Force (hereafter "Task Force"), was established and created within the executive department, Office of the Governor through Executive Order Number JBE 19-4 on May 21, 2019;

WHEREAS, the Task Force will develop policy proposals to maintain health care coverage for Louisianans at risk of losing health insurance or protections via *Texas v. Azar*;

WHEREAS, the Task Force will provide for a report to the governor and the legislature by February 1, 2020; and

WHEREAS, it is necessary to amend Executive Order Number JBE 19-4.

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: Section 4 of Executive Order Number JBE 19-4, issued on May 21, 2019, is hereby amended as follows:

The Task Force shall be composed of a maximum of thirteen (13) voting members. The Governor shall designate a Chair and Co-Chair from among the members.

SECTION 2: Section 5 of Executive Order Number JBE 19-4, issued on May 21, 2019, is hereby amended as follows:

- A. The members shall include:
- B. The Governor, or designee;
- C. The Secretary of Health, or designee;
- D. The Commissioner of Insurance, or designee;
- E. The Attorney General, or designee;
- F. The Chairmen of the House and Senate Health and Welfare
- G. Committees, or their designees;
- H. Two at-large members representing health care providers, appointed by the Governor;
- I. Two at-large members representing consumer health groups, appointed by the Governor;
- J. Two at-large members representing the insurance industry, appointed by the Governor; and
- K. One at-large member with expertise in economics and/or fiscal modeling, appointed by the Governor.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of August, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#068

**EXECUTIVE ORDER JBE 19-12**

Emergency Operations Plan

WHEREAS, the state of Louisiana must be prepared to respond and recover in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, the state of Louisiana must be organized in such a way as to effectively bring available state, federal and private resources together to support the response and recovery efforts of our local communities;

WHEREAS, it is the policy of the state of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the state of Louisiana will best achieve effective coordinated emergency planning by updating the state’s current emergency operations order through the replacement of Executive Order No. JBE 2017-19, issued on July 31st, 2017 and by the Governor’s Office of Homeland Security and Emergency Preparedness updating its emergency operations plan.

NOW THEREFORE, I, John Bel Edwards, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and the laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: A. The director of the Governor’s Office of Homeland Security and Emergency Preparedness, state of Louisiana, (hereafter “director”), shall direct the state of Louisiana’s emergency and/or disaster operations; and

B. The director, or the director’s designee, shall also coordinate the activities of all non-state agencies,

departments, and/or organizations involved in emergency management within the state of Louisiana.

SECTION 2: A. This Executive Order shall constitute the state of Louisiana Emergency Operations Plan (“Plan”), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana.

SECTION 3: A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter “Center”).

C. The activation of the Center shall constitute the implementation of the Plan.

SECTION 4: The departments, offices, agencies, and organizations of the state of Louisiana government have primary and support responsibilities for the following Emergency Support Functions (ESF) and Recovery Support Functions (RSF):

SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department’s behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

ESF/Support	Annex	Department/Agency	Primary
ESF1	Transportation	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Education	S
		Louisiana Department of Health	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Department of Children and Family Services	S
		Non-Governmental Organizations (NGO)	S



ESF/Support	Annex	Department/Agency	Primary
ESF 2	Communications	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Louisiana State Police	P
		Governor – Division of Administration	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Office of Elderly Affairs	S
		Office of the Lieutenant Governor	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
ESF 3	Public Works & Engineering	Department of Transportation & Development	P
		Louisiana Coastal Protection and Restoration Authority	P
		Governor – Division of Administration	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Louisiana National Guard	S
Non-Governmental Organizations (NGO)	S		
ESF 4	Firefighting	Department of Agriculture and Forestry	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Environmental Quality	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
Non-Governmental Organizations (NGO)	S		
ESF 5	Emergency Management	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Governor – Office of Indian Affairs	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
Office of the Lieutenant Governor	S		
Office of the Lieutenant Governor- Volunteer Louisiana	S		
Department of Revenue	S		
Secretary of State	S		
Department of Children and Family Services	S		
Louisiana State Police	S		

ESF/Support	Annex	Department/Agency	Primary
		Department of Transportation & Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Department of Public Safety	S
		State Fire Marshall	S
		Non-Governmental Organizations (NGO)	S
ESF 6	Mass Care, Housing and Human Services	Department of Children and Family Services	P
		Louisiana Workforce Commission	P
		Department of Corrections	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Housing Corporation	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor – Office of Disability Affairs	S
		Governor – Office of Elderly Affairs	S
		Louisiana Department of Health	S
		Louisiana State University System and Ag Center	S
		Department of Insurance	S
		Department of Labor	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Veterans Affairs	S
		Department of Revenue	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		State Treasurer	S
		Non-Governmental Organizations (NGO)	S
ESF 7	Resources Support	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Department of Agriculture & Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Governor – Division of Administration	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Office of the Lieutenant Governor	S
		Department of Transportation & Development	S
		Department of the Treasury	S
		Non-Governmental Organizations (NGO)	S
ESF 8	Public Health & Medical Services	Louisiana Department of Health	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Children and Family Services	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		State Fire Marshal	S
		Louisiana Workforce Commission	S
		Department of Transportation & Development	S

ESF/Support	Annex	Department/Agency	Primary
		Department of Veterans Affairs	S
		Non-Governmental Organizations (NGO)	S
ESF 9	Search & Rescue	Department of Wildlife and Fisheries	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Louisiana Department of Health	S
		Department of Corrections	S
		Department of Culture, Recreation, & Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Office of the Lieutenant Governor	S
		Non-Governmental Organizations (NGO)	S
ESF 10	Oil Spill, Hazardous Materials and Radiological	Louisiana State Police	P
		Department of Environmental Quality	P
		Louisiana Oil Spill Coordinators Office	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Coastal Protection and Restoration Authority	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		State Fire Marshal	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 11	Agriculture	Department of Agriculture & Forestry	P
		Louisiana National Guard	S
		Department of Children and Family Services	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana Department of Health	S
		Louisiana Board of Regents	S
		Louisiana National Guard	S
		Louisiana State Police	S
		Louisiana State University System	S
		Department of Transportation and Development	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Department of Wildlife and Fisheries	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
ESF 12	Energy and Utilities	Department of Natural Resources/Intrastate Natural Gas	P
		Louisiana Public Service Commission/Power	P
		Louisiana Department of Health	P
		Louisiana Department of Environmental Quality (Wastewater Utilities)	S
		Department of Agriculture & Forestry	S
		Louisiana National Guard	S
		Non-Governmental Organizations (NGO)	S
ESF 13	Public Safety and Security	Louisiana State Police	P
		Department of Justice	P
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana National Guard	S
		Office of Juvenile Justice	S

ESF/Support	Annex	Department/Agency	Primary
		Office of the Lieutenant Governor	S
		Office of the State Fire Marshal	S
ESF 14	In accordance with the National Disaster Recovery Framework, ESF 14 will be organized into Recovery Support Functions (RSF).	Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	P
RSF 1	Community Planning and Capacity Building	Office of Community Development	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
		Louisiana Economic Development	S
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S
		Office of Financial Institutions	S
		Office of the Lieutenant Governor-Volunteer Louisiana	S
		Department of Education	S
		Louisiana VOAD	S
		Department of Transportation and Development	S
RSF 2	Economic	Louisiana Economic Development	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Workforce Commission	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Department of Revenue	S
		University of Louisiana at Lafayette/NIMSAT	S
		Louisiana State University/SDMI	S
		Office of Financial Institutions	S
		Office of the Lieutenant Governor	S
		Department of Education	S
		Department of Transportation and Development	S
		LSU/Southern Agriculture Centers	S
		Department of Environmental Quality	S
		Louisiana Sea Grant@ LSU	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana VOAD	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 3	Health and Social Services	Louisiana Department of Health	P
		Department of Children and Family Services	P
		Department of Education	P
		Louisiana State University Health Sciences	S
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Board of Regents	S
		Office of Community Development	S
		Louisiana VOAD	S
		Office of the Lieutenant Governor	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 4	Housing	Louisiana Housing Corporation	P
		Department of Children and Family Services	S
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana Economic Development	S
		Louisiana VOAD	S

ESF/Support	Annex	Department/Agency	Primary
		Office of the Lieutenant Governor-Volunteer Louisiana	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 5	Infrastructure Systems	Department of Transportation and Development	P
		Coastal Protection and Restoration Authority	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Office of Community Development	S
		Office of Financial Institutions	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Public Service Commission	S
		Louisiana Economic Development	S
		Department of Environmental Quality	S
		Department of Natural Resources	S
		Department of Corrections	S
		Department of Public Safety	S
		Louisiana Oil Spill Coordination Officer	S
		Office of the State Fire Marshall	S
		Louisiana Housing Corporation	S
		Louisiana Department of Health	S
		Louisiana Department of Education	S
		Louisiana National Guard	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
RSF 6	Natural and Cultural Resources	Louisiana Department of Wildlife and Fisheries	P
		Coastal Protection and Restoration Authority	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Department of Culture, Recreation, and Tourism	S
		Department of Agriculture and Forestry	S
		Office of the Lieutenant Governor	S
		Office of Community Development	S
		Secretary of State	S
		Governor's Office of Disability Affairs	S
		Governor's Office of Elderly Affairs	S
ESF 15	Emergency Public Information	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Senate and House Legislative Liaisons	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation & Tourism	S
		Office of the Lieutenant Governor	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		State Fire Marshal	S
		Governor - Division of Administration	S
		Governor - Office of Disability Affairs	S
		Governor - Office of Elderly Affairs	S
		Governor - Office of Financial Institutions	S
		Governor - Office of Indian Affairs	S
		Louisiana Oil Spill Coordinators Office	S
		Louisiana State University System	S
		Louisiana Department of Health	S
		Department of Justice	S
		Department of Insurance	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Secretary of State	S

ESF/Support	Annex	Department/Agency	Primary
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
ESF 16	Military Support to Civilian Affairs	Louisiana National Guard	P
ESF 17	Cyber Incident Response Management	Division of Administration	P
		Louisiana National Guard	P
		Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP)	S
		Louisiana State Police-LA SAFE	S
		Department of Justice	S
		Louisiana Board of Regents	S
		LSU-SDMI	S
		Louisiana Optical Network Initiative (LONI Network)	S
		Louisiana Cyber Innovation Center	S
		Office of the Attorney General	S
		Office of the Governor	S
		Office of the Lieutenant Governor	S
		Secretary of State	S
		Department of the Treasury	S
		Louisiana Commissioner of Insurance	S
		Louisiana Department of Health	S
		Department of Agriculture and Forestry	S
		Louisiana Public Service Commission	S
		Louisiana Workforce Commission	S
		Department of Education	S
		Department of Children and Family Services	S
		Department of Wildlife and Fisheries	S
		Department of Natural Resources	S
		Department of Environmental Quality	S

SECTION 6: The head of each department assigned a primary ESF or RSF responsibility in Section 4 shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned emergency support or recovery support responsibilities in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center and or Joint Field Office with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency service;

E. Conduct an annual internal review to update the details of their department's implementing procedures and advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: This Order is effective upon signature and shall remain 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 the State of Louisiana in the City of Baton Rouge, on this 9th day of August, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#069

**EXECUTIVE ORDER JBE 19-13**

**Flags at Half-Staff—Theodore “Ted” Jones**

WHEREAS, a true Louisiana legend, Theodore “Ted” Jones, died on on Sunday, August 11 at the age of 85;

WHEREAS, Ted was a veteran of the United States Air Force and a graduate of Northwestern State University in Natchitoches, University of Mississippi Law School, and Georgetown University;

WHEREAS, a life-long musician, Ted played alongside such musical greats as Elvis Presley and his longtime bandmate, Governor Jimmie Davis;

WHEREAS, Ted served as Chief of Staff to United States Representative Speedy Long, counsel to Governor John McKeithen, special counsel for Governor Edwin Edwards; special counsel to the Louisiana Public Service Commission and the Louisiana Tax Commission, and the chief Washington D.C. lobbyist for the State of Louisiana;

WHEREAS, after his government service, Ted was a successful lawyer and lobbyist, and served as a close friend and adviser to many in elected office in Louisiana and Washington D.C.;

WHEREAS, Ted was also one of the leading figures of the Washington Mardi Gras celebration serving as chairman and a Senior Lieutenant in the Mystic Krewe of Louisianians; and

WHEREAS, among his many accolades, Ted Jones was inducted into the Louisiana Political Hall of Fame in 2007 and recognized as a Louisiana Public Broadcasting Louisiana Legend in 2018;

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

SECTION 1: As an expression of respect and to honor Theodore “Ted” Jones, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings on August 12, 2019.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, on August 12, 2019.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 11th day of August, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1908#070

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agriculture and Environmental Sciences

Citrus Greening Quarantine  
(LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus greening disease (“CG”), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp. The state entomologist has determined that CG has been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG poses an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to its ability to infest rutaceous plants. This industry has a farm value of \$2.4 - \$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. Failure to prevent, control, or eradicate this pest threatens to destroy Louisiana’s commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana’s commercial citrus industry adds \$7.5 - \$10 million dollars to the state’s agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state’s economy. The loss of the state’s commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state’s economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CG in Louisiana outside of the current areas where this disease has already been found.

For these reasons, the outbreak CG in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana’s citizens and the state’s commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature, and will remain in effect 120 days, unless renewed by the Commissioner of Agriculture and Forestry or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND FORESTRY

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

##### §127. Citrus Nursery Stock, Scions and Budwood

A. - D.1. ...

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, St. Bernard, Plaquemines, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

D.3. - G.3. ...

AUTHORITYNOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 44:439 (March 2018), LR 45:

Mike Strain DVM  
Commissioner

1908#012

## DECLARATION OF EMERGENCY

Department of Agriculture and Forestry  
Office of Agriculture and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the state entomologist pursuant to R.S. 3:1652, and in order to avoid a lapse in coverage until a permanent rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine in Caddo Parish for the following pest: Emerald Ash Borer (“EAB”), *Agrilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in Caddo Parish and may be prevented, controlled, or eradicated by quarantine.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana’s forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a



portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

## **Part XV. Plant Protection and Quarantine**

### **Chapter 1. Crop Pests and Diseases**

#### **Subchapter F. Emerald Ash Borer Quarantine**

#### **§167. Emerald Ash Borer Quarantine**

A. - B. ...

1. The entire parishes of Bienville, Bossier, Caddo, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster.

B.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017), amended LR 44:1589 (September 2018), LR 45:

Mike Strain DVM  
Commissioner

1908#011

## **DECLARATION OF EMERGENCY**

### **Department of Children and Family Services Division of Child Welfare**

Foster Care  
(LAC 67:V.4101)

The Department of Children and Family Services (DCFS), Child Welfare, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V, Subpart 5 Foster Care, Chapter 41 Guardianship Subsidy Program, Section 4101 Subsidizing Guardianship Arrangements for Children in Foster Care. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on August 28, 2019 and shall remain in effect until the final rule becomes effective.

Pursuant to SEC. 473. [42 U.S.C. 673], amendment of section 4101 of this code is necessary to ensure children in foster care in Louisiana are afforded the full benefits possible in achieving permanency through guardianship. Additionally, with regard to federal Public Law 115-123 enacted February 9, 2018, the benefits available through the guardianship subsidy are being expanded.

The department considers emergency action necessary to implement this opportunity for establishing more stable, permanent care options for children in foster care, and stabilizing situations where guardians of children who have exited foster care and achieved the legal age of majority can continue to receive support as long as the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program.

#### **Title 67**

### **SOCIAL SERVICES**

## **Part V. Child Welfare**

### **Subpart 5. Foster Care**

## **Chapter 41. Guardianship Subsidy Program**

### **§4101. Subsidizing Guardianship Arrangements for Children in Foster Care**

#### **A. Overview of Program Purpose**

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers as well as certified caregivers with a significant familial bond with the child on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has a significant

familial bond; with whom it would be in the child's best interest to remain until the age of majority, and when the kinship placement provider or other caregiver with a significant familial bond becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship placement or placement with the other caregiver with a significant familial bond for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

a. the successor guardian is named in the guardianship subsidy agreement with DCFS;

b. the successor guardian and all adult household members have satisfactorily completed national fingerprint based criminal and child abuse/neglect background clearances; and

c. guardianship is transferred by a court to the successor guardian in accordance with *Louisiana Children's Code* articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

3. An extended guardianship subsidy may be provided to the guardians or successor guardians of a child who initially received a guardianship subsidy from DCFS after achieving the age of 16, but prior to achieving the age of 18, when the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. The maintenance subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. This extended maintenance subsidy must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. This renewal will be dependent upon the child remaining in the care of the guardian or successor guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or

therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds, legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The special board rate subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. An extended special board subsidy for a child ages 18 to 21 must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. The continued need for the special board rate shall be reviewed at the time of the quarterly reviews. The review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the initial subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian or successor guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver or other caregiver with a significant familial bond and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age or for the duration of an extended subsidy for any eligible child, as department resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential

care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible for establishing the guardianship arrangement. This service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be provided as a non-reoccurring, one-time payment for each guardianship episode.

b. Medicaid Eligibility. The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing title IV-E federal benefits if the child was title IV-E eligible at the time of the subsidy arrangement. For children not eligible for title IV-E, this coverage will be provided through title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a guardianship subsidy, if the child is eligible for title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the title IV-E Guardianship Subsidy Assistance Program or not.

c. Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility. The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child initially enters a guardianship arrangement from foster care (not a successor guardianship) after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

#### C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child cannot be reunited with the parents, and resources for adoptive placement must be explored by the child's worker. If the kinship family or other caretakers with a significant familial bond with the child and with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the interstate compact on the

placement of children guidelines with a certified kinship caregiver or other certified caretaker with a significant familial bond with the child in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

#### D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility. Any extended guardianship subsidy for a child who has attained 18 years of age must be reviewed quarterly to ascertain ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for or not in the best interests of the child. The exception would be any child who has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has an established familial or emotional relationship which it is deemed to be in the child's best interest to continue, and when the kinship placement provider or other caregiver with a significant familial bond with the child becomes a certified foster caregiver according to the certification standards of the State, and, the child(ren) remains in the certified kinship/caregiver placement for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS. Additionally, a family is eligible for participation in the Guardianship Subsidy Program if they have a "significant familial bond" with the child. This term is used to describe individuals with whom the child has a very close affinity who may or may

not have been known to the child or his/her family prior to foster care entry. It is also intended to convey the importance of the relationship to the well-being of the child in maintaining a connection into the future. The child demonstrates this bond through a strong attachment to the caregiver. A family with whom the child shares a significant familial bond could potentially include foster parents who are unable or unwilling to establish an adoptive relationship with the child in spite of DCFS efforts to overcome barriers to adoption, yet who are willing to commit to long term permanency through guardianship for the child. This is demonstrated by non-related family who have a significant and positive relationship with the child and who have a strong commitment to caring permanently for the child.

#### E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the original guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the "duly designated" tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents. Successor guardians named in the original guardianship subsidy agreement who take over financial responsibility for a child for whom the original guardians have been receiving an extended guardianship subsidy and the original guardians have died may receive the extended guardianship subsidy as well as long as the child continues to meet eligibility requirements up to the child achieving age 21.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification

and prior to entering into a guardianship subsidy agreement with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

- i. department assessment of the home environment;
- ii. national fingerprint based criminal records clearances on all adults in the home; and
- iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the child welfare agency while being cared for by the family until such family has been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the department may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible. No legal or court costs are provided for any guardianship arrangement established on or after the child's eighteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with SEC. 473. [42 U.S.C. 673], and P.L. 115-123.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 41:2308 (November 2015), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

Marketa Garner Walters  
Secretary

1907#032

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Manufactured Housing Commission

#### Manufactured Housing Repairs (LAC 55:V.553 and 555)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Manufactured Housing Commission, hereafter referred to as the "Commission", has exercised the emergency provision, in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:V.Chapter 5 as authorized by R.S. 51:911.26(E) and (F)(11). On March 25, 2019, the Commission adopted an Emergency Rule which became effective for the purpose of creating standards applicable to repairs made to used manufactured homes which are located within the State of Louisiana. In particular, the Emergency Rule, as promulgated in the April 20, 2019 *Louisiana Register*, Volume 45, No. 04, is applicable to manufactured homes which were constructed during and after January 2006 and built to standards and codes promulgated by the United States Department of Housing and Urban Development (HUD), under the National

Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended. The Emergency Rule adopted LAC 55:V.Chapter 5, Subchapter C., Manufactured Housing (Repairs), which adopted standards to be used in repairing the used manufactured homes. However, the standards failed to adequately address the repairs made to the aforesaid manufactured homes. Therefore, using said standards also failed to restore the damaged portion of the structure that existed prior to the damage.

Specifically, the previous Emergency Rule stated that the 2015 Wood Frame Construction Manual (WFCM), the plumbing and mechanical portions of the 2015 edition of the International Residential Code (IRC) and the 2014 National Electrical Code (NEC), as applicable, would be the standards used for the repairs made to used manufactured homes built during and after 2006. However, the current edition of the Manufactured Home Construction and Safety Standards, specifically CFR Title 24, Part 3280.4, which is dated April 22, 2019, references only portions of the 2005 NEC. Major provisions are specifically excluded from this, such as arc-fault circuit protection. New manufactured homes, which are built to the CFR, cannot be repaired to all of the standards mandated in the 2014 NEC without replacing most of the electrical system. In addition, several options of standards for wood frame construction are listed for use with new construction, none of which reference the WFCM.

This current Emergency Rule addresses repairs made to homes built after July 15, 1976 that are no longer in compliance with the standards to which they were built. In particular, it addresses the procedures that need to be utilized before local jurisdictions will reinstate services, utilities, and any and all other amenities that were discontinued due to the damage incurred to the manufactured home which prompted the repairs.

The adoption of this Rule on an emergency basis is necessary due to the fact that many home owners lack the resources available to hire individuals, such as architects and engineers, to advise the homeowner on how to restore and repair the damaged manufactured homes. As a result, as seen in the flood of August 2016, many homes are abandoned and become an imminent peril to the public health, safety and welfare of society. In addition, these abandoned homes become a blight to surrounding property, diminishing property values. Therefore, this becomes a problem for local and parish jurisdictions to address, with many of these jurisdictions not having the financial resources to remove the abandoned homes. The adoption of this Rule is essential so that owners of manufactured homes have the knowledge required to restore and repair their homes.

This Emergency Rule is being re-promulgated and re-adopted by signature of the agency head, Chief H. "Butch" Browning, Jr., July 25, 2019, for publication in the August edition of the *Louisiana Register* (Vol. 45, No. 08). It shall be in effect for the maximum period allowed under the Administrative Procedure Act, 120 days, unless rescinded, renewed or until adoption of the final Rule, whichever occurs first.

**Title 55  
PUBLIC SAFETY**

**Part V. Fire Protection**

**Chapter 5. Manufacture Housing (Installation)**

**Subchapter C. Repairs**

**§553. Definitions**

A. When used in these regulations, these terms shall have the following meanings:

*Act*—the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.).

*HUD*—the United States Department of Housing and Urban Development.

*Inspect*—a visual examination of manufactured homes to verify that it appears to be in operating condition and is free of physical damage.

*Local Jurisdiction*—city, town, township, parish, village, or other general purpose political subdivision of the State of Louisiana that has the authority to make legal pronouncements and administer judicial and regulatory enforcement to individuals and companies who are conducting transactions within the given geographical location.

*LSUCCC*—the Louisiana State Uniform Construction Code Council.

*Manufactured Home and Manufactured Housing*—a prefabricated, factory built home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent residential dwelling unit. Homes built since 1976 are constructed to standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974, 42 U.S.C. 5401 et seq., as amended. Further, the terms "manufactured home" and "manufactured housing" may be used interchangeably and apply to structures bearing the permanently affixed seal of the United States Department of Housing and Urban Development.

*Public Entity*—the state and any of its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political subdivisions and the departments, offices, agencies, boards, commissions, instrumentalities, officers, officials and employees of such political subdivision.

*Standards*—the federal manufactured housing construction and safety standards promulgated under Section 604 of the Act, 42 U.S.C. 5403, Part 3280.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:

**§555. Repair Requirements**

A. All repairs made to used manufactured homes constructed after July 15, 1976 that are no longer in compliance with the standards to which they were built or standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD),

under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended, shall be in accordance with the standards incorporated by reference in the most current edition of the National Manufactured Home Construction and Safety Standards, specifically CFR Title 24, Part 3280.4.

B. Pursuant to R.S. 40:1730.23(B), repairs to driveways, steps, decks, or other similar accessory or work, not including any additional living area or other type of heated and cooled space outside of the original footprint of the manufactured home, shall be performed in accordance with the standards referenced herein.

C. The Office of State Fire Marshal shall use employees that are registered with the LSUCCC as Building Officials to oversee inspection of all repairs, not to include repairs which are performed under warranty and/or repairs pursuant to installations and set ups of manufactured homes. Upon completion of a final, approved inspection, the Office of State Fire Marshal shall provide all applicable reports to the local governing authority, which may utilize the report in determining the reinstatement of services, utilities, and any and all other amenities that were discontinued due to the damage incurred to the manufactured home which prompted the repairs.

D. Inspections shall be limited to that which is visible and accessible without requiring deconstruction or destructive testing.

E. The owner of a structure shall employ an electrician that is licensed in the state of Louisiana to perform any needed repairs to the electrical system. Upon the letterhead of the licensed electrician, it shall state the address of the location of the manufactured home where the work was executed, the date that the work was completed, the scope of the work performed and the standards applied to the scope of work. It shall also contain a statement that the work has been completed in accordance with the referenced standards.

F. In the absence of the availability of the employees of the Office of State Fire Marshal who are registered Building Officials, the Office of State Fire Marshal shall give written notification to the local jurisdictions to conduct said inspections.

G. Pursuant to R.S. 9:2798.1, liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their lawful powers and duties. These provisions are not applicable:

1. to acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking or discretionary power exists; or

2. to acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconducts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E), R.S. 51:911.26(F)(11) and R.S. 40:1730.23(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:

Chief H. "Butch" Browning, Jr.  
State Fire Marshal

1908#006

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Uniform Construction Code Council

#### Uniform Construction Code—Storm Shelters (LAC 17:I.101)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current building provisions in the *International Building Code* regarding health and safety for the public.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing installation of Storm Shelters. This Rule was first adopted and published in the January 2018 edition of the *Louisiana Register* (Vol. 44, No. 01). The Rule became effective on February 1, 2018. This Emergency Rule is being promulgated to continue those provisions. It was favorably voted on by the Uniform Construction Code Council on March 12, 2019. By signature of the agency head, Chief H. "Butch" Browning, Jr., it was adopted and became effective March 26, 2019. It was last published in the April edition of the *Louisiana Register* (Vol. 45, No. 04) and made effective for the maximum period allowed under the Act (120 days). The LSUCCC is re-promulgating and re-adopting this Emergency Rule by signature of the agency head, effective July 26, 2019, for publication in the August edition of the *Louisiana Register* (Vol. 45, No. 08). It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

The adoption of the 2015 *International Building Code*, Section 423 provides for storm shelter requirements in specific parishes in the northern region of the state. These requirements include new or additions to facilities for schools, and essential services such as fire, police, EMS, and 911 call centers. Many design professionals, school boards, and essential services agencies were unaware of this requirement. They secured funding with proposed budgets without this requirement being addressed in the plans and specifications. Bonds were secured for funding based on the older edition of the code without the increased cost for storm

shelters factored in to equation. Due to the increased cost not being provided for in budgeting new schools and essential services projects were being canceled or placed on indefinite hold until new funding could be secured. This Emergency Rule addresses this requirement by providing for a delay in the effective date for enforcement. This delay also allows for more public input into the implementation timeline and any needed amendments to this section of the *International Building Code*.

The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote greater safety to existing facilities undergoing renovations and for new proposed facilities to include these storm shelter requirements in securing funding. The public welfare further dictates that these changes are implemented immediately through the adoption of the Emergency Rule because of the health risks these amendments address. Adoption of this Emergency Rule will allow owners and developers to immediately use these new standards in expanding existing facilities or constructing new facilities.

Adoption of this Emergency Rule will also provide proven methods for storm shelters and new technology which will ensure the health, safety and welfare of not only school age children but for the public as well.

#### **Title 17**

### **CONSTRUCTION**

#### **Part I. Uniform Construction Code**

#### **Chapter 1. Uniform Construction Code**

#### **§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)**

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective February 1, 2018 the following is hereby adopted as an amendment to the *Louisiana State Uniform Construction Code*.

1. Projects submitted for permitting prior to January 1, 2020 shall not be required to comply with the 2015 IBC Section 423 Storm Shelters.

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 42:1672 (October 2016), LR 44:75 (January 2018), LR 45:

Chief H. "Butch" Browning, Jr.  
State Fire Marshal

1908#022

## **DECLARATION OF EMERGENCY**

### **Department of Revenue Office of Alcohol and Tobacco Control**

#### **CBD Product Public Safety Regulations (LAC 55:VII.Chapter 6)**

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 3:1483, hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature, August 1, 2019.

These revised CBD Product Public Safety Regulations replace the prior Declaration of Emergency, CBD Product Public Safety Regulations, that were promulgated on June 27, 2019 and incorporate requests and suggestions received from the Author of Act 164 of the 2019 Louisiana Legislature and the chairs of both of the agencies' legislative oversight committees. The revisions include: (1) changing the required date for an existing business which desires to have industrial hemp-derived CBD products on their premises to apply for a CBD retail permit from August 1, 2019 to September 1, 2019; (2) changes to ensure retail applicants and permit holders understand that it is the manufacturer's duty to register and obtain label approval for industrial hemp-derived CBD products; (3) providing for the expiration date of March 31, 2020 for initial temporary CBD permits; (4) removing the fee for CBD wholesale permits and providing for the expiration date of July 31, 2020 for initial temporary CBD permits; (5) removal of the staggered expiration and renewal dates for CBD retail permits and providing for all to expire on March 31 of each year; (6) removal of the staggered expiration and renewal dates for CBD wholesaler permits and providing for all to expire on July 31 of each year; and (7) clarifying that the civil penalties provided for in section 613 are at the discretion of the Commissioner and in lieu of the criminal penalties provided for by R.S. 3:1485; (8) allows for applicants to apply for CBD permit if they were convicted of a certain felonies with completion of final sentence two years before the date of application; (9) reduces the amount of civil penalties; (10) allows for CBD Owner Training to be valid for two years; (11) removing the limitation on special event permits.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the *Louisiana Administrative Code* given the need for regulation of industrial hemp-derived CBD products for consumption and topical use as defined under the provisions of Act No. 164 of the 2019 Louisiana Legislature. The following regulations will give the ATC the ability to properly license and regulate the retail sale of industrial hemp-derived CBD products for consumption and topical use, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and

Tobacco Control the ability to make critical decisions that protect human health. This Rule creates §601 through §619 to address retail CBD licensure, permitting, and related matters since this is not addressed otherwise by existing law or regulation.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of alcohol and tobacco control or until permanent rules are promulgated in accordance with law.

#### **Title 55**

### **PUBLIC SAFETY**

## **Part VII. Alcohol and Tobacco Control**

### **Chapter 6. CBD Product Public Safety Regulations**

#### **§601. CBD Retail and Wholesale Permits**

A.1. Each person who sells or is about to engage in the business of selling at retail or wholesale, any industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical use as defined in R.S. 3:1481(5) shall first apply for and obtain a CBD retail and/or wholesale permit for each physical place of business from the Office of Alcohol and Tobacco Control. Online retail sales of industrial hemp-derived CBD products intended for consumption or topical use shall be allowed with a CBD retail permit and physical place of business within the State. Any industrial hemp-derived product or hemp seed incapable of germination that has been approved by the United States Food and Drug Administration and does not contain any amount of cannabidiol shall not fall under the regulations of this Chapter.

2. The commissioner of the Office of Alcohol and Tobacco Control shall have the authority to issue permanent and temporary retail and wholesale permits for industrial hemp-derived CBD products and the permit shall only authorize the storage and sales of said products to take place at each physical place of business so permitted.

a. Existing retail businesses that desire to have industrial hemp-derived CBD products on their premises for sale to consumers shall have until September 1, 2019 to apply for a temporary CBD retail permit with the Office of Alcohol and Tobacco Control.

b. Applicants for initial applications for CBD retail and wholesale permits received by the Office of Alcohol and Tobacco Control shall receive a temporary permit and have until January 31, 2020 to ensure that the industrial hemp-derived CBD products they are carrying have been registered by the manufacturer with the Louisiana Department of Health and until February 28, 2020 to ensure that the CBD products they are carrying have had their labels approved by the Louisiana Department of Health.

c. All industrial hemp-derived CBD products not registered by a manufacturer with the Louisiana Department of Health by January 31, 2020 shall be removed from retail and wholesale premises. All industrial hemp-derived CBD products which have not received label approval from the Louisiana Department of Health by February 28, 2020 shall be removed from retail and wholesale premises.

d. A temporary CBD retail permit holder carrying only hemp-derived CBD products that have been properly registered by the manufacturer with the Louisiana Department of Health and have labels approved by the Louisiana Department of Health, may apply for a permanent

CBD retail permit with the Office of Alcohol and Tobacco Control.

e. Permanent CBD retail permit holders and permanent CBD wholesaler permit holders may not possess, store, display, offer for sale, or sell CBD products which have not been registered with and had their labels approved by the Louisiana Department of Health.

3. The CBD retail permit shall not authorize the permittee to sell or offer for sale any industrial hemp-derived CBD product that:

a. is derived from any source that is not hemp;

b. contains a tetrahydrocannabinol (THC) concentration of more than 0.3 percent on a dry weight basis;

c. is intended for inhalation;

d. is an alcoholic beverage containing CBD or hemp;

e. is marketed as a dietary supplement, unless approved by the United States Food and Drug Administration;

f. is a food product or beverage containing CBD or hemp, unless the United States Food and Drug Administration approves CBD and/or hemp as a food additive;

g. contains a medical claim, unless approved by the United States Food and Drug Administration.

4. The CBD retail permit shall only authorize the permittee to sell or offer for sale an industrial hemp-derived CBD products that is:

a. produced from hemp grown by a licensee authorized to grow hemp by the United States Department of Agriculture or under an approved state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79;

b. registered with the Louisiana Department of Health in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.); and

c. labeled in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.) and approved by the Louisiana Department of Health. The label shall have:

i. the following words printed clearly on its label: "This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease", unless approved by the United States Food and Drug Administration; and

ii. a scannable bar code, QR code, or web address linked to a document or website that contains a certificate of analysis as required by R.S. 3:1482(D).

5. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control in its initial application and renewal applications of all officers, directors, managers, shareholders, members, or persons qualified to conduct or manage the business and same shall meet the qualification requirements of an applicant.

6. The CBD retail and wholesale permits shall be considered a privilege and is not transferrable, assignable, or heritable. The permit must be returned to the Office of Alcohol and Tobacco Control or surrendered to an agent of the commissioner within five days of permit closure, when



the ownership of the business is transferred, or the business is terminated. When the ownership of the business is transferred, the new owner shall be allowed to continue to operate using the transferor's permit until a new permit is issued or denied, only if the new owner notifies the Office of Alcohol and Tobacco Control of the transfer within five days of the transfer and applies for a new CBD retail or wholesale permit within fifteen days of the transfer of ownership. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control of any changes in the officers, directors, managers, shareholders, members, or persons previously qualified to conduct or manage the business within fifteen days of the date of such changes. The notification shall include the suitability documents and information for each new individual required to possess the qualifications of the applicants. However, in the event of the dissolution of a partnership by death, the surviving partner or partners may operate under the partnership permit.

7. Receivers and trustees in bankruptcy may operate under the permit of the person succeeded.

8. When the location of a place of business is proposed to be changed, the proposal shall be received and must be approved by the issuing authority before such action is taken. The change of location shall be noted on the permit by the issuing authority and the permit shall be invalid unless the notation is made.

9. The permit, in addition to any other permit required to be displayed, shall be posted in a conspicuous place on the licensed premises, so as to be easily seen and read by the public. No other signs or notices, except those required by state or federal law, shall be required to be displayed by the retail dealer.

10. A partnership may include a surviving spouse not separate in community and that spouse may operate under the partnership permit for the remainder of the term.

11. A partnership, corporation, or any other authorized legal entity recognized under the laws of the state of Louisiana may include a spouse who has a regime of separation of property, pursuant to Civil Code Article 2370, and may include a spouse who owns the interest in the partnership, corporation, or other legal entity as that spouse's separate property, pursuant to Civil Code Article 2341, and that spouse may operate under the permit of the partnership, corporation, or other legal entity for the remainder of the term after final conviction of the other spouse for any felony that is not directly related to the CBD retail or wholesale permit.

12. The failure of a retail dealer to publicly display his permits, as required by Paragraph ) above, shall be grounds for the withholding, suspension, or revocation of the CBD retail and/or wholesale permit.

B.1. The commissioner shall collect an initial and annual licensure permit fee in the amount of \$175 per year for CBD retail permits. Initially, the commissioner shall issue temporary CBD retail permits that shall expire March 31, 2020.

2. The commissioner shall collect no fee for wholesaler permits. Initially, the commissioner shall issue

temporary wholesaler permits that shall expire July 31, 2020.

3. The expiration of CBD retail permits shall be on March 31 of each year and permit holders shall renew their permit prior to that date.

4. The expiration of CBD wholesaler permits shall be on July 31 of each year and permit holders shall renew their permit prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

### **§603. Submission of Applications**

A. All applications for CBD retail and wholesale permits shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, unless additional methods are made available by the commissioner. All applications for local permits (if required) shall be mailed or delivered to the respective local authorities, unless additional methods are made available by the local governing authority. An applicant shall mail or deliver both her applications for state and local permits (if required) within twenty-four hours of each other. If she fails to do so, her state application may be withheld and the permits denied. Upon receipt of an application, the commissioner or the local authorities, as the case may be, shall stamp the day, month, and year received, and the commissioner may verify that the applicant does not owe the state or the political subdivision in which the business is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes. The commissioner and officers or employees specifically so authorized by the commissioner and local authorities may issue the permits immediately after proper investigation but, for a period of thirty-five days after issuance, such permits shall operate on a probationary basis subject to final action on or withholding of the permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

### **§605. Qualifications**

A. Upon application for initial permit licensure or annual permit license renewal for a CBD retail or wholesale permit, the applicant may be required to submit to a criminal background check. The applicant may be required to submit fingerprints and other identifying information to the Agency along with an application to the Louisiana Bureau of Criminal Identification and Information, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant. Information obtained from the criminal background check may be used by the Office of Alcohol and Tobacco Control to determine the applicant's eligibility for a CBD retail or wholesale permit and/or renewal pursuant to this chapter.

B. No person shall be eligible to obtain or hold a permit if:

1. convicted of a felony crime under federal or state law as defined in R.S. 14:2(B) or drug related distribution

within 10 years immediately preceding the date of application;

2. convicted of a felony not defined in Subsection B.1, until two years after the completion of the final sentence.

C. Failure to meet or maintain qualifications is a ground for the denial, withholding, suspension, or revocation of a CBD retail and/or wholesale permit.

D. The applicant is responsible for any employee working under the applicant's license and CBD retail and wholesale permit holders shall maintain a record containing the name, date of hire, social security number, and date of employment termination for every employee.

E. Applicants for CBD retail and wholesale permits shall:

1. be a person of good character and reputation and over eighteen years of age. In considering a person's good character or reputation, the commissioner may consider a person's arrests in determining suitability;

2. be a citizen of the United States and the state of Louisiana and a resident of the state of Louisiana continuously for a period of not less than two years next preceding the date of the filing of the application;

3. be the owner of the place of business or have a bona fide written lease therefor for the place of business wherein the storage and retail/wholesale sales of industrial hemp-derived CBD products intended for consumption or topical use shall take place;

4. have not had a license or permit to sell or deal in CBD or hemp, issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application;

5. have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of this Chapter. If the applicant has been so convicted, the granting of a permit or of a renewal shall be within the discretion of the commissioner.

6. Not owe the state or the local governmental subdivisions in which the application is made any delinquent taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes.

7. Not be the spouse of a person who does not meet the requirements of Paragraphs (1) and (4) through (6) of this Subsection; however, in such cases the age of the ineligible spouse shall be immaterial. For purposes of this Paragraph, the term "spouse" shall also include persons who are considered married outside of the United States, persons who ordinarily hold themselves out as husband and wife, or persons who file their state and federal income tax returns as either "married filing jointly" or "married filing separate".

F. If the applicant is a partnership recognized by Louisiana law, or anyone in such partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall also possess the qualifications required of an applicant. The application shall name all partners or financial backers and furnish their social security numbers and proper addresses. If a partner of a partnership applying for retail or manufacturer's permits is a corporation or limited liability company, the requirements as to citizenship and residence shall not apply to officers, directors, and stockholders of the corporation or members of the limited liability company. The corporation or limited

liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

G.1. If the applicant is a corporation or a limited liability company, all officers and directors and all stockholders or members owning in the aggregate more than five percent of the stock or of the membership interest in a limited liability company and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to either the officers, directors, or stockholders of corporations, or the officers, managers, or members of limited liability companies. The corporation or limited liability company shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

2. Notwithstanding any other provisions of law to the contrary, the commissioner may accept from a publicly traded or other corporation or entity, the necessary documentation of those persons described in Subsection H of this Section and three officers of the corporation in full satisfaction of the requirements of this Section.

H. Notwithstanding the provisions of Subsections B, the commissioner may grant or continue a permit with respect to an applicant, even though the applicant's spouse has been convicted of a felony, if the applicant:

1. had state and local permits prior to the spouse's felony conviction; and

2.a. has a regime of separation of property, pursuant to Civil Code Article 2370, and is the owner of the premises or has a bona fide written lease therefor; or

b. owns the permitted premises as the applicant's separate property, pursuant to Civil Code Article 2341.

I. In order to determine suitability, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company may be required to submit fingerprints and other identifying information to the Agency along with an application to the Louisiana Bureau of Criminal Identification, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant.

J. All licensees and persons required to be qualified pursuant to the provisions of this Chapter shall have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of this Chapter. No person who so informs the commissioner shall be discriminated against by an applicant or licensee because of supplying such information.

K. All licensees and any other persons who have been found suitable in accordance with the provisions of this Section shall maintain suitability throughout the term of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§607. Misstatement or Suppression of Fact**

A. Any misstatement or suppression of fact in an application for an initial permit, application for renewal of a permit, special event permit, or any accompanying affidavit to the Office of Alcohol and Tobacco Control is ground for the denial, withholding, suspension, or revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§609. Inspection and Examination**

A. The commissioner or her agent may inspect any place of business where industrial hemp-derived CBD products are offered for wholesale and/or retail sale to the public and she or her agent may examine, at all reasonable hours, the books, records, and other documents of all CBD retail and wholesale permit holders.

B. No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where industrial hemp-derived CBD products are offered for wholesale and/or sale to the public, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the books and records of any business where industrial hemp-derived CBD products are offered for wholesale and/or sale to the public, nor shall any person in any way hinder or prevent such an inspection or audit.

C. Any refusal by a CBD retail or wholesale permit holder to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§611. Prohibition on Sales to Minors**

A. No Person holding a CBD retail permit and no servant, agent, or employee of the permittee shall sell any industrial hemp-derived CBD product to any person under the age of eighteen years of age.

B. To ensure that no industrial hemp-derived CBD product is sold to a person under the age of eighteen years of age, a CBD retail permit holder and their servants, agents, and employees may require all persons attempting to purchase CBD products to produce for inspection either:

1. a valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person

and the date of birth of the person submitting the passport or visa;

5. a valid, current, military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. LA Wallet digitized identification shall be the only digital identification that may be accepted by CBD retailers. CBD retailers may choose to accept digitized identification or they may still require a physical identification when checking identification. Retailers whom the Agency has required to utilize scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401(D).

C. Each form of identification listed above must on its face establish the age of the person as eighteen years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§613. Administrative Hearings and Penalties**

A. Any person who violates any of the provisions of this chapter or the provisions of R.S. 3:1481 et seq.; or who alters, forges, or counterfeits, or uses without authority any permit, license, or other document provided for in this chapter, who operates without a permit, or who fails to collect or to timely pay the assessments, fees, and penalties due or assessed pursuant to this chapter or R.S. 3:1481 et seq., shall be subject, in addition to any unpaid assessments, late fees, or collection costs, to a civil penalty of not more than three hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall constitute a separate offense.

B. At the discretion of the commissioner and in lieu of the criminal penalties provided for by R.S. 3:1484, any licensee who violates any of the provisions of this chapter may be subject to having his permit suspended or revoked, in addition to any other penalties authorized herein or by law.

C. At the discretion of the commissioner and in lieu of the criminal penalties provided for by R.S. 3:1485 and in

lieu of suspension, revocation, or probation, whoever violates the provisions of this chapter shall be fined as follows.

1. On a first offense, the offender shall be fined not more than \$300.

2. On a second offense that occurs within three years of the first offense, the offender shall be fined not more than \$1,000 and/or have its permit suspended.

3. On a third offense that occurs within three years of the first offense, the offender shall be fined not more than \$5,000 and/or have its permit suspended or revoked.

4. On a fourth offense that occurs within three years of the first offense, the offender shall have its permit revoked.

D. Any fine imposed upon any permittee or the revocation or suspension of a permit is in addition to and is not in lieu of or a limitation upon any other penalty imposed by law and not contained in this Chapter.

E. The procedure for the suspension or revocation of permits shall be substantially as follows.

1. The commissioner may have periodic examinations made of the business of all persons holding permits under this Chapter. If a violation of any provision of this Chapter or of the law is observed, the commissioner may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, the commissioner may instruct any agent or employee of the commissioner to prepare and file, upon information and belief based upon the facts in hand, a petition for suspension or revocation of the permit, setting forth the facts and circumstances of the violation, and shall thereupon summon the permittee to appear and show cause why the permit should not be suspended or revoked.

2. The secretary of the Department of Revenue, municipal authorities, sheriffs, and other law enforcing officers may have periodic investigations made of the business of all permittees within their respective jurisdictions. If any violation of any provision of this Chapter or of any law is observed, such authorities may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, they shall file an affidavit with the commissioner, setting forth the facts and circumstances of the violation. Thereupon, the commissioner shall summon the permittee to appear and show cause why his permit should not be suspended or revoked.

3. Any person may file with the commissioner or with the municipal officers or parish authorities a sworn petition requesting that a permit be suspended or revoked. If the petition is filed with the local authorities, they shall immediately transmit it to the commissioner. When such a petition is received by the commissioner, she shall summon the permittee to appear and show cause why her permit should not be suspended or revoked.

4. No such petition shall be considered by the commissioner unless sworn to by the petitioner in an affidavit which also affirms that the petitioner, together with witnesses, if any, will appear at the hearing to establish the allegations of the petition, and unless the petition sets forth facts constituting a cause or causes enumerated in or authorized by this Chapter for the suspension or revocation of a permit.

5. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

F. No permit shall be withheld, suspended, or revoked except for causes specified in this Chapter. If a person holds more than one permit and any one of them is suspended or revoked, the commissioner may suspend or revoke all of his permits.

G. Conviction by a court of violation of the provisions of this Chapter is not a condition precedent to the refusal, suspension, or revocation of a permit under this Chapter for a violation of any of the provisions of this Chapter or the law. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction shall be admissible in a proceeding before the commissioner. The commissioner shall withhold, suspend, or revoke permits for violations of this Chapter, regardless of any prosecution in the court or of the result of any such prosecution.

H. When a permit is revoked for any legal cause, the commissioner may, at the same time, order that no state or local permit shall be issued covering the same premises until two years after the date of revocation.

I. Whenever the commissioner is to hold a hearing pursuant to the provisions of this Chapter, she shall issue a written summons or notice thereof to the applicant or permittee, directing her to show cause why her permit should not be suspended or revoked. The notice or summons shall state the time, place, and hour of the hearing, which shall be not less than ten nor more than thirty calendar days from the date of the notice. The notice or summons shall enumerate the cause or causes alleged for suspending or revoking the permit. All notices or summonses shall be either delivered to the applicant or permittee in person or sent by certified mail to the applicant or permittee and directed to him at the mailing address as given in his last application for the permit. When so addressed and mailed, notices or summonses shall be conclusively presumed to have been received by the applicant or permittee.

J. Hearings by the commissioner shall, in her discretion, be held either at the agency headquarters in Baton Rouge, the agencies New Orleans' office, in the parish in which the licensed premises in question is located, or at another location designated by the commissioner.

K. To the extent practicable, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing pursuant to the following requirements.

1. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do so. The notice shall be sent by certified mail to the permittee at the address of his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled

hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

2. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing within at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

3. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

L. Hearings may be held by the commissioner or by any person designated and authorized by the commissioner. If the hearing is to be held by a person designated by the commissioner, that person shall take an oath for the faithful performance of his duties. The oath may be administered by anyone qualified by law to administer oaths in this state. The commissioner, or the person designated to hold a hearing, may administer oaths, issue subpoenas for the attendance of witnesses and the production of books, papers, accounts, and documents, and examine witnesses and receive testimony at the hearing.

M. If a person fails to comply with a subpoena issued by the commissioner or by any duly authorized person holding the hearing or if a witness refuses to testify in any matter regarding which he may be lawfully interrogated, the person conducting the hearing shall adjudge him guilty of contempt and may fine him not more than one hundred dollars or imprison him for not more than thirty days, or both. The sheriff of the parish in which the hearing is held shall execute the judgment of contempt.

N. If a permittee or applicant who has been notified of a hearing does not appear, the hearing may proceed without her and the commissioner may consider and dispose of the case, but in all cases the commissioner, upon application or *ex propria motu*, may grant continuances from time to time. If the continuance be granted to a fixed future date by written consent or in the presence of the permittee, applicant, or his counsel, no further notice of the hearing date need be given. In all other cases the same notice of hearing as in original hearings shall be given.

O. In determining cases involving the suspension or revocation of permits, if the commissioner finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that the permittee will not again violate any of the provisions of this Chapter, the commissioner may suspend the permit for such time as she thinks proper. If the permittee has previously been fined or had a permit suspended or revoked, or if the violation is flagrant or serious, the commissioner may revoke the permit or permits and shall immediately notify the state and local authorities of this action. When the commissioner either suspends or revokes a permit, all permits to deal in industrial hemp-derived CBD products as

herein defined and all similar local permits are *ipso facto* suspended or revoked without action on the part of state or local governing authorities. The commissioner shall retain jurisdiction to re-open cases at any time upon petition or *ex propria motu*, and for good cause shown may modify, revise, or reverse her former findings and decisions, and all such re-opened cases shall be heard and determined under the same rules of procedure as original cases.

P. In hearings of the commissioner which finally result in withholding the issuance of a permit or in suspending or revoking a permit, the commissioner shall assess the costs of the hearing to the applicant or permittee. The costs are recoverable by the commissioner in any appellate proceeding instituted by the applicant or permittee or in any other judicial proceeding.

Q. Decisions of the commissioner in withholding, suspending, or revoking permits and of local authorities in withholding permits are final and binding on all parties unless appealed in the manner provided in section R below and finally reversed by the courts.

R. Any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit or of the local authorities to withhold a permit may, within ten days of the notification of the decision, take a devolutive appeal to the district court having jurisdiction of the applicant's or permittee's place of business, proposed or actual as the case may be. Such appeals shall be filed in the district courts in the same manner as original suits are instituted therein. The appeals shall be tried *de novo*. Either party may amend and supplement her pleadings and additional witnesses may be called and heard. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction is admissible in the trial of the appeal. Within ten calendar days of the signing of the judgment by the district court in any such appeal case, the commissioner or the applicant for a permit or permittee, as the case may be, may devolutively appeal the judgment to the appellate court of proper jurisdiction. These appeals shall be perfected in the manner provided for in civil cases and shall be devolutive only. If the district court determines that the decision of the commissioner or of the local authorities in withholding, suspending, or revoking the permit was in error, the decision of the commissioner or local authorities shall not be voided if the commissioner or local authorities take an appeal to the court of appeals in the time provided for suspensive appeals.

S. All proceedings in the district and appellate courts arising under this Part are civil in nature and shall be heard summarily by the court, without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in or out of term.

T. The courts of this state shall have jurisdiction to issue restraining orders and writs of injunction restraining the commissioner as provided in the constitution, but no writ or order shall issue before a decision has been made by the commissioner either withholding the application for a permit, or suspending or revoking a permit under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§615. CBD Owner Training**

A. A CBD retail permittee must complete the free ATC online CBD education training course within 30 days after receiving their CBD retail permit. All individuals completing CBD education training shall receive a certificate of completion evidencing their training which shall be valid for two years. CBD retail permittee employees who may be called upon to sell or serve industrial hemp-derived CBD products to consumers at retail may voluntarily complete the ATC online CBD education training. Individuals who maintain current valid non-expired certificate of CBD education training and the permittee they are employed by may receive a warning in lieu of penalties for a first offense violation of a CBD/hemp product sale to a minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§617. CBD Special Event Permits**

A. For purposes of this regulation, special events are defined as events, held at any location, where industrial hemp-derived CBD products are sold as an incidental part of the event for payment rendered or are supplied as part of a general admission or other type fee.

B. For such events, this office may issue a special temporary CBD retail permit to existing CBD retail permit holders authorizing the sale of industrial hemp-derived CBD products that have been registered and had their labels approved by the Louisiana Department of Health at the special event for a maximum duration of three consecutive days only, but wholesalers may deliver products to the event up to two days prior to the effective date of the permit.

C. The commissioner shall collect special event licensure permit fee for each CBD Special Event Permit in the amount of \$100.

D. No industrial hemp-derived CBD product intended for consumption or topical use shall be given away free of charge at a special event, even by a special event permit holder, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

**§619. No Donations or Free CBD Products**

A. No industrial hemp-derived CBD product shall be donated or given away free of charge outside the confines of a permitted wholesale or retail permit holder's place of business, nor shall same be sold through a vending machine, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:

Juana Marine-Lombard  
Commissioner

1908#007

**DECLARATION OF EMERGENCY**

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

2019-2020 Oyster Season on Public Areas of Louisiana

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953, and under the authority of R.S. 56:433 and R.S. 56:435.1.1, notice is hereby given that the Wildlife and Fisheries Commission declare the 2019/2020 oyster season as follows:

The Sister Lake Oyster Seed Reservation as described in R.S. 56:434, shall open for bedding purposes at one-half hour before sunrise on Monday, November 18, 2019, and shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, November 18, 2019.

Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1 shall open to the harvest of market oysters one-half hour before sunrise on Friday, November 1, 2019.

The Sister Lake Public Oyster Seed Reservation shall open to the harvest of market oysters at one-half hour before sunrise on Tuesday, November 19, 2019.

These actions shall not supersede public health closures.

During the 2019/2020 open oyster season, the following provisions shall be in effect:

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds and reservations described above shall be limited to a daily take and possession not to exceed 25 sacks of oysters per vessel, except for Calcasieu Lake where the daily and possession limits shall not exceed 10 sacks of oysters per vessel. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limit shall be based on the number of sacks used, not the size of the sack or other measures. The daily take and possession limit shall not apply to vessels harvesting seed oysters for bedding purposes. The possession limit shall not apply to vessels operating under a valid Oyster Cargo Vessel Permit, and these vessels shall not harvest oysters.

2. All vessels harvesting on the open public oyster seed grounds on Monday, November 18, 2019 shall be harvesting seed oysters for bedding purposes only and shall not have sacks or other containers typically used to hold oysters on board the harvest vessel.

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

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

5. The harvest of seed oysters from a public oyster seed ground or reservation shall be for the purpose of

moving the live oyster resource. The removal of more than 15 percent of non-living reef material in bedding loads is prohibited. All vessels shall allow on-board inspection and sampling of seed oyster loads by LDWF biologists and/or agents.

6. All oysters harvested from public areas, seed grounds or reservations for the purpose of market shall be uncontaminated, sealed and not gaping.

7. All oysters harvested from public areas, seed grounds or reservations for the purpose of market sales shall measure a minimum of 3 inches from hinge to bill.

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

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

10. In Calcasieu Lake, oyster scrapers are prohibited on vessels harvesting oysters.

The following areas shall remain closed for the entire 2019/2020 oyster season:

1. The public oyster seed grounds and reservations, as described in Louisiana Administrative Code (LAC) 76:VII.507, LAC 76:VII.509, LAC 76:VII.511 and LAC 76:VII.516, including all areas east of Mississippi River, Louisiana Department of Health (LDH) Shellfish Harvest Areas 1, 2, 3, 4, 5, 6, 7, 8, and the Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds.

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

3. The Little Lake Public Oyster Seed Grounds as described in LAC 76:VII.521.

4. Hackberry Bay, Bay Junop Public Oyster Seed Reservations and Lake Mechant Public Oyster Seed Ground as described in R.S. 56:434.

5. The Sabine Lake Public Oyster Area as described in R.S. 56:435.1.

6. The cultch plant located on the east side of Calcasieu Lake near Long Point (2017)- Cameron Parish within the following coordinates:

- a. 29 degrees 55 minutes 03.45 seconds N  
93 degrees 19 minutes 20.26 seconds W
- b. 29 degrees 54 minutes 55.75 seconds N  
93 degrees 19 minutes 01.32 seconds W
- c. 29 degrees 54 minutes 14.64 seconds N  
93 degrees 19 minutes 22.67 seconds W
- d. 29 degrees 54 minutes 21.22 seconds N  
93 degrees 19 minutes 40.43 seconds W
- e. 29 degrees 54 minutes 31.41 seconds N  
93 degrees 19 minutes 12.81 seconds W
- f. 29 degrees 54 minutes 45.83 seconds N  
93 degrees 19 minutes 27.63 seconds W

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. Close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is

found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

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

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

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

Prior to any action, the Secretary shall notify the Chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

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

Alfred R. Sunseri  
Chairman

1908#009

## DECLARATION OF EMERGENCY

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Eagle Lake Crappie Length and Creel Regulations (LAC 76:VII.198)

There is a 30 fish, 11 inch minimum total length limit on black and white crappie at Eagle Lake in Madison Parish, Louisiana. The current regulation expires on October 1, 2019. The Inland Fisheries Division of the Department of Wildlife and Fisheries (DWF) received results and recommendations from the Eagle Lake crappie population assessment and angler opinion survey conducted by the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) on June 3, 2019. Upon evaluation, DWF recommends removing the expiration date and making the current regulation permanent.

The Wildlife and Fisheries Commission finds that imminent peril to the public welfare requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), since the current regulation will expire before a Notice of Intent could be finalized, resulting in disparate regulations on a single waterbody with no physical means of identifying the state boundary. Failure to take emergency action would subject Louisiana residents to potential criminal action due to more liberalized limits on the Louisiana portion of Eagle Lake from October 1, 2019 until a final Rule could be adopted. This Emergency Rule shall take effect October 1, 2019 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act (120 days), or until adoption of a final Rule to permanently establish compatible size and creel limits for crappie on Eagle Lake, whichever occurs first.

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:6(25)(a), R.S. 56:325(C) and R.S.

56:326.3, the Wildlife and Fisheries Commission hereby declares:

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic life**

**Chapter 1. Freshwater Sport and Commercial Fishing**

**§198. Crappie Regulations - Eagle Lake**

A. The recreational daily limit and total length limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) on Eagle Lake located east of the Mississippi River in Madison Parish, Louisiana shall be as follows:

1. The recreational daily creel limit shall be thirty (30) fish, in the aggregate.

2. The minimum total length limit shall be eleven (11) inches.

B. This rule will remain effective provided identical minimum total length limit and daily creel regulations set by the Mississippi Wildlife, Fisheries and Parks Commission are effective on the Mississippi portion of Eagle Lake; otherwise the statewide crappie regulations will be effective on the Louisiana portion of Eagle Lake.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25) (a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41: 1499 (August 2015), amended LR 45:

Alfred R. Sunseri  
Chairman

1908#008

**DECLARATION OF EMERGENCY**

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

**Fall Inshore Shrimp Season Opening Dates**

The Wildlife and Fisheries Commission received information regarding biological sampling for white shrimp in state inshore waters. The Department of Wildlife and Fisheries (LDWF) provided the Commission with data that projected the date when white shrimp will reach marketable size. After considering biological information and public input, the Commission took action to set the fall shrimp

season within state inshore waters. Notice of any opening, delaying or closing of a season by the Wildlife and Fisheries Commission will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2019 Fall Shrimp Season in Louisiana state waters to open as follows:

That portion of state inside waters from the Mississippi/Louisiana state line westward to the Atchafalaya River Ship Channel at Eugene Island as delineated by the red Channel Buoy Line to open at 6:00 p.m., August 5, 2019; and,

That portion of state inside waters from the Atchafalaya River Ship Channel at Eugene Island as delineated by the red Channel Buoy Line westward to the western shore of Freshwater Bayou to open at 6:00 a.m., August 5, 2019; and,

That portion of state inside waters from the western shore of Freshwater Bayou westward to the Louisiana/Texas state line to open at 6 p.m., August 5, 2019.

The Commission also hereby grants authority to the secretary of LDWF to delay or advance these opening dates if biological and/or technical data indicate the need to do so, and; to close any portion of Louisiana's inside or outside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop.

The secretary is further granted the authority to open any area, or re-open any previously closed area, and to open and close special shrimp seasons in any portion of state waters.

Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Alfred R. Sunseri  
Chairman

1908#010



# Rules

## RULE

### Department of Children and Family Services Division of Child Welfare

State Central Registry and Child Protective Services  
Administrative Appeal  
(LAC 67:V.1103 and 1111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Sections 1103 and 1111.

This Rule will implement the provisions of 42 USC 671, et seq. by permitting the release of information on the state central registry for employees or potential employees to out of state child care institutions, as defined by 42 USC 672. It will also assure compliance with 42 USC 9858f for child care background clearances to be completed within 45 days of submission; and to provide individuals opportunities for administrative appeals when DCFS intends to justify/validate them for their involvement as a perpetrator of child abuse and/or neglect in accordance Louisiana Children's Code, Article 616.1.1. This Rule is hereby adopted on the day of promulgation.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 3. Child Protective Services

#### Chapter 11. Administration and Authority

#### §1103. State Central Registry

A. - C.1. ...

2. Individuals in investigations in families who have been determined to be justified/valid as a perpetrator of child abuse and/or neglect for a tier 1, 2, or 3 finding, as defined in LAC 67:V.1103.A, subsequent to July 1, 2018, shall be provided written notice of the SCR and the rules governing maintenance and release of SCR records. As of August 1, 2018, the written notice shall also inform the individual of their right to an administrative appeal pursuant to LAC 67:V.1111. The individual's name will not be placed on the SCR until the individual has exhausted his right to an administrative appeal. If the individual fails to request an administrative appeal within 20 days of the written notification of the justified/valid finding, withdraws their request for an administrative appeal, or the justified/valid finding is upheld by an administrative law judge, the individual's name will be immediately placed on the SCR.

D. - G.10. ...

11. DCFS will disclose to a potential employer or another lead state agency information on perpetrators of child abuse and/or neglect who are listed on the SCR for individuals as requested by other states as pursuant to federal law for employees and potential employees of child day care settings; and, out of state child care institutions as defined by 42 USC 672, upon receipt of a written request containing the

individual's consent and upon receipt of the \$25 fee. DCFS will not disclose such information until it has confirmed receipt of the fee.

**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 42 USC 671, et seq.

**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).

#### §1111. Child Protective Services Administrative Appeal

A. The Department of Children and Family Services (DCFS) establishes an administrative appeal process with the Division of Administrative Law (DAL). The purpose is to provide individuals the right to appeal DCFS Child Protective Services investigation findings of justified/valid. Any individual with a justified/valid finding of child abuse or neglect may request an appeal of their justified/valid finding directly with DAL.

B. Individuals with justified/valid findings in an investigation prior to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. When a request for an SCR clearance is received by DCFS, or DCFS verifies that an individual has a justified/valid finding, and the individual is listed as a perpetrator with a justified/valid finding of abuse or neglect in an investigation prior to August 1, 2018; the individual will be notified in writing of their right to an administrative appeal. The individual will have 20 days from the date of the written notification to request an appeal through DAL.

C. Any individual notified of a DCFS justified/valid finding in an investigation subsequent to August 1, 2018, will have the right to an administrative appeal of any/all of their DCFS findings of justified/valid. The individual will have 20 days from the date of the written notification to request an appeal through the DAL.

D. When DCFS receives a request for an SCR clearance on an individual who is a prospective or current employee in a licensed/registered child care setting by the Louisiana Department of Education, a current or prospective employee of an Office of Juvenile Justice juvenile facility, a current or prospective employee in a specialized provider, juvenile detention facility provider licensed by DCFS; or, a current or prospective employee of DCFS in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, they may request an expedited appeal. A request for an expedited appeal shall be submitted to DAL within 10 days of the date

of the written notification. If the appeal is not submitted within the 10 days, the individual has 20 days from the date of the written notification to request a non-expedited appeal through DAL.

E. - I. ...

1. the individual does not request an administrative appeal with DAL within 20 days of the date of the written notification of their right to appeal the DCFS determination;

I.2. - K. ...

AUTHORITY NOTE: Promulgated in accordance with Act 348 of 2017 and Children's Code Article 616.1.1., and 42 USC 9858f.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 44:1002 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), LR 45:1053 (August 2019).

Marketa Garner Walters  
Secretary

1908#031

## RULE

### Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel  
Personnel Evaluations (LAC 28:CXLVII.315)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. Educator certification issuance and renewal are contingent upon satisfactorily meeting the standards for effectiveness in accordance with R.S. 17:3886 and 17:3902, LAC 28:CXXXI (Bulletin 746), and LAC 28:CXLVII (Bulletin 130). Statutory language delineates that assistance, support, and resources are provided upon the first determination of an ineffective rating through an intensive assistance program developed and implemented by the local governing authority. The amendments align policy with statute regarding standards for effectiveness. This Rule is hereby adopted on the day of promulgation.

#### Title 28

#### EDUCATION

#### Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

#### Chapter 3. Personnel Evaluation

#### §315. Intensive Assistance

[Formerly §329]

A. ...

B. An intensive assistance plan designed to address the complexity of the educator deficiencies shall be developed with the evaluatee within 30 school days of an evaluation resulting in the initiation of the intensive assistance plan.

C. The evaluatee shall be informed in writing of placement in an intensive assistance plan, as well as the reasons for such placement, and be formally re-evaluated within one calendar year of the initiation of the intensive assistance plan.

D. Upon completion of a formal evaluation, if the evaluatee receives an ineffective rating immediately upon completion of the intensive assistance plan or if the intensive assistance plan is not completed in conformity with its provisions, the LEA shall timely initiate termination proceedings.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:391.10, 17:3871-3873, 17:3881-3884, and 17:1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1218 (May 2012), LR 45:1054 (August 2019).

Shan N. Davis  
Executive Director

1908#045

## RULE

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators  
Operation and Administration; Certification of Personnel; Student Services; Suicide Prevention; and Course Credit for Private Piano and Studio Strings Lessons (LAC 28:LXXIX.117, 303, 901, 1309, and 2339)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The amendments include alignment of policy regarding suicide prevention, private music course credit, the repeal of outdated language, and technical edits. This Rule is hereby adopted on the day of promulgation.

#### Title 28

#### EDUCATION

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

#### Chapter 1. Operation and Administration

#### §117. Instructional Time

A. Each school will adopt a calendar that includes 57,750 minutes of instructional time. A nonpublic school may modify the total number of instructional minutes per day and instructional days per year, provided that 57,750 minutes of instructional time per year are scheduled.

1. ...

2. Each non-public school district or independent non-public school may include in its calendar a provision for dismissal of high school senior students prior to the end of the school year. This provision is not to exceed 10 days of instructional time or the equivalent number of minutes, in accordance with minimum attendance requirements found in §901.C of this Part.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 39:1439 (June 2013), LR 45:1054 (August 2019).

### Chapter 3. Certification of Personnel

#### §303. Instructional Staff

A. - F. ...

G. Repealed.

H. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3075 (December 2005), LR 32:1417 (August 2006), LR 32:2237 (December 2006), LR 34:229 (February 2008), LR 34:609 (April 2008), LR 39:1440 (June 2013), LR 45:1055 (August 2019).

### Chapter 9. Student Services

#### §901. Attendance

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

C. In order to be eligible to receive grades, full-day high school students must be in attendance a minimum of 26,400 minutes per semester or 52,800 minutes per school year for schools not operating on a semester basis. An equally divided number of minutes may be used to calculate minimum per-course instructional minute requirements. Elementary students must be in attendance a minimum of 52,800 minutes per school year.

C.1. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:3078 (December 2005), LR 39:1442 (June 2013), LR 45:1055 (August 2019).

### Chapter 13. Preventive Programs

#### §1309. Suicide Prevention

A. Teachers, school counselors, principals and certain other school administrators in approved nonpublic elementary and secondary schools will receive two hours of annual in-service training in suicide prevention. Instruction may be provided by self-review of suitable materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:437.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:38 (January 2019), amended LR 45:1055 (August 2019).

### Chapter 23. High School Program of Studies

#### §2339. Course Credit for Private Piano and Studio

##### Strings Lessons

A. Approval by the nonpublic school leader is required prior to issuance of credit for private piano and studio strings instruction.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 39:1451 (June 2013), LR 45:1055 (August 2019).

Shan N. Davis  
Executive Director

1908#044

## RULE

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel  
Certifications—Eligibility; Endorsements;  
and Suspension, Denial, and Revocation  
(LAC 28:CXXXI.405, 659 and Chapter 9)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The amendments will align the regulations with statutory language regarding the standards for effectiveness of educators, as well as:

- permit certification for an individual with a master's degree from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);
- remove requirements for certified mail;
- align language in Sections where duplicated language may conflict;
- consolidate Sections outlining criminal offenses into one Section that will be referenced in various Parts of the *Louisiana Administrative Code*, Title 28;
- establish the process for certification relative to standards of effectiveness and the subsequent due process upon certification denial or suspension; and
- facilitate the issuance/reissuance of certification in limited instances and on a more timely basis, which is not restricted by the meeting schedule of BESE, with the addition of provisional issuance/reissuance. This Rule is hereby adopted on the day of promulgation.

#### Title 28

#### EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 4. Ancillary School Service Certificates

#### Subchapter A. General Ancillary School Certificates

#### §405. Counselor K-12 (Counselor in a School Setting)

A. ...

B. Eligibility requirements:

1. completion of a standards-based master's degree program in counseling from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);
  - a. candidates completing counseling programs that are not in the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;
2. practicum/internship requirements:
  - a. complete a practicum in counseling from a CACREP-accredited program to include 100 contact hours; and
  - b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting;

B.3. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1807 (October 2006), amended LR 38:1400 (June, 2012), LR 39:1463 (June 2013), LR 45:1055 (August 2019).

**Chapter 6. Endorsements to Existing Certificates**  
**Subchapter C. All Other Teaching Endorsement Areas**  
**§659. Counselor K-12 (Counselor in a School Setting)**

A. ...

B. Eligibility requirements:

1. ...

2. completion of a standards-based master’s degree program in counseling from a regionally-accredited college or university approved by the Council for Accreditation of Counseling and Related Educational Program (CACREP);

a. candidates completing counseling programs other than the specialty area of school counseling must complete six credit hours of school counseling courses from a CACREP-accredited program;

3. practicum/internship requirements:

a. complete a practicum in counseling from a CACREP-accredited program to include 100 contacts hours; or

b. complete an internship in counseling from a CACREP-accredited program to include 600 contact hours in a school setting;

B.4. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1819 (October 2006), amended LR 33:1618 (August 2007), LR 38:1401 (June, 2012), LR 39:1465 (June 2013), LR 45:1056 (August 2019).

**Chapter 9. Actions Related to the Suspension/Denial and Revocation of Louisiana Certificates**

**§901. Overview**

A. Teaching certificates can be denied, suspended, or revoked for certain criminal offenses, for the submission of fraudulent documentation, for professional license censure, for failure to meet the standards for effectiveness, or for participating in cheating. This Chapter presents those circumstances plus the circumstances under which certificates may be reinstated.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 38:3140 (December 2012), LR 44:264 (February 2018), LR 45:1056 (August 2019).

**§903. Definitions**

A. The following definitions apply to this Chapter.

\*\*\*

*Board* or *BESE*—the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

*Cheating*—as determined by the LDE in accordance with LAC 28:XI, *Bulletin 118—Statewide Assessment Standards and Practices*, a testing irregularity committed by an educator in order to alter student or school assessment

results or by inappropriately accessing secure test materials in violation of Bulletin 118, LAC 28:XI, Chapter 53. The determination is made by the LDE in consultation with the LEA, as specified in LAC 28:XI, Bulletin 118.

\*\*\*

*Educator*—a teacher or administrator of a public or nonpublic elementary or secondary school or school system.

\*\*\*

*Teaching Certificate* or *Certificate*—any license, permit, or certificate issued by the Louisiana Department of Education, Division of Teacher Certification, Preparation and Recruitment.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:265 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:1056 (August 2019).

**§904. Criminal History Reporting**  
**[Formerly §903.B-C]**

A. Crimes listed in this Subsection are reported under R.S. 15:587.1, and include convictions for attempt or conspiracy to commit any of these offenses. Conviction or plea of *nolo contendere*, even if adjudication was withheld, will be considered for the purpose of certification. In addition, expungements, first offender pardons, and pretrial diversions are disclosed in criminal background checks conducted in accordance with R.S. 17:15, and specifically:

1. any felony conviction;
2. misdemeanor and felony offenses which include, but are not limited to, offenses defined in the following table;

Criminal Offenses	
R.S. 14:2(B)	Crimes of Violence
R.S. 14:74	Criminal Neglect of Family
R.S. 14:79.1	Criminal Abandonment
R.S. 14:82.1.1	Sexting
R.S. 14:82.2	Purchase of Commercial Sexual Activity
R.S. 14:83	Soliciting for Prostitutes
R.S. 14:83.1	Inciting Prostitution
R.S. 14:83.2	Promoting Prostitution
R.S. 14:83.3	Prostitution by Massage
R.S. 14:83.4	Massage; sexual Content Prohibited
R.S. 14:85	Letting Premises for Prostitution
R.S. 14:89.2	Crime against Nature by Solicitation
R.S. 14:93.2.1	Child Desertion
R.S. 14:282	Operation of Places of Prostitution
R.S. 14:283.1	Voyeurism
R.S. 14:284	Peeping Tom
R.S. 15:541	Sex Offenses
R.S. 40:966(A)	Penalty for Distribution or Possession with intent to Distribute Narcotic Drugs Listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited Acts; Schedule II, Penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited Acts; Schedule III; Penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited Acts; Schedule IV; Penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited Acts; Schedule V; Penalties; Manufacture; Distribution

3. misdemeanor and felony offenses which include, but are not limited to, offenses defined in the following table, for which issuance or reinstatement of a certificate will never be considered.

Prohibited Criminal Offenses	
R.S. 14:30	First Degree Murder
R.S. 14:30.1	Second Degree Murder
R.S. 14:31	Manslaughter
R.S. 14:32.6	First Degree Feticide
R.S. 14:32.7	Second Degree Feticide
R.S.14:32.8	Third Degree Feticide
R.S.14:41	Rape
R.S. 14:42	1st Degree Rape
R.S. 14:42.1	2nd Degree Rape
R.S. 14:43	3rd Degree Rape
R.S. 14:43.1	Sexual battery
R.S. 14:43.1.1	Misdemeanor Sexual Battery
R.S. 14:43.2	2nd degree Sexual Battery
R.S. 14:43.3	Oral Sexual Battery
R.S. 14:43.4	Female Genital Mutilation
R.S. 14:43.5	Intentional Exposure to the AIDS Virus
R.S. 14:44	Aggravated Kidnapping
R.S. 14:44.1	Second Degree Kidnapping
R.S. 14:44.2	Aggravated Kidnapping of a Child
R.S. 14:45	Simple Kidnapping
R.S. 14:46.2	Human Trafficking
R.S. 14:46.3	Trafficking of Children for Sexual Purposes
R.S. 14:46.4	Rehoming of a Child
R.S. 14:80	Felony Carnal Knowledge of a Juvenile
R.S. 14:80.1	Misdemeanor Carnal Knowledge of a Juvenile
R.S. 14:81	Indecent Behavior with a Juvenile
R.S. 14:81.1	Pornography Involving Juveniles
R.S. 14:81.2	Molestation of a Juvenile or a Person with a Physical or Mental Disability
R.S. 14:81.3	Computer-aided Solicitation of a Minor
R.S. 14:81.4	Prohibited Sexual Conduct between Educator and Student
R.S. 14:82	Prostitution
R.S. 14:82.1	Prostitution; Persons under 17; Additional Offenses
R.S. 14:84	Pandering
R.S. 14:86	Enticing Persons into Prostitution
R.S. 14:89	Crime Against Nature
R.S. 14:89.1	Aggravated Crime against Nature
R.S. 14:92	Contributing to the Delinquency of Juveniles
R.S. 14:93	Cruelty to Juveniles
R.S. 14:93.3	Cruelty to the Infirm
R.S. 14:93.5	Sexual Battery of Persons with Infirmities
R.S. 14:106	Obscenity
R.S. 14:283	Video Voyeurism
R.S. 14:286	Sale of Minor Children

B. Offenses committed in a jurisdiction other than Louisiana which, in the judgement of the bureau charged with responsibility for responding to the request, would constitute a crime under the provisions cited in Subsection A of this Section and provisions listed under the federal criminal code having analogous elements of criminal and moral turpitude, will be considered for purposes of certification. (Federal criminal code provisions are located in title 18 of the U.S.C.A., *Crimes and Criminal Procedure*.)

C. Convictions that are set aside pursuant to articles 893 or 894 of the *Louisiana Code of Criminal Procedure*, expunged, or which are pardoned subject to Louisiana pardon laws nonetheless, will be treated as convictions for the purpose of denial, suspension, or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, 17:6, and 17:15.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 34:2559 (December 2008), LR 38:763 (March 2012), LR 44:265 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:1056 (August 2019).

**§905. Denial of Initial or Renewal Certificates**

A. An application for a Louisiana teaching certificate or an application for the renewal of an expired Louisiana teaching certificate will be denied if the department determines that the individual applying for the certificate has been convicted of any offense defined in §904.A of this Chapter, has submitted fraudulent documentation, has professional license censure, has failed to meet the standards for effectiveness, or has participated in cheating. An individual may apply for a certificate if the following conditions apply:

1. five years have elapsed from date of entry of final conviction, the date of entry of his plea of *nolo contendere*, or from the date of receipt of notification from the board of its determination that the person submitted fraudulent documentation or facilitated cheating on a state assessment; and/or

2. the board has received a request for a formal appeal and has conducted a records review of relevant documentation.

B. An application for a Louisiana teaching certificate or an application for a renewal of an expired teaching certificate will be denied if the individual applying for the certificate:

1. has ever had any professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered;

2. is currently being reviewed or investigated for purposes of such action as stated in this Subsection or if such action is pending; and/or

3. has failed to meet the standards for effectiveness in accordance with LAC 28:CXLVII, Bulletin 130.

C. The applicant will be notified that the certificate has been denied. The applicant must provide copies of any documents that verify identity, refute the existence of a criminal conviction, verify the accuracy of fraudulent documentation as submitted, or verify the accuracy of the report regarding the participation in cheating, as submitted. If a conviction or information upon which the certificate has been denied is reversed, such action must be communicated to the department through documentation provided by the applicant.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006), amended LR 44:266 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:1057 (August 2019).

**§906. Issuance of a Denied Certificate**

A. Issuance will never be considered for educators convicted of crimes defined in §904.A.3 of this Chapter.

1. Repealed.

B. ...

C. An applicant may apply to the board for the issuance or renewal of a Louisiana teaching certificate under the following conditions.

1. - 2. ...  
3. The local governing authority submits an appeal that justifies issuance of a certificate for an educator who has failed to meet the standards for effectiveness.

D. - D.1.a. ...

b. conviction for a crime listed in §904.A.1 and 2 of this Chapter, R.S. 15:587.1, or for any felony;

c. participation in cheating;

d. professional license/certificate censure; or

e. failure to meet the standards for effectiveness.

E. Board of Elementary and Secondary Education Responsibilities

1. The board will consider the request for issuance and documentation provided, but is not required to conduct a records review for crimes defined in §904.A.3 of this Chapter and may summarily deny a request for issuance of certification.

2. - 7. ...

F. Certification may be issued provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;

2. there are no additional convictions or repeat offenses; and

3. conviction does not involve violence, sex, children, or any other crime outlined in R.S. 15:587.1.

G. An educator meeting criteria for provisional issuance will be issued a certificate, appropriate to the credentials of the educator, and valid for a period of 90 days from the date of issuance. The provisional issuance is subject to ratification by the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, certification will be suspended and revoked.

H. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional issuance and board ratification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1999 (September 2010), amended LR 38:763 (March 2012), LR 44:266 (February 2018), LR 44:2002 (November 2018), LR 44:2133 (December 2018), LR 45:1057 (August 2019).

### **§907. Suspension and Revocation of Certificates for Criminal Offenses**

A. A Louisiana teaching certificate will be suspended and revoked if the individual holding the certificate has been convicted of any offense defined in §904.A of this Chapter. The information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE, even if the Louisiana educator certification has expired. Such individuals will be notified in accordance with this Section.

B. When the department is notified that an educator has been convicted of a specific crime, the following actions will occur.

1. Department staff will attempt to contact the educator to inform him/her that the department has information regarding a criminal conviction and is proceeding under this Section to suspend the certificate.

2. An educator will have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information. The requested verification may be provided through a telephone conversation or written correspondence.

3. Suspension of the certificate will proceed, as will all other steps in the process outlined in this Section if the educator cannot be reached or if employment status cannot be determined.

4. The certificate issued to the educator will be suspended if the department determines that there is evidence of a criminal conviction. The board, the educator, and the employing school system will be notified that the teaching certificate has been suspended pending official board action in accordance with revocation proceedings.

5. The educator will be notified that the certificate has been suspended and that the certificate will be revoked unless the educator can provide documentation that he/she was not convicted of the crime. The educator must provide copies of any documentation that verifies identity and refutes the existence of a criminal conviction.

6. If the conviction upon which a certificate has been suspended or revoked is reversed, such action will be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teaching certificate.

7. Upon official action by the board, any educator whose certificate has been revoked will be notified of such action. The correspondence will include instructions for and identification of the date when the individual may apply to the board for reinstatement of the certificate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 44:266 (February 2018), LR 45:1058 (August 2019).

### **§908. Suspension and Revocation of Certificate/Endorsement Due to Participation in Cheating**

A. A Louisiana teaching or educational leadership certificate will be suspended and revoked if the educator holding the certificate has been found by the LDE to have participated in *cheating*, as defined in §903.A of this Chapter. If the Louisiana teaching certificate is expired, and the educator has been found to have participated in cheating, this information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified in accordance with the process outlined in this Section.

B. When the department has determined an educator has been found to have participated in cheating, the following process will take place.

1. Department staff will attempt to contact the educator to inform him/her that the department has information regarding participation in cheating and is proceeding under this Section to suspend the certificate.

2. The educator will have 10 working days from the date of notification to provide verification that he/she has not been found to have participated in cheating. This opportunity

for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the educator cannot be reached, suspension of the certificate will proceed, as will all other steps in accordance with this Section.

4. If the department determines that an educator was found to have participated in cheating, the certificate will be suspended. The board, educator, and employing school system will be notified that the teacher or administrator certificate has been suspended pending official board action in accordance with revocation proceedings.

5. The educator will be notified that that the certificate has been suspended and will be revoked unless the educator can provide documentation that he/she was not found to have participated in cheating.

6. If the department subsequently determines that the educator did not participate in cheating, such action will be communicated to the department and/or the board through documentation provided by the department. The board may receive such information and may order reinstatement of the certificate.

7. Individuals who do not hold a current Louisiana teaching/educational leadership certificate and have been found to have participated in cheating in the administration of standardized tests, will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified in accordance with this Section.

8. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3140 (December 2012), amended LR 44:267 (February 2018), LR 45:1058 (August 2019).

#### **§909. Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification**

A. A Louisiana teaching certificate will be suspended or revoked if an educator presents fraudulent documentation pertaining to the certificate to the state Board of Elementary and Secondary Education or the Department of Education. If the Louisiana teaching certificate is expired, and the individual has submitted fraudulent documents pertaining to certification, this information will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDE. Such individuals will be notified per the process outlined in this Section.

B. The department will verify prior to determining that an educator has submitted fraudulent documentation pertaining to certification. Upon confirmation of the information, the department will notify the educator that the certificate has been suspended pending official board action per revocation proceedings.

C. Such records review will be limited to the issue of whether or not the document submitted was fraudulent. The educator must provide the board with any documentation that will refute the fraudulent nature of the document.

D. The committee of the board will make a recommendation to the full board, based on documentation received from the department and the educator, whether the teaching certificate should be revoked. The decision of the board will be transmitted to the local school board and to the affected educator.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006), amended LR 38:764 (March 2012), LR 44:267 (February 2018), LR 45:1059 (August 2019).

#### **§910. Suspension and Revocation of Certificates due to Professional License/Certificate Censure**

A. A Louisiana teaching certificate may be suspended and or revoked if an educator is found to have had a professional license/certificate related to the area of certification denied, suspended, revoked, or voluntarily surrendered.

B. The department will verify prior to determining that an educator has had a professional license/certificate censured. Upon confirmation of the information, the department will notify the educator in writing that the certificate has been suspended pending official board action per revocation proceedings.

1. Such records review will be limited to the issue of whether or not the professional license/certificate has been censured. The educator must provide the board with any documentation that will refute the findings of the department investigation.

C. The committee of the board will make a recommendation to the full board, based on documentation received from the department and the educator, whether the teaching certificate should be revoked. The decision of the board will be transmitted to the local school board and to the affected educator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2003 (November 2018), amended LR 45:1059 (August 2019).

#### **§911. Issuance or Renewal of Certificates—Standards for Effectiveness**

A. A Louisiana educator certificate shall be issued or renewed in accordance with LAC 28:CXLVII (Bulletin 130), R.S. 17:3886, and R.S. 17:3902 upon demonstration that the standard for effectiveness, as determined by the board, has been met for three years during the initial or renewal validity period of the certificate.

B. A Louisiana educator certificate shall not be issued or renewed if the educator demonstrates that the standard for effectiveness, as determined by the board, has not been met for three years during the validity period of the certificate

unless evidence of effectiveness is received from the LEA, through an appeal, that justifies the issuance of a certificate.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 45:1059 (August 2019).

### **§913. Reinstatement of Suspended or Revoked**

#### **Certificates**

#### **[Formerly §911]**

A. Reinstatement will never be considered for an educator who has been convicted of a prohibited criminal offense as defined in §904.A.3 of this Chapter.

B. Reinstatement of a certificate will not be considered until at least five years have elapsed from the date of entry of final conviction, submission of fraudulent documentation, the date of investigation results regarding the participation in cheating, or professional license/certificate censure as noted in §905.B of this Part, which resulted in certification suspension and/or revocation.

C. An applicant may apply to the board for reinstatement of a Louisiana teaching certificate under the following conditions.

1. There have been no further convictions, submission of fraudulent documentation, investigations regarding participation in cheating, or professional license/certificate censure as noted in §905.B of this Chapter.

2. In criminal cases, there has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation and a current state and FBI criminal history background check from the Louisiana State Police that is clean and clear and evidence that there has been successful completion and relevant documentation of all conditions/requirements of any parole and probation.

3. The local governing authority submits an appeal, justifying the issuance of a certificate, on behalf of an educator who has failed to meet the standards for effectiveness in accordance with LAC 28:CXLVII, *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*.

#### **D. Applicant Responsibilities**

1. Contact the office of the Board of Elementary and Secondary Education and request a records review for reinstatement of the certificate.

2. Provide each applicable item identified in Subsection C of this Section, evidence that all requirements for certification have been successfully completed and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials, or from other community leaders.

#### **E. Board of Elementary and Secondary Education Responsibilities**

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct a reinstatement records review and may summarily deny a request for issuance/reinstatement.

2. If the board or its designees decide to conduct a reinstatement records review, board staff will notify the applicant of a date, time, and place when a committee of the board will consider the applicant's request. Only the written documentation provided prior to the records review will be considered.

3. The board reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate.

4. In accordance with R.S. 42:17(A)(1), the board may meet in executive session for discussion of the character, professional competence, or physical or mental health of a person.

5. The board may deny any request for issuance by any applicant who:

a. failed to disclose prior criminal convictions or expungements;

b. falsified academic records;

c. has been found to have participated in cheating in the administration of standardized tests;

d. received further criminal convictions or participated in cheating; or

e. failed to meet the standards for effectiveness outlined in LAC 28:CXLVII, Bulletin 130.

6. The committee of the board will make a recommendation to the full board regarding whether the teaching certificate issued to the applicant should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff will notify the applicant of the board action.

7. The action of the board is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

F. Certification may be reinstated provisionally for a period of 90 days and pending ratification by BESE via a records review process and contingent upon the following:

1. the felony conviction occurred more than 10 years prior;

2. there are no additional convictions or repeat offenses; and

3. conviction does not involve violence, sex, children, or any other crime outlined in R.S. 15:587.1.

G. An educator meeting criteria for provisional reinstatement will be issued a certificate, appropriate to the credentials of the educator, and valid for a period of 90 days from the date of reinstatement. The provisional reinstatement is subject to the ratification of the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, certification will be suspended and revoked.

H. Convictions for crimes of violence or crimes outlined in R.S. 15:587.1 must be considered on appeal directly to BESE and are not eligible for provisional reinstatement and board ratification.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 42:17.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006),



amended LR 34:2560 (December 2008), LR 36:1999 (September 2010), LR 38:764 (March 2012), LR 44:268 (February 2018), LR 44:2003 (November 2018), LR 44:2133 (December 2018), LR 45:1060 (August 2019).

Shan N. Davis  
Executive Director

1908#046

## **RULE**

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

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Program  
Teacher Preparation Performance Profile Implementation Timeline (LAC 28:XLV.403 and 409)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Program*. The amendments are related to the teacher preparation performance profile implementation timeline. They provide that the performance profiles for each approved preparation provider will be published beginning winter 2020-2021, instead of winter 2019-2020. This Rule is hereby adopted on the day of promulgation.

#### **Title 28**

#### **EDUCATION**

#### **Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

#### **Chapter 4. Teacher Preparation Program Accountability and Renewal of Teacher Preparation Program Approval**

#### **§403. Teacher Preparation Quality Rating System Participation and Performance Profile Implementation Timeline**

A. In accordance with LAC 28:XLV.101, beginning December 2017, the process for ongoing approval of teacher preparation programs will be replaced with a uniform process that applies equally to university and non-university providers.

B. Prior to fall 2018, the LDE will review this Chapter and recommend revisions to BESE as necessary and as based on findings from the design phase, and in consultation with the BOR and K-12 and higher education experts.

C. The 2017-2018 academic year will be a research phase for the teacher preparation quality rating system. Performance measures and processes will be piloted and studied. Evaluation tools, including a framework for on-site review, will be developed and reviewed by experts to ensure suitability for use in the teacher preparation quality ratings system. If produced, individual provider performance profiles will not be published.

D. Beginning with the 2018-2019 academic year, a provider that does not participate in the quality rating system or any component thereof will have approval terminated.

E. The 2018-2019 and the 2019-2020 academic years will be a learning phase for all BESE-approved teacher preparation providers. There will be no consequences for

teacher preparation providers as a result of performance profiles or quality rating during the learning phase. Performance profiles for the 2018-2019 and 2019-2020 learning phase will be publicly available in 2020-2021 and will clearly indicate that the performance profile is informational and assigned during a learning phase.

F. The 2020-2021 academic year will be the first year of the initial two-year renewal cycle.

G. For providers that achieve initial approval after September 1, 2018, the renewal cycle will begin on September 1 of the year directly following BESE approval.

H. Beginning winter 2020-2021, the LDE will annually produce and make publicly available on its website a performance profile for each approved preparation provider. LDE will biennially produce and make publicly available on its website a quality rating for each approved preparation provider. The quality rating will not be used to make judgments about renewal of preparation program approval until winter 2022-2023.

I. Beginning with ratings assigned in winter 2022-2023, Louisiana teacher preparation quality rating system results will serve as the basis for preparation program renewal. The renewal cycle will be two years. The renewal cycle will be four years for teacher preparation providers that receive a level 3 or higher, contingent upon maintaining a level 3 or higher as reported on the next performance profile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2488 (December 2017), amended LR 45:1061 (August 2019).

#### **§409. Performance Profiles**

A. The LDE will develop and make publicly available a performance profile for each approved preparation provider beginning winter 2020-2021, and every winter thereafter. The performance profile will include a quality rating as provided for in LAC 28:XLV.405, including the scores and measures contributing to that quality rating, and informational metrics as provided for in LAC 28:XLV.411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), 17:7(6), and 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2490 (December 2017), amended LR 45:1061 (August 2019).

Shan N. Davis  
Executive Director

1908#043

## **RULE**

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

Incorporating Test Results  
(LAC 33:III.523 and 537)(AQ382)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.523.A and LAC 33:III.537.A (AQ382).

This Rule amends Louisiana General Condition I to 1.) specify that if testing reveals emissions are greater than those allowed by a permit, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results; 2.) clarify that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations; and 3.) reaffirm that noncompliance with any term or condition of a permit constitutes a violation and is grounds for enforcement action.

This Rule also aligns the deadline to submit an application to modify a permit where required by LAC 33:III.523.A with that proposed for Louisiana General Condition I (i.e., 90 days after the permittee receives the final test results.)

Louisiana General Condition I of LAC 33:III.537.A requires a permittee to submit an application to modify its permit if “emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency.” However, General Condition I is silent with respect to when any such application must be submitted. This Rule will specify that the application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results.

In addition, this Rule clarifies that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations. However, neither the submittal of an application to modify the permit nor the reporting of excess emissions precludes the department from taking appropriate enforcement action, as noncompliance with any term or condition of a permit constitutes a violation of LAC 33:III.Chapter 5, the Louisiana Environmental Quality Act, and, if the term or condition is federally enforceable, the Clean Air Act. See, for example, LAC 33:III.501.C.4, LAC 33:III.507.B.2, and Louisiana General Condition II of LAC 33:III.537.A.

A similar provision, LAC 33:III.523.A, also addresses the incorporation of test results into a permit where such results indicate that the terms and conditions of the permit are inappropriate or inaccurate, but only where the testing is “required or approved by the permitting authority.” In order to maintain consistency with General Condition I, LAC 33:III.523.A will be amended to require the requisite permit amendment or modification to be submitted within 90 days of obtaining the relevant test results. The basis and rationale for this Rule are to amend Louisiana General Condition I as described above and to align the deadline to submit an application to modify a permit where required by LAC 33:III.523.A with that proposed for Louisiana General Condition I (i.e., 90 days after the permittee receives the final test results.) This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§523. Procedures for Incorporating Test Results**

A. Permit Amendments or Modifications. The owner or operator of any facility permitted under this Chapter shall request a permit amendment or modification to reflect the results of any testing required or approved by the permitting authority, if such testing demonstrates that the terms and conditions of the existing permit are inappropriate or inaccurate. The request, together with all information necessary to process such request, shall be submitted within 90 days of obtaining the relevant test results.

A.1. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008), LR 37:1146 (April 2011), amended by the Office of the Secretary, Legal Division, LR 38:2750 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1062 (August 2019).

**§537. Louisiana General Conditions**

A. The Louisiana general conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana general conditions shall supersede any previous versions of such conditions contained in air permits.

<b>Table 1. Louisiana Air Emission Permit General Conditions</b>	
I.	Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment, during a performance test, or during testing conducted for any other purpose) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results. Discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an <i>emergency condition</i> , as defined in LAC 33:I.3905.A and the permittee reports the excess emissions in accordance with LAC 33:I.Chapter 39, Part 70 General Condition R of LAC 33:III.535, Louisiana General Condition XI of LAC 33:III.537, LAC 33:III.919, and LAC 33:III.5107, as applicable. Noncompliance with any term or condition of the permit shall constitute a violation of LAC 33:III.501 and shall be grounds for enforcement action. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.
II. - XX.	***

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009), amended LR 37:1146 (April

2011), amended by the Office of the Secretary, Legal Division, LR 38:2750, 2769 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1062 (August 2019).

Herman Robinson  
General Counsel

1908#020

## RULE

### Office of the Governor Board of Pardons

Clemency and Parole (LAC 22:V.205 and  
XI.504, 701, 705, 707, 1101, 1103, and 1105)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and Parole has amended its Rules of LAC 22:V.205. To address changes to RS 15:572.4 this Rule change establishes a system to handle clemency applications to open at the end of a gubernatorial term. LAC 22: XI: 504, 701, 705, 707, 1101, 1103, 1105 and 1109. This Rule expands the ability to rescind parole decisions and grant rehearing and expands board discretion dealing with the consideration of offenders with disciplinary issues who would generally not be considered a good risk for early release. The employment plan is no longer a mandatory part of the parole plan or interstate compact application, although they will still be considered by the board if submitted. New felony convictions moving forward will result in an automatic revocation. The use of violation reports has been discontinued and it has been replaced by the activity report. This Rule is hereby adopted on the day of promulgation.

#### Title 22

### CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

#### Part V. Board of Pardons

#### Chapter 2. Clemency

#### §205. Application Filing Procedures

A. - C. ...

D. Reapplication upon Denial. Any applicant denied by the board shall be notified, in writing, of the reason(s) for the denial and thereafter may file a new application as indicated below.

1. Applicants Sentenced to Life Imprisonment. Any applicant with a life sentence may reapply five years after the initial denial and every five years thereafter. Applicant must also meet the criteria stated in §203.C.2.a-d.

2. Other. Applicants without a life sentence may file a new application two years from date of the letter of denial.

3. Fraudulent Documents or Information. Any fraudulent documents or information submitted by an applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial.

4. Governor Granted Clemency. The Office of the Governor will notify an applicant if any clemency is granted. Any otherwise eligible person who has been granted any form of executive clemency by the governor may not reapply for further executive clemency for at least four years from the date that such action became final.

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. When no action is taken by the governor on a recommendation for clemency issued by the board, the person seeking clemency shall not be required to reapply to the board and the recommendation shall not expire upon the expiration of the governor's term in office and may be reviewed by the next governor to take office.

i. Upon receipt of the no action files from the Governor's office, the parole board staff shall review the following:

a. offender's disciplinary record; and

b. State Police rap sheet;

ii. Staff will use the updated information to determine if the applicant is still eligible to apply for clemency.

iii. Once approved, the file will be sent back to the governor's office within six months of being received, with a recommendation to the governor from the pardon board, signed by the board chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons, LR 42:1087 (July 2016), LR 43:1161 (June 2017), LR 45:1063 (August 2019).

#### Part XI. Committee on Parole

#### Chapter 5. Meetings and Hearings of the Committee on Parole

#### §504. General Procedures

A. Minutes of Public Meetings and Hearings

1. At public meetings and hearings, detailed minutes indicating time of commencement, persons present, adoption of previous minutes, motions and seconds, and time of adjournment shall be recorded and maintained by the board staff member so designated by the chairman.

2. The board's minutes of public meetings and hearings shall include the following information as applicable:

a. name and Department of Corrections (DOC) number of the offender;

b. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);

c. the vote of each member; and

d. the decision of the board

B. Votes

1. The vote of each panel member shall be recorded by name and date on the vote sheet.

2. Only those members present shall vote; voting by proxy is prohibited.

3. No vote shall be taken while the panel is in executive session.

4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.L, §513.A.1-3, and §711.

5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

#### K. Rescinding Board Decisions

1. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the offender shall promptly receive another parole hearing.

2. If it is determined prior to an offender's parole release that proper notification requirements were not met, the board may rescind its decision to grant parole.

3. If the board rescinds its decision to grant parole, the offender shall promptly receive another parole hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:1063 (August 2019).

## Chapter 7. Parole Decisions

### §701. Policy Statement

A. It shall be the policy of the committee to give every offender meaningful consideration for parole. The committee will exercise its discretionary releasing authority based upon consideration of the unique factors and variables of the individual case. The committee shall determine release suitability of eligible offenders through decisions that promote fairness, objectivity, and public safety and are responsive to the concerns of victims, members of the community, and other persons within the criminal justice system.

B. The committee shall consider all pertinent information (pre-parole investigation and institutional record) at least six months prior to the offender's parole eligibility date. The information shall be a part of the offender's consolidated summary record. At a minimum, a pre-parole investigation shall be made available to the panel for its review. No case may be considered for parole release without a pre-parole investigation.

C. The panel shall apply the following guidelines as a basis, but not as the exclusive criteria, upon which parole panels base parole release decisions.

#### 1. Nature and Circumstances of the Crime

a. The committee will evaluate and consider the circumstances of the crime based upon the official version of the offense, as well as the victim's and offender's versions of the offense, to determine, if possible, whether the particular conditions that contributed to the commission of the crime are likely to reoccur.

b. The committee shall also consider the seriousness of the offense, the offender's role in the offense and the degree of his involvement, whether the offender was the instigator of the crime, and whether the crime was premeditated.

c. Particular consideration will be given to those cases which involved the use of a weapon and/or caused injury to the victim; where the offender committed one or more violent acts indicating a conscious disregard for the lives, safety, or property of others; or the instant offense has elements of brutality, violence, or conscious selection of victim's vulnerability such that the offender poses a continuing threat to public safety.

#### 2. Prior Criminal Record

a. The committee will evaluate and consider any available prior adult and/or juvenile records and the number and seriousness of prior convictions including the length of time between any prior convictions and the commitment of the instant offense to determine the seriousness of the offender's prior criminal history.

b. A pattern of repeated criminal episodes or a pattern of similar offenses may indicate a predisposition to commit criminal acts upon release and the likelihood that the offender will not succeed on parole.

c. The committee may also consider whether the instant offense was committed while the offender was on probation or parole, and the offender's response to prior community supervision, if any.

3. Character, Social Background, and Emotional and Physical Condition

a. The committee will evaluate and consider information pertaining to the offender's work record, level of education, occupational skills, and evidence of emotional stability.

b. A history of chronic drug and alcohol abuse may evidence the likelihood that the offender will not succeed on parole.

4. Institutional Adjustment

a. The committee will evaluate and consider information concerning the offender's attitude while incarcerated, including the offender's participation in available programs and his overall compliance with institutional regulations.

b. Obedience to institutional rules may evidence that the offender will comply with parole conditions, while a disciplinary record consisting of major and/or minor infractions may be viewed negatively.

c. Offenders with one or more high court disciplinary report(s) in the 12 months prior to screening for parole eligibility, would generally not be considered a good risk for early release and will, therefore, not be given parole consideration until such time as the offender has been disciplinary report free for 12 consecutive months. Offenders may be removed from a parole docket if they receive a high court disciplinary report during the investigation period.

i. The offender may request reconsideration of this decision in writing. Such request must include any mitigating factors that the offender wishes be considered during the review process.

ii. The offender will be notified if they are not considered for placement on or removed from a docket.

iii. The offender is responsible for notifying the board in writing when they are disciplinary report free for 12 consecutive months to be reconsidered for scheduling.

d. Offenders assigned to working cellblock or disciplinary detention/extended lockdown or otherwise assigned to cellblock areas for disciplinary reasons would generally not be considered a good risk for early release and will, therefore, be ineligible for parole consideration until such time as the offender has not been in lockdown status for a period of six months.

5. Police, Judicial and Community Attitudes toward the Offender

a. The committee will evaluate and consider information concerning the offender from the community and public officials who are acquainted with the case.

b. This factor is given greater weight because the probability that an offender will succeed on parole is greatly diminished if he will return to a community which has expressed hostility toward him and is lacking support for him.

c. Effective August 1, 2018, victims of any offender who appears before the Committee on Parole for a parole hearing may provide the parole panel a re-entry statement to request proximity or contact restrictions, if that offender is granted parole. Victims must submit the re-entry statement to the Committee on Parole at least 60 days prior to the offender's scheduled parole hearing. The committee will consider the re-entry statement only for the purpose of determining the offender's parole conditions and not for the

purpose of determining whether to order the release of the offender on parole. The re-entry statement is not binding on the Committee on Parole, but shall be considered in concert with other information when determining conditions of parole.

d. Evidence of official and/or community support may increase the likelihood of parole.

6. Parole Plan

a. The committee will evaluate and consider the strength of the offender's social ties, including whether he has a supportive family, resources available to him in the community, and employment opportunities.

b. The committee will place emphasis on the appropriateness of the parole plan; therefore, it is important for the offender to have secure employment plans and a stable living arrangement available upon parole.

c. Lack of an acceptable parole plan may decrease the likelihood of parole.

7. Program Participation. The committee will evaluate and consider an offender's participation in vocational training, adult education, or reading programs as well any treatment or rehabilitation program that has been certified by the department. Such participation is considered beneficial.

8. Risk Assessment

a. All Offenders. The committee will consider the risk assessment score provided by the Department of Public Safety and Corrections. The score is determined by a validated risk assessment instrument that has been validated for the Louisiana offender population. The assessment identifies potential risk and identifies programmatic needs of offenders utilizing two sets of components, static and dynamic factors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2265 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 44:576 (March 2018), LR 45:1064 (August 2019).

**§705. Application for Parole Rehearing or Request for Reconsideration of Decision**

A. - C.3. ...

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D. Reconsideration. An offender may request that the committee reconsider its decision to deny parole as outlined herein. However, this process does not establish a formal appeal process as parole is an administrative discretionary decision that is not subject to appeal.

1. A parole panel may reconsider a decision of any parole panel at the request of the board chairman.

2. An offender whose parole is denied or rescinded, or whose parole supervision is revoked may request reconsideration by the committee.

a. The request for reconsideration shall be made in writing by the offender (or the offender's authorized legal representative) and shall be postmarked no later than twenty-one calendar days from the date of the hearing during which the parole panel action was taken.

b. If the request for reconsideration is not postmarked within 21 calendar days, it shall be denied.

c. Reconsideration review shall be at the discretion of the committee and shall not be available except for the following reasons:

i. if there is an allegation of misconduct by a committee member that is substantiated by the record;

ii. if there is a significant procedural error by a committee member; or

iii. if there is significant new evidence that was not available when the hearing was conducted. A request based on the availability of new evidence or information shall be accompanied by adequate documentation.

d. A request based on an allegation of misconduct or significant procedural error shall clearly indicate the specific misconduct or procedural error being alleged.

e. A written request for reconsideration postmarked within the time period set forth in §705.D.2.a. shall be screened by the chairman or designee to determine whether the request for reconsideration raises substantial grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. may be present. The request for reconsideration shall be denied by the chairman or designee, if in his or her discretion, it is determined that the request does not raise adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c. are present.

3. If the chairman or designee determines upon screening that a request for reconsideration raises adequate grounds to believe that one or more of the reasons for reconsideration set forth in §705.D.2.c are present.

a. The case shall be set for administrative review at the next available parole panel hearing date. The review shall be conducted from the record of the first hearing. The appearance of the offender shall not be necessary.

b. The reviewing panel may vote to:

i. grant a new parole hearing and staff will make every attempt to schedule the hearing with a different parole panel than that which rendered the original decision; or

ii. affirm the original decision.

c. The applicant shall be advised, in writing, of the results of the review.

4. If the chairman or designee determine there is no basis to grant the request for reconsideration, the applicant will be advised in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019).

#### **§707. Parole Plans**

A. In order for an offender to be considered for parole release, the offender must have a viable transition plan that includes housing, potential job opportunities, and a support network that can incorporate family, friends, church, and rehabilitative programs. The plan for housing and will be investigated and approved by the Division of Probation and Parole.

##### **B. In-State Parole**

1. The board will not issue a certificate of parole to anyone granted parole until the residence plan has been approved by the Division of Probation and Parole. The

residence plan should be given to the classification officer at the correctional facility where the offender is housed at the pre-parole interview or mailed directly to the board 30 days prior to the parole hearing.

2. A parole hearing may be held as docketed without an approved residence plan. Parole may be granted at the hearing, subject to the residence plan being approved through the Division of Probation and Parole.

##### **C. Out-of-State Parole**

1. Before any parolee can be considered for a plan of supervision in another state, the offender shall sign an application for interstate compact services agreement to return (waiver of extradition).

2. Out-of-state parole plans may be considered when the state in question issues a written statement expressing its willingness to accept the parolee under specific conditions. Release will be deferred until such approval is received by the board from the receiving state.

3. The parolee shall be required to comply with all applicable provisions of the interstate compact, and shall be required to acknowledge, in writing, that he or she is fully aware of the requirements of transfer under the compact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2267 (August 2013), LR 45:1066 (August 2019).

### **Chapter 11. Violations of Parole**

#### **§1101. Types of Violations**

##### **A. New Felony Conviction—Automatic Revocation**

1. Parole will be automatically revoked when a parolee is convicted and sentenced in Louisiana for a new felony.

2. A parolee who is convicted of a new felony in another state, or of a misdemeanor which if committed in this state would be a felony, shall have his parole revoked.

##### **B. Technical Violations**

1. Technical violations include any violations of the conditions of parole which are not felony convictions. Engaging in conduct constituting a felony or misdemeanor offense, if not adjudicated, may be considered a technical violation for revocation purposes.

2. When a parolee has been detained in jail by the Division of Probation and Parole, a preliminary hearing on-site will be scheduled as soon as possible upon request. Subsequent to the preliminary hearing, bond may be permitted, but only with authorization of the committee.

##### **C. Absconders**

1. A parolee may be considered to have absconded supervision if he absents himself from his approved place of residence without permission from the Division of Probation and Parole.

2. When apprehended, absconders may be returned to the custody of the Department of Public Safety and Corrections for a revocation hearing.

a. Extradition or waiver of extradition may be considered as probable cause for absconders apprehended out-of-state.

b. Upon return to the custody of the department, a parole revocation questionnaire shall be completed and forwarded to the committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:1066 (August 2019).

### **§1103. Activity Report**

A. An activity report is used by the Division of Probation and Parole to advise the committee of an offender's actions for informational purposes and document and notify an offender's violation of the conditions of parole. An activity report may, or may not, require action by the committee.

1. If action by the committee is necessary, the activity report will normally be used to recommend the following:

- a. issuance of an arrest warrant;
- b. issuance of a reprimand (usually not in custody);
- c. removal of a detainer to allow bond;
- d. suspension of supervision;
- e. unsatisfactory termination of parole;
- f. impose, add, or modify special conditions of parole;
- g. revocation of parole and
- h. hold parolee pending disposition of charges.

2. The Division of Probation and Parole will prepare the activity report within five working days following receipt of the preliminary hearing findings from the hearing officer or five working days from the date the parolee waived or deferred the preliminary hearing. The report, along with the preliminary hearing forms and other documents, shall be forwarded to the committee.

3. Upon receipt of the activity report and other documentation, the case will be placed on the single-member action docket.

4. After the case has been acted upon, a decision notice will be forwarded to the Probation and Parole District Office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

5. Upon receipt of the activity report, the case will be placed on the single-member action docket for a decision.

6. After the case has been acted upon, a decision notice will be forwarded to the probation and parole district office where the parolee is assigned for supervision. The notice will be delivered to the parolee and a copy retained in the district office case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2304 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:1067 (August 2019).

### **§1105. Preliminary Hearing for Detained Parole Violators—Preliminary Hearing**

A. The preliminary hearing is a preliminary due process administrative hearing which is conducted by a hearing officer designated by the Division of Probation and Parole. The hearing officer will have no direct prior knowledge of the parolee and the circumstances surrounding the allegations.

1. The purpose of the preliminary hearing is to determine if there is probable cause that the parolee has violated the conditions of his parole.

2. A finding of probable cause may support the continued detention of the parolee pending a final revocation hearing.

3. The allegations and findings presented in the preliminary hearing documents will be the foundation for revocation or other specified action. The preliminary hearing will be conducted within a reasonable time following detention and in the locale or vicinity close to where the alleged violation occurred so that the offender has access to both favorable and adverse witnesses.

4. Prior to the preliminary hearing, written notification will be furnished to the parolee advising him of:

- a. the charges pending against him;
- b. his rights at the hearing; and
- c. the date, time, and place of the hearing.

5. The parolee may request deferral of the preliminary hearing pending disposition of new felony charges. The parolee may also request the deferral of the preliminary hearing for a period of six months pending disposition of a misdemeanor domestic abuse battery.

6. The parolee may retain an attorney or, if eligible, be represented by appointed counsel.

7. Documentary evidence and oral testimony may be taken from all participants present at the hearing, including witnesses and the parolee's friends and family.

8. At the conclusion of the hearing, the hearing officer will issue a ruling as to probable cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2272 (August 2013), LR 45:1067 (August 2019).

### **§1109. Violation Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2305 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013), repealed LR 45:1067 (August 2019).

Sheryl M. Ranatza  
Board Chair

1908#021

### **RULE**

#### **Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice**

Peace Officer Standards and Training  
(LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council has amended rules and regulations relative to the training of peace officers. This Rule is hereby adopted on the day of promulgation.

**Title 22  
CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part III. Commission on Law Enforcement and  
Administration of Criminal Justice  
Subpart 4. Peace Officers**

**Chapter 47. Standards and Training**

**§4721. Firearms Qualification**

A. - B.1b. ...

2. On a 25-yard range equipped with POST-approved P-1 targets, the student will fire the POST firearms qualification course at least four times. Scores must be averaged and the student must:

B.2.a. - C.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 35:1236 (July 2009), LR 43:316 (February 2017), LR 45:1068 (August 2019).

**§4723. POST Firearms Qualification Course**

A. Official Post Course

Stage I	*25 yards	6 rounds standing, strong side barricade, strong hand 6 rounds standing, barricade, strong hand or support hand, off-side (60 seconds)
*NOTE: Movement to barricade required, maximum distance 5 yards.		
Stage II	*15 yards	3 rounds right side kneeling position** 3 rounds left side kneeling position** (35 seconds – movement time included) (30 seconds for indoor range)
*NOTE: Movement to kneeling position from 25-yard line to 15-yard line. **NOTE: Shooter will “simulate” the usage of a low barricade if no barricade is available.		
Stage III	7 yards	Phase I 6 rounds strong hand only from the holster. Ready gun after rounds are fired. (10 seconds)
		Phase II 6 rounds support hand only from ready gun (10 seconds)
		Phase III 6 rounds standing 6 rounds kneeling – reload while kneeling* (25 seconds)
*NOTE: Mandatory reloading for all weapons during Phase III.		
Stage IV	4 yards	Phase I **Headshots mandatory** 2 rounds body, 1 round head, step right, hold cover (3seconds) 2 rounds body, 1 round head, step left (3 seconds) scan and holster
		Phase II **Headshots mandatory** 2 rounds body, 1 round head, step left, hold cover (3seconds) 2 rounds body, 1 round head, step right (3 seconds) scan and holster
Stage V	2 yards	2 rounds, one or two hands (2 seconds) Close quarter shooting position from holster with one full step to the rear. Repeat twice

**Target: LA P-1**  
Possible Points: 120  
Qualification: 96 (80 percent overall)  
Scoring: Inside ring = 2 points  
Outside ring = 1 point  
POST Course is fired using a “HOT LINE”!

B. Scoring of Target

\* \* \*

C. The effective date for implementation of this POST qualification course is January 1, 2019.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665 (April 1999), LR 32:1043 (June 2006), LR 35:238 (February 2009), LR 45:1068 (August 2019).

**§4725. POST Approved Shotgun Course**

A. Slug Phase

1. Option One (50 yards - Option One will always be used where a 50-yard shooting position is available) Time Limit: 25 seconds

a. The shooter will assembly load one rifled slug and take aim.

b. On command, the shooter will fire one round from the shoulder in the standing position, kneel, combat load one round in the kneeling position and fire from the kneeling position.

2. Option Two (25 yards) Time Limit: 25 seconds

a. The shooter will assembly load one rifled slug and take aim.

b. On command, the shooter will fire one round from the shoulder in the standing position, kneel, combat load one round in the kneeling position and fire from the kneeling position.

B. Transition Phase\*: 4 Yards (no shotgun rounds / 2 handgun rounds) Total time: 4 seconds

a. Upon instruction operate the slide/action several times to ensure empty.

b. On command dry fire empty shotgun, transition and fire two rounds center mass of target.

C. Buckshot Phase:(Recommend use of 9-pellet “OO” Buckshot - may be fired with any buckshot.)

1. 15 Yards (5 rounds Buckshot) Total time: 35 seconds

a. On command assembly load two rounds of buckshot and come to “ready gun position”. Shooter will have three additional rounds of buckshot on his/her person.

b. On command, Shooter will fire two rounds from the shoulder (standing), then combat load three rounds and fire three rounds from the shoulder (kneeling).

2. 25 Yards (5 rounds Buckshot) Total time: 35 seconds

a. On command assembly load two rounds of buckshot and come to “ready gun position”. Shooter will have three additional rounds of buckshot on his/her person.

b. On command, Shooter will fire two rounds from the shoulder (standing), then combat load three rounds and fire three rounds from the shoulder (kneeling).



**Target: POST qualification (LA P-1)**  
 Possible Score:  
 Transition / Slug / Buckshot: 102 point possible\*  
 Slug / Buckshot: 100 point possible  
 Scoring:  
 Slug: Five points for hit on green of P-1 target.  
 Transition: One point for hit on green of P-1 target  
 Buckshot: One 1 point for hit on green of P-1 target  
 Total score should equal 80 per cent

\*NOTE: The transition phase is not required for Level 3 and Non-POST Certified shooters. Without the transition phase scoring will be a 100pt. course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 30:435 (March 2004), amended LR 31:2009(August 2005), LR 45:1068 (August 2019).

**§4727. POST Approved Low Light/Modified Light Course**

**A. Low Light/Modified Light Course**

Stage I	*25 yards	(with light) (25 yard stage is not mandatory) 6 rounds standing, strong side barricade, strong hand 6 rounds standing, barricade, strong hand or support hand, off-side (60 seconds)
*NOTE: Movement to barricade required, maximum distance 5 yards.		
Stage II	*15 yards	(with light) 3 rounds right side kneeling position** 4 rounds if 25yd not used 3 rounds left side kneeling position** 4 rounds if 25yd not used (35 seconds – movement time included) (30 seconds for indoor range)
*NOTE: Movement to kneeling position from 25-yard line to 15-yard line. **NOTE: Shooter will “simulate” the usage of a low barricade if no barricade is available.		
Stage III	7 yards	Phase I (with light) 6 rounds strong hand only from the holster (10 seconds)
		Phase II (with or without light) 6 rounds support hand only from ready gun (10 seconds)
		Phase III (with light) 6 rounds standing 6 rounds kneeling – reload while kneeling* (25 seconds)
*NOTE: Mandatory reloading for all weapons during Phase III.		
Stage IV	4 yards	Phase I - Headshots mandatory (with light) 2 rounds body, 1 round head, step right, hold cover (3seconds) 2 rounds body, 1 round head, step left (3 seconds) scan and holster
		Phase II - Headshots mandatory (with light) 2 rounds body, 1 round head, step left, hold cover (3seconds) 2 rounds body, 1 round head, step right (3 seconds) scan and holster
Stage V	2 yards	(with or without light) 2 rounds, one or two hands (2 seconds) Close quarter shooting position from holster with one full step to the rear. Repeat twice.

(Using all stages)  
**Target: LA P-1**  
 Possible Points: 120  
 Qualification: 96 (80% overall)  
 Scoring: Inside ring = 2 points  
 Outside ring = 1 point

(Deleting Stage I adding 2rds to Stage II)  
**Target: LA P-1**  
 Possible Points: 100  
 Qualification: 80 (80% overall)  
 Scoring: Inside Ring = 2 points  
 Outside ring= 1 point  
 POST Course is fired using a “HOT LINE”!  
 (Course approved 12/6/18)

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 45:1069 (August 2019).

Jim Craft  
 Executive Director

1908#005

**RULE**

**Office of the Governor  
 Division of Administration  
 Office of State Uniform Payroll**

**Payroll Deduction (LAC 4:III.Chapter 11)**

In accordance with R.S. 42:456, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll has amended the Rule regarding payroll deductions for the state’s combined charitable campaign deductions. The purpose of the amendment is to inform parties how funds designated to non-profit charities that close or are acquired by another organization will be distributed. This Rule is hereby adopted on the day of promulgation.

**Title 4  
 ADMINISTRATION  
 Part III. Payroll**

**Chapter 11. State Combined Charitable Campaign (SCCC) Deductions**

**§1124. Closure or Merger of Charitable Organizations**

A. Any charitable organization, which ceases its operations or merges with another organization, shall be ineligible to receive donations from the SCCC. Exceptions may be requested by the charitable organization and will be reviewed for approval by the PCFO and OSUP.

B. An ineligible charitable organization shall give written notice to OSUP, through the PCFO, within two weeks of the charitable organization’s decision to close or merge through governance action. Such notification shall come from the organization’s board of directors.

C. OSUP shall notify any ineligible charitable organization that it shall no longer receive donations from the SCCC.

D. OSUP, in coordination with the PCFO, shall establish guidelines for designations/deductions made by employees to an organization deemed ineligible.

E. The PCFO shall notify affected employees in writing of such organizational change and shall provide options for handling the employees' designations/deductions. The PCFO will manage the charitable organization's payouts accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 45:1069 (August 2019).

Desir e Honor  Thomas  
Assistant Commissioner

1908#028

## RULE

### Department of Health Board of Medical Examiners

Genetic Counselors, General,  
Licensure, Certification and Practice  
(LAC 46:XLV.Chapter 2, Chapter 38, and Chapter 60)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the laws governing genetic counseling in this state, as enacted by Act 593 of the 2018 Regular Session of the Louisiana Legislature, R.S. 37:1360.101-1360.111, the board has adopted administrative rules governing the general regulation, licensure, certification and practice of genetic counselors in this state, Title 46, (Professional And Occupational Standards), Part XLV (Medical Professions), Subpart 1 (General) Chapter 1 (Fees and Costs), Subchapter P, Sections 261-265, Subpart 2 (Licensure and Certification) Chapter 38, Sections 3801-3877 and Subpart 3 (Practice) Chapter 60, Sections 6001-6037. The Rule is forth below. This Rule is hereby adopted on the day of promulgation.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

##### Subpart 1. General

##### Chapter 1. Fees and Costs

##### Subchapter P. Genetic Counselors

#####  261. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

#####  263. Licenses and Permits

A. For processing an application for licensing a genetic counselor, a fee of \$125 shall be payable to the board.

B. For processing a genetic counselor temporary license (examination permit), a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

#####  265. Annual Renewal

A. For processing an application for annual renewal of a genetic counselor's license, a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

#### Subpart 2. Licensure and Certification

##### Chapter 38. Genetic Counselors

##### Subchapter A. General Provisions

#####  3801. Scope of Chapter

A. The rules of this Chapter govern the licensing of genetic counselors in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

#####  3803. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

*ABGC*—American Board of Genetic Counseling, or its successor.

*ABMGG*—American Board of Medical Genetics and Genomics, or its successor.

*Act*—the Genetic Counselor Practice Act, R.S. 37:1360.101 et seq., as may be amended.

*Active Candidate Status*—an individual who has met the requirements established by the ABGC or the ABMGG to take the certification examination in genetic counseling or medical genetics and has been granted this designation by the ABGC or the ABMGG.

*Advisory Committee or Committee*—the Louisiana Genetic Counselor Advisory Committee, as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act.

*Applicant*—an individual who has applied to the board for a license or temporary license to practice genetic counseling in this state.

*Board*—the Louisiana State Board of Medical Examiners.

*Collaborating Physician or CP*—a physician who has entered into a collaborative practice agreement with a genetic counselor.

*Collaborative Practice Agreement or CPA*—a document established by a genetic counselor, who engages in any of the functions listed in  6021 of these rules, and a physician which governs the professional relationship between the genetic counselor and the physician.

*Direct Supervision*—supervision provided by a licensed genetic counselor or a physician who has the overall responsibility to assess the work of the holder of a temporary license, including regular meetings and chart review, provided pursuant to a supervision contract. The genetic supervisor shall not be required to be physically present where such licensee provides genetic counseling services; however, the supervisor shall be readily accessible during the performance of services by telephone or other means of

telecommunication, to answer questions, provide oversight and furnish assistance and direction.

*Genetic Counseling*—means any of the following actions by a genetic counselor that occur through and as a result of communication between the genetic counselor and a patient:

- a. obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his offspring, and other family members;
- b. discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases;
- c. identifying and coordinating genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment;
- d. integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases;
- e. explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;
- f. evaluating the client's or family's responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance;
- g. identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy;
- h. providing written documentation of medical, genetic, and counseling information for families and healthcare professionals.

*Genetic Counselor*—an individual who is licensed pursuant to this Part to provide genetic counseling.

*Genetic Supervision*—the assessment of the holder of a temporary license by a genetic counselor or a physician based on direct supervision.

*Good Moral Character*—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition or circumstance which would provide legal cause under R.S. 37:1360.108 for the denial, suspension or revocation of genetic counselor licensure; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

*License* or *Licensure*—the lawful authority to engage in the practice of genetic counseling in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

*Licensed Genetic Counselor* or *LGC*—an individual who is licensed by the board to practice genetic counseling in Louisiana.

*NSGC*—the National Society of Genetic Counselors, or its successor.

*Physician*—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a license duly issued by the board.

*State*—any state of the United States, the District of Columbia, or any of its territories.

*Supervision Contract* or *Genetic Supervision Contract*—a contract between the holder of a temporary license and a licensed genetic counselor or physician, that sets forth the manner in which the genetic supervisor will provide direct supervision. The supervision contract shall provide for:

- a. assessment and documentation of the professional competence, skill, and experience of the supervisee;
- b. the nature and level of the supervision required by the supervisee;
- c. regular meetings to review clinical services and administrative practices;
- d. monthly chart or case reviews;
- e. coverage during the absence, incapacity, infirmity, or emergency by the genetic supervisor; and
- f. such other items as may be deemed appropriate by the parties.

*True Consultation*—an informal consultation or second opinion, provided by an individual practicing genetic counseling in a state other than Louisiana, who is certified by the American Board of Genetic Counseling or the American Board of Medical Genetics; provided, however, that the Louisiana licensed physician or genetic counselor receiving the consultation or opinion is personally responsible to the patient for any evaluation, testing or treatment provided.

*United States Government*—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

B. Masculine terms wherever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

## **Subchapter B. Requirements and Qualifications for Licensure**

### **§3809. Scope of Subchapter**

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1071 (August 2019).

### **§3811. Requirements and Qualifications for Licensure**

A. To be eligible and qualified to obtain a genetic counselor license, an applicant shall:

1. possess one of the following degrees:
  - a. a master's degree from a genetic counseling training program accredited by the Accreditation Council for Genetic Counseling; or
  - b. a doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics and Genomics; and

2. possess current certification, based on examination:
  - a. as a genetic counselor by:
    - i. the American Board of Genetic Counseling; or
    - ii. the American Board of Medical Genetics; or
  - b. as a medical geneticist by the American Board of Medical Genetics;
3. be of good moral character;
4. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 CFR);
5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;
6. satisfy the procedures and requirements for application provided by Subchapters C and D of this Chapter; and
7. not be otherwise disqualified by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1071 (August 2019).

### §3813. License by Reciprocity

A. An individual who possesses a current, unrestricted license, certificate or registration to practice genetic counseling, issued by the medical licensing authority of another state, shall be eligible for a license in this state if the applicant:

1. possesses the requirements and qualifications for licensure specified in this Subchapter;
2. satisfies the procedural and other requirements specified in Subchapters C and D of this Chapter; and
3. is in good standing in the state in which he or she is licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

### Subchapter C. Application

#### §3819. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements for application to the board for licensure as a genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

#### §3821. Application Procedure

A. Application for licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for licensure under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter;
2. a recent photograph of the applicant;
3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
4. criminal history record information, pursuant to R.S. 37:1270B(7) and 1277;
5. payment of the applicable fee as provided in Chapter 1 of these rules;
6. the name, primary practice location and contact information of a collaborating physician;
7. attestation by the applicant certifying that he or she will not order or select laboratory tests or other evaluations regarding hereditary or carrier conditions (or other testing related to the practice of genetic counseling) in this state in the absence of a collaborative practice agreement conforming to the requirements of §6021 of these rules; and
8. such other information and documentation as the board may require to evidence qualification for licensure.

D. All documents required to be submitted to the board must be the originals. For good cause shown, the board may waive or modify this requirement.

E. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document or item required by the application. The board may, at its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

#### §3823. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a genetic counselor, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if,

when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a genetic counselor with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the genetic counselor licensing authority of any state, the American Board of Genetic Counseling or the American Board of Medical Genetics, or their successors, the Louisiana Department of Health, federal, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

#### **Subchapter D. Examination**

##### **§3829. Purpose and Scope**

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

##### **§3831. Designation of Examination**

A. The examinations accepted by the board for licensure are the certification examinations for:

1. a genetic counselor offered by:
  - a. the American Board of Genetic Counseling; and
  - b. the American Board of Medical Genetics; or
2. a medical geneticist offered by the American Board of Medical Genetics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

##### **§3833. Restriction, Limitation on Examination**

A. An applicant who fails an examination four times shall not thereafter be considered for licensure until successfully completing such continuing professional education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

##### **§3835. Passing Score**

A. An applicant will be deemed to have successfully passed the examination if he or she attains a score equivalent to that required by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics as a passing score for the examination taken by the applicant-examinee.

B. Each time an applicant-examinee attempts a certification examination the applicant shall inform the board of the examination results and shall authorize the ABGC or the ABMGG to release their test scores to the board according to the organization's procedures for such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

#### **Subchapter E. Licensure Issuance, Termination, Renewal, and Reinstatement**

##### **§3841. Issuance of License**

A. If the qualifications, requirements and procedures prescribed or incorporated in Subchapters B and C of this Chapter are met to the satisfaction of the board, the board shall issue a license to the applicant to practice genetic counseling in this state.

B. A license issued under this Chapter shall designate whether an applicant's practice includes those functions listed in §6021.B.1 of these rules and may be verified on the board's web page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

##### **§3843. Expiration of License**

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void and to no effect the following year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

##### **§3845. Renewal of License**

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;
2. the renewal fee prescribed in Chapter 1 of these rules; and
3. certification that the applicant has:

- a. complied with the continuing professional education requirement as prescribed by Subchapter G of these rules; or

- b. not complied with the continuing professional education requirement but is seeking a waiver of such requirement, as provided by Subchapter G of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. If an individual fails to comply with the requirements of this Section on or before the expiration of a license, the

license shall expire and become null and void without further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

#### **§3847. Reinstatement of License**

A. A license which has expired as a result of non-renewal, for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. proof of satisfaction of the continuing professional education for each year that the license lapsed, as set forth in Subchapter G of this Chapter;
4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and
5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A genetic counselor whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a genetic counselor shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1074 (August 2019).

#### **§3849. Temporary License**

A. The board may issue a temporary license, also known and designated as an "examination permit," to an individual who meets and satisfies all of the requirements and qualifications for genetic counselor licensure set forth in this Chapter, except for having taken and passed the examination for certification offered for his or her associated masters or doctoral degree, as prescribed in Subchapter B of this Chapter.

B. Eligibility. To be eligible for an examination permit an applicant shall:

1. satisfy the procedures, qualifications and requirements for application specified in Subchapters B and C of this Chapter;

2. hold active candidate status for the certification;

3. not have failed the certification examination associated with his or her active candidate status more than one time;

4. certify to the board that he or she shall:

a. make application to take and take the certification examination associated with his or her active candidate status on the next available date the examination is offered;

b. only practice genetic counseling under direct supervision of a licensed genetic counselor or a physician, and only in accordance with a genetic supervision contract;

5. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

C. Permit Term. An examination permit shall expire and become null and void upon the earlier of:

1. six months from the date of issuance;

2. the date on which the applicant successfully passes the examination for certification and is issued a genetic counselor license;

3. thirty days after the applicant fails the examination for certification;

4. thirty days after the date the permit holder fails to appear and take the certification examination for which he or she was registered. An exception may be granted at the sole discretion of the board upon a request submitted in writing, which is deemed acceptable to the board, identifying a life-threatening or significant medical condition or other extenuating circumstance that prevented the applicant's appearance for the examination;

5. the expiration date printed on the examination permit.

D. Number of Permits. An individual who holds an examination permit but fails to pass or appear for the examination for certification may apply to the board for a second examination permit; provided, however, the board shall not issue an examination permit to an individual who has failed to pass, or failed to appear and take the examination for certification, more than one time.

E. An individual who holds an examination permit shall, without delay, inform the board in writing of the results of his or her certification examination or of the individual's failure to appear for the examination for which he or she was scheduled.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for an examination permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1074 (August 2019).

## **Subchapter F. Genetic Counselor Advisory Committee**

### **§3855. Organization; Authority**

A. The Louisiana Genetic Counselor Advisory Committee (the "advisory committee"), as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act, is hereby recognized by the board.

B. The purpose of the committee is to advise and make recommendations to the board regarding the practice of genetic counseling, including collaborative agreements and genetic counselor licensure.

C. The committee shall:

1. have such authority as is accorded to it by the Act;
2. function and meet as prescribed by the Act;
3. advise the board on issues affecting the licensing of genetic counselors and regulation of genetic counseling in this state;
4. make recommendations to the board regarding model forms and examples of collaborative practice agreements;
5. evaluate continuing professional education programs for genetic counselors and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to Subchapter G of these rules;
6. serve as liaison between and among the board, licensed genetic counselors, and professional organizations;
7. perform such other functions and provide such additional advice as the board may request; and
8. receive reimbursement for actual and reasonable expenses incurred in the performance of their duties with respect to attendance at committee meetings and for other expenses when specifically authorized by the board.

D. **Committee Meetings, Officers.** The advisory committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary at the call of the chair, a quorum of the committee or the board. The presence of three of the five member committee shall constitute a quorum of the committee. At its initial meeting the committee shall elect from among its members a chair, a vice-chair and a secretary, who shall serve until their successors are elected and qualified. The chair, or in the chair's absence or unavailability, the vice-chair, shall designate the date, time and place and preside at all meetings of the committee and record, or cause to be recorded, accurate and complete minutes of all of meetings of the committee and shall cause copies of the same to be provided to the board.

E. **Confidentiality.** In discharging the functions authorized under this Section the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members relative to individual applicants or licensees pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board any confidential information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

## **Subchapter G. Continuing Professional Education**

### **§3861. Scope of Subchapter**

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed genetic counselor, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

### **§3863. Continuing Professional Educational**

#### **Requirement**

A. Subject to the waiver of requirements and exceptions specified in §3875 and §3877 of this Subchapter, to be eligible for renewal of licensure a genetic counselor shall evidence and document, in a format specified by the board, the successful completion of:

1. within each year during which he holds a license:
  - a. not less than twenty-five contact hours of continuing professional education sanctioned by the National Society of Genetic Counselors or its successor; or
  - b. a reading assignment and proctored examination in medical genetics provided by the American Board of Genetics and Genomics or its successor; or
2. the completion of such other qualifying continuing professional education as may be offered by an approved sponsor, recommended by the advisory committee and approved by the board, that satisfies the requirements specified by §3865 and §3867 of this Subchapter.

B. For purposes of this Section, one contact hour of continuing professional education credit is equivalent to 50 minutes of qualifying lecture, clinical practice, on-line course or workshop instruction on topics pertaining to the genetic counseling profession.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

### **§3865. Qualifying Continuing Professional Education Programs**

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of genetic counseling;
2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of genetic counseling;
3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;
4. provide a system or method for verification of attendance or course completion;
5. be a minimum of 50 continuous minutes in length for each contact hour of credit; and

6. allow participants an opportunity to ask questions on the content presented.

B. Other approved continuing professional education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in genetic counseling or medical genetics, or a grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 25 contact hours;

2. a genetic counseling seminar, workshop, home study, on-line, or correspondence course approved by the advisory committee or the board, pursuant to the criteria set forth in §3869 of these rules.

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent, home study, correspondence course, on-line lecture, workshop, program or seminar that is not approved or sponsored by the National Society of Genetic Counselors, the American Board of Medical Genetics and Genomics, or the advisory committee pursuant to the criteria set forth in §3869 of these rules;

3. in-service education provided by a sales representative unless approved by NSGC or the ABMGG;

4. teaching, training or supervisory activities not specifically included in §3865.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authoring verbal or written presentations, seminars or articles or grant applications; and

8. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

### **§3867. Approval of Program Sponsors**

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §3865 shall be deemed approved for purposes of satisfying continuing professional education requirement under this Subchapter, if sponsored or offered by one of the following organizations: the NSGC, the ABMGG, the Louisiana Department of Health (LDH), the Louisiana Hospital Association (LHA), or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §3865 or §3867.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

### **§3869. Approval of Program**

A. A continuing professional education program or activity sponsored by an organization or entity that is not approved by the board pursuant to §3865 or §3867 must be evaluated and approved by the advisory committee in order to be accepted for purposes of meeting the continuing professional education requirement for annual renewal of licensure. To be considered for approval the sponsoring organization or entity shall submit a written request to the board. For each continuing professional educational program presented for consideration the following shall be provided:

1. a list of course goals and objectives for each topic;

2. a course agenda displaying the lecture time for each topic;

3. a curriculum vitae for each speaker;

4. information on the location, date(s), and target audience;

5. a copy of the evaluation form used for the overall program topics and speakers; and

6. such other information as the advisory committee may request to establish the compliance of such program with the standards prescribed by §3865 or §3867.

B. A request for pre-approval of a continuing professional education program shall be submitted in a format approved by the board not less than 120 days in advance of the event.

C. Any such written request shall be referred by the board to the advisory committee for evaluation and approval.

D. If the recommendation is against the approval, the board or the advisory committee shall give notice of such recommendation to the person or organization requesting approval. An appeal may be submitted to the board by written request, accompanied by all information required by Subsection A of this Section within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

### **§3871. Documentation Procedure**

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany a licensed genetic counselor's application for renewal of licensure pursuant to §3845 of these rules.

B. A licensed genetic counselor shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing professional education program.

C. The board or advisory committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing professional education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.



D. Any certification of continuing professional education not presumptively approved in writing by the board, pursuant to §3865 or §3867 of these rules, or pre-approved by the advisory committee, pursuant to §3869, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing professional education program or activity listed by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of contact hours claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

### **§3873. Failure to Satisfy Continuing Professional Education Requirements**

A. An applicant for renewal of licensure who fails to satisfy the continuing professional education requirement prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to suspension or revocation without further notice, unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing professional education requirement;
2. the applicant is exempt from such requirement pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §3875.

B. The license of a genetic counselor whose license has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing professional education requirement of this Subchapter may be reinstated by the board upon application to the board pursuant to §3847 of this Chapter, accompanied by payment of a reinstatement fee, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, satisfied the continuing professional education requirement prescribed by this Subchapter.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

### **§3875. Waiver of Requirements**

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part

of the continuing professional education required by these rules in favor of a genetic counselor who makes a written request for such waiver to the board and evidences to its satisfaction:

1. services in the armed forces of the United States during a substantial part of the renewal period;
2. an incapacitating illness or injury;
3. a permanent financial hardship or other extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirement. Any licensed genetic counselor submitting a continuing professional education waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §3845. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §3847.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

### **§3877. Exceptions to the Continuing Professional Education Requirements**

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a genetic counselor employed exclusively by, or at an institution operated by the United States government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

## **Subpart 3. Practice**

### **Chapter 60. Genetic Counselors**

#### **Subchapter A. General Provisions**

##### **§6001. Scope of Chapter**

A. The rules of this Chapter govern the practice of genetic counseling in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

##### **§6003. General Definitions**

A. The definitions set forth in Chapter 38 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

#### **Subchapter B. Unauthorized Practice, Designation of License or Permit and Exemptions**

##### **§6009. Unauthorized Practice**

A. No individual shall engage in the practice of genetic counseling in this state unless he or she possesses a current license or a temporary license (examination permit), duly issued by the board under Subpart 2 of this Part.

B. An individual who does not possess a current license or a temporary license (examination permit), duly issued by the board shall not, directly or indirectly, identify or designate himself or herself as a *genetic counselor*, *licensed genetic counselor*, nor use in connection with his or her name the letters "GC," "LGC," or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply

that the person is licensed to practice genetic counseling in this state, or that the services provided by such person constitute genetic counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

#### **§6011. Designation of License or Permit**

A. Every genetic counselor shall wear an identification badge when engaged in the practice of genetic counseling. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's licensure as a *genetic counselor*, *licensed genetic counselor*, or the letters "GC" or "LGC."

B. A genetic counselor who currently holds a temporary license (examination permit) issued by the board may use the words "genetic counselor-temp license" or "genetic counselor-exam permit" or the letters "GC-TL" or "GC-EP" in connection with his or her name to denote his or her license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

#### **§6013. Exemptions**

A. The prohibitions of §6009 of this Chapter shall not apply to:

1. a physician; provided, however, that while a physician may practice genetic counseling, serve as a collaborating physician or provide genetic supervision to a genetic counselor holding a temporary license, only a physician licensed by the board under this Part may hold himself or herself out as a *genetic counselor* or any other title that indicates that he or she is a genetic counselor unless licensed as such in accordance with the provisions of this Part;

2. a student or intern enrolled and participating in a supervised genetic counseling training program, accredited by the American Board of Medical Genetics and Genomics or the American Board for Genetic Counseling, and who is designated by a title which clearly indicates his or her status as a student or intern;

3. an individual from another state who is certified by the American Board of Medical Genetics and Genomics or the American Board of Genetic Counseling, when providing a true consultation as defined in Part 2 of this Part;

4. an individual acting under and within the scope of a license issued by another licensing agency of the state of Louisiana; or

5. any individual employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

### **Subchapter C. Eligibility; Requirements of Collaborative Practice Agreement, Authority and Limitations, Obligations and Responsibility and Required Information**

#### **§6019. Physician Eligibility to Engage in Collaborative Practice with a Genetic Counselor**

A. To be eligible to engage in collaborative practice with a genetic counselor a physician shall:

1. shall hold a current medical license issued by the board, or be otherwise authorized by federal law or regulation to practice medicine in this state;

2. be actively engaged in the provision of direct patient care in this state;

3. practice in an area comparable in scope, specialty, or expertise to that of a genetic counselor;

4. have signed a collaborative practice agreement with a genetic counselor that complies with the standards of practice prescribed by §§6019-6021 of this Subchapter;

5. have no pending disciplinary proceedings before the board and practice in accordance with rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

#### **§6021. Collaborative Practice Agreement; Requirements; Annual Review and Signature**

A. A genetic counselor who engages in any of the functions listed in §6021.B.1 of this Section shall enter into a collaborative practice agreement with a physician who agrees to work with and provide medical support to the genetic counselor.

B. The CPA shall be set forth in a formal document that memorializes the relationship between the genetic counselor and CP and, at a minimum:

1. establish the criteria governing the genetic counselor's performance of any of the following functions:

a. ordering genetic tests or other tests for the purpose of diagnosing a genetic medical condition, inherited disorder, or determining the carrier status of one or more family members of the patient; and

b. selecting the most appropriate, accurate, and cost-effective methods of diagnosis.

2. include a plan of accountability among the parties that addresses:

a. arrangements for diagnostic and laboratory testing; and

b. a plan for documentation of medical records;

c. a list of conditions and events upon which the genetic counselor is required to notify the CP;

d. a predetermined plan to address medical emergencies, e.g., calling 911, referral to a hospital emergency room or a primary care provider, if needed;

e. referral of patients to the CP or another physician;

f. documentation that patients are informed about how to access care when both the genetic counselor and/or the CP are unavailable;

g. informed consent by the patient;

h. authorization for the CP to review the patient's medical record; and

i. an acknowledgment that the CP and genetic counselor shall comply with all requirements of §6025 of this Chapter.

C. The genetic counselor and CP shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise.

D. Collaborative practice agreements shall be annually reviewed, updated as appropriate, and signed and dated by the genetic counselor and collaborating physician. The signature of the genetic counselor and CP and date of review shall be noted on the CPA.

E. A collaborative practice agreement is not required for a genetic counselor who does not engage in any of the functions listed in §6021.B.1 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

### **§6023. Authority and Limitations of Genetic Counselors**

A. A genetic counselor shall not:

1. engage in any of the functions listed in §6021.B.1. without a current collaborative practice agreement with a collaborating physician, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than as a genetic counselor as defined in this Part; or

3. identify himself or herself, or permit any other person to identify him or her, as "physician."

B. A genetic counselor holding a temporary license (examination permit) shall not:

1. practice without direct supervision of a licensed genetic counselor or a physician, and only in accordance with a current genetic supervision contract, as defined in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

### **§6025. Obligations and Responsibilities**

A. It shall be the mutual obligation of a genetic counselor, who has a CPA with a collaborating physician, and collaborating physician to:

1. within five days, report directly to the board, in writing, of:

a. the termination of the collaborative practice agreement between a collaborating physician and genetic counselor; and

b. the retirement or withdrawal from active practice by the collaborating physician or genetic counselor;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the genetic counselor;

3. insure that each individual to whom the genetic counselor provides patient services is expressly advised and understands that the genetic counselor is not a physician; and

4. insure that, with respect to each patient, all activities, functions and services of the genetic counselor are immediately and properly documented in written or electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

### **§6027. Required Information**

A. Each physician shall report to the board annually, as a condition to the issuance or renewal of medical licensure, whether or not he or she is engaged in collaborative practice with a genetic counselor and, if so, such information as may be requested by the board.

B. The information required by this Section shall be reported in a format prepared by the board, which shall be made part of or accompany each physician's renewal application for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

### **§6029. Board Access to Documents**

A. Collaborative practice agreements shall be made available by a genetic counselor and collaborating physician for review, examination, inspection and copying upon request by the board or its designated employees or agents.

B. A genetic counselor and collaborating physician shall comply with and respond to requests by the board for personal appearances and information relative to his or her collaborative practice.

C. Employees or agents of the board may perform an on-site review of a genetic counselor and collaborating physician practice at any reasonable time, without the necessity of prior notice, to determine compliance with the requirements of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

## **Subchapter D. Grounds for Administrative Action**

### **§6035. Causes for Administrative Action**

A. The board may deny, refuse to issue, revoke, suspend, cancel, place on probation, reprimand, censure, or otherwise impose terms, conditions and restrictions on a license or temporary license (examination permit) of any licensee or applicant for licensure, upon proof satisfactory to the board that the individual has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

### **§6037. Causes for Action; Definitions; Unprofessional Conduct**

A. As used herein, the term *unprofessional conduct* by a licensed genetic counselor or an applicant for licensure shall mean any of the causes set forth in R.S. 37:1360.108 of the Act.

B. As used in R.S. 37:1360.108 of the Act, an individual who has "obtained or attempted to obtain a license by fraud or deceit" means and includes an individual who:

1. makes any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to an application for licensure under Chapter 38 of these rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the requirements for licensure required by Chapter 38 of these rules.

C. As used in R.S. 37:1360.108 of the Act, the term *convicted*, as applied to a licensed genetic counselor or applicant for licensure as a genetic counselor, means that a judgment has been entered against such individual by a court of competent jurisdiction, whether upon verdict, judgment, or plea of guilty or nolo contendere, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

Vincent A. Culotta, Jr., M.D.  
Executive Director

1908#015

#### **RULE**

### **Department of Health Board of Medical Examiners**

Physician Practice; Telemedicine (LAC 46:XLV.7505)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has amended its rules governing telemedicine to delete the words “in this state” from 7505C. for consistency with the law and so that, as applied, the Rule would not inadvertently prevent physicians from prescribing medication or other health care services to their patients who may be vacationing or temporarily outside of Louisiana, to the extent that such activities or practices are lawful and permitted by the medical licensing authorities in other jurisdictions. The amendment is set forth below. The Rule is hereby adopted on the day of promulgation.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XLV. Medical Professions**

#### **Subpart 3. Practice**

#### **Chapter 75. Telemedicine**

#### **Subchapter A. General Provisions**

#### **§7505. Patient Relationship; Standard of Care;**

#### **Location of Participants**

A. - B. ...

C. Location of Participants. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location at the time that the services are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017), LR 45:1080 (August 2019).

Vincent A. Culotta, Jr., M.D.,  
Executive Director

1908#023

#### **RULE**

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

Home and Community-Based Services Waivers  
Provider Requirements (LAC 50:XXI.Chapter 9)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services and the Office of Citizens with Developmental Disabilities have amended LAC 50:XXI.901 and §903 and adopted §904 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### **Title 50**

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

#### **Subpart 1. General Provisions**

#### **Chapter 9. Provider Requirements**

#### **Subchapter A. General Provisions**

#### **§901. Settings Requirements for Service Delivery**

A. - A.5. ...

B. In a provider-owned or controlled non-residential setting, in addition to the qualities listed in Subsection A above, the following additional conditions must be met:

1. - 3. ...

C. In a provider-owned or controlled residential setting, in addition to the qualities listed in Subsections A and B above, the following additional conditions must be met.

1. The unit or dwelling shall be a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant laws of the state, parish, city, or other designated entity. For settings in which landlord/tenant laws do not apply, the state must ensure that

a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord/tenant law.

C.2. - 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, the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1978 (October 2017), amended LR 45:1080 (August 2019).

### **§903. Electronic Visit Verification**

A. An electronic visit verification (EVV) system must be used for time and attendance tracking and post-authorization for home and community-based services.

1. - 2.b....

3. Requirements for proper use of the EVV system are outlined in the respective program's Medicaid provider manual.

**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, the Office of Aging and Adult Services and the Office for Citizens with Developmental Disabilities, LR 43:1979 (October 2017), amended LR 45:1081 (August 2019).

### **§904. Social Security Verification**

A. Home and community-based waiver providers shall verify all currently employed and all new employees' Social Security numbers either by obtaining a copy of the employee's Social Security card or through a Social Security number verification service.

B. A copy of the employee's Social Security card or proof of verification shall be kept in the employee's record.

1. The department or its designee reserves the right to request verification of an employee's Social Security number at any time.

2. Should the provider be unable to provide proof of verification, payments associated with that employee's previously billed time may be recouped and/or future reimbursement withheld until proper verification is submitted.

**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 and the Office for Citizens with Developmental Disabilities, LR 45:1081 (August 2019).

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.

Rebekah E. Gee MD, MPH  
Secretary

1908#048

## **RULE**

### **Department of Insurance Office of the Commissioner**

#### **Regulation 113—Registration of Catastrophe Claims Adjusters (LAC 37:XIII.Chapter 163)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance has adopted Regulation 113 to establish the procedure to register claims adjusters in the event of a catastrophe or an emergency. This Rule is hereby adopted on the day of promulgation.

#### **Title 37**

#### **INSURANCE**

#### **Part XIII. Regulations**

#### **Chapter 163. Regulation Number 113—Registration of Catastrophe Claims Adjusters**

#### **§16301. Purpose**

A. The purpose of this regulation is:

1. To establish the procedure to register claims adjusters in the event of a catastrophe or an emergency pursuant to R.S. 22:1667 and 22:1678.

2. To set forth the time periods for expiration or extension of catastrophe or emergency adjuster registration and to set forth penalties pursuant to R.S. 22:1672.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1081 (August 2019).

#### **§16303. Applicability and Scope**

A. Regulation 113 shall apply to all adjusters employed or retained by an insurer and brought into the state for the purpose of investigating or making adjustment of losses resulting from a catastrophe or an emergency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1081 (August 2019).

#### **§16305. Authority**

A. Regulation 113 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, 22:821, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:821, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1081 (August 2019).

#### **§16307. Definitions**

A. For the purposes of Regulation 113 the following terms are defined as follows:

*Commissioner*—the Commissioner of Insurance of the State of Louisiana.

*Adjuster*—an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- a. an adjustment bureau;
- b. an association;
- c. a property and casualty producer;
- d. an independent contractor;
- e. an insurer; or
- f. a managing general agent.

*Catastrophe Adjuster*—those adjusters employed or retained by an insurer and brought into this state for the purpose of investigating or making adjustments of losses resulting from a catastrophe or an emergency.

*Catastrophe/Emergency*—a significant event declared by the governor or determined by the commissioner that causes widespread property damage or loss.

*Insurer*—any type of insurer, whether authorized or unauthorized, conducting business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1081 (August 2019).

#### **§16309. Designation of a Catastrophe/Emergency**

A. Insurers shall be authorized to utilize catastrophe adjusters in the event of emergencies declared by the governor of this state pursuant to R.S. 29:724 and for any other event which the commissioner has determined to have caused widespread property damage or loss.

B. If not otherwise declared by the governor or determined by the commissioner, an insurer may request that the commissioner authorize the use of catastrophe adjusters by making a written request to the commissioner.

C. The written request shall include the date, geographic area within the state and a description of the event along with any factors which the insurer believes justifies such a declaration.

D. Upon approval of the catastrophe/emergency by the commissioner, the event shall be entered in the Louisiana Department of Insurance on-line system for registration of catastrophe adjusters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

#### **§16311. Registration Procedure**

A. No license shall be required for an individual who is employed or retained for a particular event by an insurer and brought into this state specifically for the purpose of investigating or making adjustments of losses resulting from a catastrophe or an emergency.

B. Prior to utilizing the services of a catastrophe adjuster, insurers shall register the individual as follows:

1. Access the department's online system for catastrophe adjuster registration;
2. Provide the following information:
  - a. the specific catastrophe/emergency for which the registration is active;
  - b. full name of the individual catastrophe adjuster;
  - c. Social Security Number or National Producer Number of the individual catastrophe adjuster;

d. the name, mailing address, email address and phone number of the individual with the insurer responsible for the registration of catastrophe adjusters; and

e. any additional information deemed necessary by the commissioner.

3. Submit the required fee to the commissioner pursuant to R.S. 22:821 within 10 days of the submission of the registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1667, and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

#### **§16313. Registration Expiration and Extension**

A. A catastrophe adjuster registration is effective upon submission provided fees are received within ten days. A registration shall be valid for a period not to exceed 180 days.

B. The commissioner may extend the registration's effective period for an additional ninety days upon the receipt of the insurer's written request for such an extension. The request must be submitted no later than 15 days prior to the expiration of the registration. The commissioner shall provide his written approval or denial of an extension request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

#### **§16315. Violations and Penalties**

A. The commissioner may, without notice and hearing, revoke the privileges of an individual registered as a catastrophe adjuster for the grounds specified in R.S. 22:1672.

B. Any notice of revocation shall be sent to the employing or retaining insurer. The notice shall be sent to the insurer in accordance with R.S. 49:961. The revocation shall be effective as of the date of the notice of revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667, 22:1672 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

#### **§16317. Effective Date**

A. Regulation 113 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

#### **§16319. Severability**

A. If any section or provision of Regulation 113 or the application to any individual or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 113 to any individuals or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 113 and the application to any individuals or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1667 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:1082 (August 2019).

James J. Donelon  
Commissioner

1908#004

## RULE

### Department of Revenue Office of Alcohol and Tobacco Control

#### Low Alcohol Content Beverages, Malt Beverages and Ciders—Handling Stocking, Pricing, and Rotating (LAC 55:VII.420)

Under the authority of R.S. 26:922 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has adopted §420 that addresses handling, stocking, pricing, and rotating low alcohol content beverages, malt beverages and ciders since this is not addressed otherwise by existing law or regulation. The promulgation of §420 will assist the Office of Alcohol and Tobacco Control by providing guidelines to wholesalers and retailers relative to handling, stocking, pricing, and rotating low alcohol content beverages, malt beverages and ciders since this is not addressed otherwise by existing law or regulation. This Rule is hereby adopted on the day of promulgation.

#### Title 55

#### PUBLIC SAFETY

#### Part VII. Alcohol and Tobacco Control

#### Chapter 4. Alcohol Public Safety Regulations

#### §420. Low Alcohol Content Beverages, Malt Beverages and Ciders—Handling, Stocking, Pricing, and Rotating

A. Persons holding valid Louisiana wholesale beverage alcohol permits, their agents, servants or employees, manufacturers' agents, importers and brokers may price, stock and rotate merchandise at retail premises only to the following extent.

1. Dealers in beverages of not more than 6 percent alcohol by volume, malt beverages or ciders may handle, build and stock displays of their product on the premises of retail dealers.

2. All dealers in beverages of not more than 6 percent alcohol by volume, malt beverages and ciders are prohibited from requiring other dealers to provide services including stocking, rotating, and frequency in delivery of product. Wholesale dealers are prohibited from pricing, and affixing security tags on product at a retail outlet.

3. Except as authorized under this Chapter, employees of a wholesale dealer shall not, in connection with the sale or delivery of alcoholic beverages to a retail dealer, provide any services whatsoever to a retail dealer.

B. The commissioner of the Office of Alcohol and Tobacco Control may seek a suspension or revocation of the permit or permits of a violator and may impose such other penalties or administrative remedies as are prescribed by law for violators of the Alcoholic Beverage Control Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:922.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 45:1083 (August 2019).

Juana Marine-Lombard  
Commissioner

1908#061

## RULE

### Department of Treasury Board of Trustees of the School Employees' Retirement System

#### Participation in Group Trusts (LAC 58:VII.409)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:1165 and R.S. 11:1165.1, the Board of Trustees of the School Employees' Retirement System has adopted new Section 409, titled "Participation in Group Trusts," to immediately follow LAC 58:VII.407, to allow the retirement system to participate in group trust investments without affecting its tax qualified status. This Rule is hereby adopted on the day of promulgation.

#### Title 58

#### RETIREMENT

#### Part VII. School Employees' Retirement System

#### Chapter 4. Internal Revenue Code Provisions

#### §409. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such

investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system,

determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165 and R.S. 11:1165.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the School Employees' Retirement System, LR 45:1083 (August 2019).

Charles P. Bujol  
Executive Director

1908#018



# Notices of Intent

## NOTICE OF INTENT

### Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs  
Go Youth Challenge Legislation  
(LAC 28:IV.Chapter 15)

The Louisiana Board of Regents announces its intention to amend the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking implements the provisions of Act 402 of the 2019 Regular Session of the Louisiana Legislature. (SG19187NI)

### Title 28 EDUCATION

#### Part IV. Student Financial Assistance—Higher Education

#### Chapter 15. Grant Opportunity for Youth ChalleNGe Skills Training Program

##### §1501. General Provisions

A - C. ...

D. Eligible Courses of Study. The program grant may be used to pursue any postsecondary skill or occupational training, including a vocational technical education certificate or diploma or a nonacademic undergraduate degree, certificate, diploma, associate, or baccalaureate undergraduate degree required to obtain employment in a high demand, high skill, high wage career.

E. Eligible Institutions. Eligible students may use the program grant at the following institutions:

1. Any Louisiana public community colleges that offer skill or occupational training and the Louisiana Technical College postsecondary institution; and

2. a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. and offers skill or occupational training.

F. Grant Amounts. The program grant shall be paid for a period not to exceed the equivalent of two program academic years (non-academic) in an amount:

1. equal to the actual cost of tuition for a student enrolled in a Louisiana public postsecondary institution;

2. equal to the average tuition amount paid for students attending public postsecondary institutions for a student enrolled at a regionally accredited independent college or university in the state that is a member of the Louisiana Association of Independent Colleges and Universities. See §1903.B.8 for method of computation.

G. Definitions. For the purposes of this Chapter, the following definitions are applicable.

\* \* \*

*Graduate*—a student who has completed the Louisiana GO-Youth ChalleNGe Program and, no later than 18 months

after entry into the program, received a Louisiana high school equivalency diploma or, beginning in the 2019-2020 academic year, a student who has completed the Louisiana Youth ChalleNGe Program and, no later than 24 months after entry into the program, received a high school diploma.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:545 (March 2018), LR 45:

##### §1503. Establishing Initial Eligibility

A. - A.3. ...

4. have earned a Louisiana high school equivalency diploma or a Louisiana high school diploma; and

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:782 (April 2004), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:546 (March 2018), LR 45:

##### §1505. Deadline to Enroll as a Full-Time Student

A. ...

1.a. not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from the Louisiana National Guard's Youth ChalleNGe Program; or

b. beginning in the 2020-2021 academic year, not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the date the student graduated from the Louisiana National Guard's Youth ChalleNGe Program; or

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:546 (March 2018).

##### §1507. Maintaining Eligibility

A. - A.3. ...

4. earn at least 24 hours each program academic year (non-academic program) as defined in §301, unless granted an exception for cause; and

5. maintain a cumulative grade point average of at least 2.50 on a 4.00 scale at the end of each program academic year (non-academic program); and

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:546 (March 2018), LR 45:

**§1509. Responsibilities of the State Military Department (SMD)**

A. The State Military Department is responsible for determining whether participants in the Louisiana Youth ChalleNGe Program meet the eligibility requirements to participate in the program set forth in §1503.A.1-6 above. The submission of a student's data for the GO-Youth ChalleNGe Program shall constitute a certification by the State Military Department that the student meets the requirements of §1503.A.1-6, specified above, except that:

1. the certification shall not include the certification of residency required by §1503.A.2, if a participant does not meet the residency requirement at the time the participant is awarded a Louisiana high school equivalency certificate; and

2. the certification shall not include the certification of high school graduation required by §1503.A.4.

B. For each student determined to be eligible to participate in the program, the State Military Department shall provide the following student data in an electronic file format acceptable to LOSFA:

- 1. name;
- 2. permanent mailing address;
- 3. telephone number;
- 4. date enrolled in the Louisiana Youth ChalleNGe Program;

5. date the student completed the residential phase of the Louisiana National Guard's Youth ChalleNGe Program;

6. date received a Louisiana high school equivalency diploma;

7. students' order of merit ranking within their class; and

8. if the student does not have 24 months of Louisiana residency at the time the Louisiana high school equivalency certificate is awarded, the date of initial Louisiana residency.

C. To the extent funds are appropriated to the State Military Department to fund the program, the State Military Department shall take such actions as are necessary to promptly transfer such funds to LOSFA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:546 (March 2018), amended LR 45:

**§1511. Responsibilities of LOSFA**

A. - B. ...

C. LOSFA shall determine the date on which participants graduated from high school as required by §1503.A.4.

D. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

E. LOSFA shall conduct audits of the Louisiana Youth ChalleNGe Program campuses and postsecondary institutions to ensure compliance with program requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 30:783 (April 2004), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:547 (March 2018), amended LR 45:

**Family Impact Statement**

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

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Business Impact Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG19186NI) until 4:30 p.m., September 10, 2019, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Scholarship/Grant Programs Go Youth Challenge Legislation**

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

There may be an indeterminable expenditure increase for the Office of Student Financial Assistance (OSFA) GO-Youth ChalleNGe Program from the statutorily dedicated Higher Education Initiatives Fund due to increased utilization of GO Youth ChalleNGe grants.

The proposed rule changes codify Act 402 of 2019 by extending initial eligibility deadlines, adding degree/course choices, and including Louisiana public 4-year postsecondary institutions in the program. It is anticipated that additional program choices and time to enroll will incentivize additional students to participate in this program. GO-Youth ChalleNGe Program awards are dependent upon the availability of funding and are subject to appropriation. The FY 19 appropriation of \$200,000 from the statutorily dedicated Higher Education Initiatives Fund was funded via a direct transfer from SGF, and remaining funds after FY 19 will be carried forward to FY 20. It is anticipated that the carryover funding will be sufficient to cover FY 20 program expenditures. To the extent expenditures from the GO-Youth Challenge program exceed funding available from the Higher Education Initiatives Fund, additional funding through the appropriation process will be required in future fiscal years.

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

The proposed rule changes will have no effect on state or local governmental revenues.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will benefit students eligible for a Go Youth ChalleNGe Program award by increasing the number of eligible courses and schools they may select and increasing their initial enrollment deadlines giving them

additional time to prepare for a postsecondary education program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

Robyn Rhea Lively  
Senior Attorney  
1908#003

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor**

**Capital Area Ground Water Conservation Commission**

**Pumpage Fees (LAC 56:V.1103)**

Notice is hereby given that the Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the Parishes of Ascension, East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, plan to increase the pumping charges for non-exempt ground water users (from \$10 per million gallons of water pumped to \$20 per million gallons of water pumped). The board has determined that this increase is necessary to fund remediation of projected saltwater intrusion into groundwater in the Capital Area. The Capital Area Groundwater Conservation District plans to install several exploratory wells 2,000 feet below the surface (2,000-foot sand) to determine the location of saltwater and the best location for a saltwater scavenger well. This action is in accordance with Louisiana Revised Statutes 38:3076(14) and 38:3079.

**Title 56**

**PUBLIC WORKS**

**Part V. Capital Area Ground Water Conservation Commission**

**Chapter 11. Determination of and Payment of Accounts**

**§1107. Pumpage Fee**

A. The pumping charges for ground water users shall be \$20 per million gallons and is to be paid quarterly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:3076(14) and 38:3079.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Capital Area Ground Water Conservation Commission, LR 1:291 (July 1975), amended LR 10:592 (August 1984) effective January 1, 1985, repromulgated LR 33:2649 (December 2007), amended LR 34:435 (March 2008), effective April 1, 2008, LR 39:486 (March 2013), LR 42:403 (March 2016), LR 45:

**Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments to Anthony J. Duplechin, PG, Executive Director, Capital Area Groundwater Conservation District, 3535 South Sherwood Forest Blvd., Ste. 137, Baton Rouge, LA 70816, either by mail or hand delivery. Comments may also be sent by email to tony@cagwcc.com. All written comments must be received no later than 4 p.m., on September 23, 2019.

**Public Hearing**

A public hearing will be held on September 24, 2019 at 10 a.m. in the District office, 3535 South Sherwood Forest Blvd., Suite 137, Baton Rouge, LA. Oral comments will be accepted at that meeting.

Anthony J. Duplechin, PG  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pumpage Fees**

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

There will be increased expenditures of the Capital Area Groundwater Conservation District as a result of the proposed rule change which increases the District's pumpage fee from \$10 to \$20 per million gallons of groundwater pumped. The increased revenue will fund remediation of saltwater intrusion into groundwater in the Capital Area. FY 20 expenditures for drilling the initial exploratory well are estimated at \$328,000. Additional wells may be required in order for the District to identify the location of the saltwater plume where a saltwater scavenger well system can be installed. Future costs are indeterminable at this time and will be affected by the number of wells that must be drilled, costs of installation, annual operating and maintenance costs, the level of salt that must be disposed, and the method of disposal, which may also include land acquisition costs.

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

The Capital Area Groundwater Conservation District estimates an increase of \$295,588 for the period January 1, through June 30, 2020, and an estimated increase of \$591,177 annually thereafter.

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

The proposed rule change results in an additional charge of \$10 per million gallons of groundwater pumped for the 58 users, including municipalities and industries in Ascension, East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge and West Feliciana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

Anthony J. Duplechin  
Executive Director  
1908#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Office of the Governor Department of Veterans Affairs

Commission; Educational Aid; Veterans Homes;  
Assistance Fund (LAC 4:VII.Chapter 9)

Under the authority of R.S. 29:252-261, 288-290, 295, 381-391, R.S. 36:781-787, and R.S. 46:121-123, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend Department of Veterans Affairs regulations, LAC 4:VII.901-990.

These updates, the repeal of Section 941, and adoption of Section 990 are being proposed to bring the Louisiana Administrative Code rules related to the Department of Veterans Affairs in line with updates enacted to statutes since 2012, the last time that the Department of Veterans Affairs promulgated new rules. These proposed updates will include allowing the secretary to have the ability to waive certain fees related to state veteran homes and cemeteries only in very unusual financial hardship circumstances demonstrated by veterans or their dependents. The repeal of one Section is being proposed because the Department of Veterans Affairs no longer uses domiciliary resident fees under the updated U.S. Department of Veterans Affairs veteran benefits structure.

These proposed updates concern the Veterans Affairs Commission (LAC 4:VII.902 and 907), State Educational Aid Program (LAC 4:VII.917, 919, 921 and 923), Veterans Homes (LAC 4:VII.937, 939, 942 (proposing repealing), 945, 947, 949, 951, 951, 955), and Military Family Assistance Fund (LAC 4:VII.961, 965, 967, 969, 973, 977, and 987). LDVA is proposing one new rule, (LAC 4:VII.990) to provide for fees charged under R.S. 29:295, related to state veterans cemeteries.

#### Title 4

#### ADMINISTRATION

#### Part VII. Governor's Office

#### Chapter 9. Veterans' Affairs

#### Subchapter A. Veterans' Affairs Commission

#### §902. Powers and Duties of the Secretary

A. - A.2. ...

3. Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided by law, including but not limited to:

a. - e. ...

f. educational support, including State Approving Agency operations and the LaVetCorps campus veteran center program;

g. the Gold Star Family Support Program;

h. Military Family Assistance Fund administration;

A.3.i.- 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781 and 783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012), amended LR 45:

#### §907. Meetings

A. - F. ...

G. The secretary of veterans affairs shall keep adequate records and minutes of official actions and distribute copies to each member as soon as practical.

H. The commission shall meet semi-annually with the secretary and his staff for the purpose of reviewing the overall operation and upgrading of the department.

I. No meeting of the commission shall exceed a maximum of two days.

J. Two-day meetings or weekend meetings of the commission are not to be scheduled unless there is valid justification and/or unusual circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012), LR 45:

#### Subchapter B. State Educational Aid Program

#### §917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible to receive educational benefit under R.S. 29:288 et seq., the following criteria must be met.

1. In the case of a member of the armed forces of the United States of America who has been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war, or in the case of a veteran who died as a result of a service-connected disability incurred during a wartime period as determined by the United States Department of Veteran Affairs, that service member's or veteran's children or surviving spouse may apply for educational benefits under R.S. 29:288 et seq.

2. In the case of a living veteran who has been rated 90 percent or above service-connected disabled by evaluation according to the United States Department of Veterans Affairs rating schedule or a living veteran who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule, that veteran's children may apply for educational benefits under R.S. 29:288 et seq.

3. The qualified deceased veteran must have been a Louisiana resident for at least one year immediately preceding his entry into service.

4. The qualified living veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

5. Any child applicant applying for these educational benefits must be not less than 16 nor more than 25 years of age, and marriage is not a bar to the program. Child applicants must meet the dependence requirements of the United States Department of Veterans Affairs pursuant to 38 CFR §3.57 and §3.204 through §3.211.

6. The spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Dissolution of the remarriage does not re-establish eligibility. Program

termination for a remarried surviving spouse will be the end of the semester in which the marriage takes place.

7. The eligible student must attend school on a full-time basis and maintain all academic and other enrollment standards established by the school.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), LR 45:

#### **§919. Fee Exemption Certificate**

A. A fee exemption certificate must be issued to each eligible applicant upon completion of his/her processed claim in the administrative office, Department of Veterans' Affairs, reflecting exemption from payment of all tuition and school-imposed fees for the forthcoming school semester or term.

B. The registration certificate must be signed by a school official indicating date of enrollment and returned by the student or his/her designee to the administrative office, Department of Veterans' Affairs, within 45 days after the beginning of the semester, in order to receive a possible payment of cash subsistence allowance for the semester pursuant to R.S. 29:289, provided that funds have been appropriated for that purpose.

C. If the student transfers from one school to another, the original fee exemption certificate may be taken to the new school, or the student may request from the administrative office the issuance of another fee exemption to be used at his/her next school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 45:

#### **§921. Maximum of Four Years**

A. Tuition exemptions under R.S. 29:288 et seq. and possible payments of cash subsistence allowances under R.S. 29:289 may be given for a maximum of four years of education, to be completed in not more than five years from the beginning date of the first semester for which educational benefits are approved by the Department of Veterans' Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 45:

#### **§923. Not Covered**

A. Fees assessed by the student body on themselves, such as yearbook, weekly paper, are not exempt. Free registration does not cover books, supplies, room and board, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended LR 45:

### **Subchapter C. Veterans' Homes**

#### **§937. Admission Requirements**

A. For admission to a Louisiana State Veterans Home, a veteran must be a resident of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs veterans assistance counselor. The veteran must be recommended by the home administrator and approved for admission.

B. ...

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other residents or employees.

D. ...

E. The veteran, or party responsible for his/her financial matters, must agree to pay the full resident care and maintenance fee. The administrator, with authorization from the secretary, may waive or defer any charge that exceeds the veteran's income.

F. An applicant for admission to the veteran home must not have criminal charges pending against him/her.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), LR 45:

#### **§939. Care and Maintenance Fees**

A. Care and maintenance fees will be based on total family income. This includes income from all sources (including but not limited to Social Security, United States Department of Veterans Affairs pension/compensation, private pension, account balances and interest from bank accounts or savings accounts, and/or interest bearing accounts/investments).

B. In no case will the fee charged to the resident be more than the actual cost of care, as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), LR 45:

#### **§941. Domiciliary Resident Fees**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), repealed LR 45:

#### **§945. Mandatory Election for Benefits**

A. Residents must apply for all monetary benefits to which they may be entitled from both the state and federal government. Any increase, as a result thereof, must be applied to care and maintenance fees until maximum cost of care is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:

#### **§947. Fee Payable in Advance after Admission**

A. Care and maintenance fees are payable one month in advance. These fees are due before the tenth of each month. A portion of a month will be prorated according to the number of days stay. Residents will not be charged care and maintenance fees for periods of hospital confinement in excess of 10 days unless they desire that a bed be held until they return. For periods of leave from the home, care and maintenance fees are payable as arranged with the home administrator or his designee. Residents who are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period, until the month of entry fee is current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012).

#### **§949. Fees Adjusted**

A. Care and maintenance fees will be adjusted when it has been established that there is a change in the veteran's total family income. The home reserves the right to obtain updated income information from the resident or his/her responsible party (signed authority at admission by patient, and/or responsible party, or any other source). The home also reserves the right to establish retroactive charges effective to the date a change of income occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:

#### **§951. Additional Fees**

A. In addition to the regular care and maintenance fees collected, if less than the maximum monthly amount, and the patient has an accumulation of funds, either through additional recurring income or through one or more deposits into bank or savings accounts, in excess of \$500, if single, and \$7,500, if married, the patient resident will be assessed an amount that would bring his care and maintenance fees up to the maximum allowable per month until their funds are reduced to the above stated balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:

#### **§953. Home Administrator Authority When Incorrect Income Given**

A. The home administrator, when provided incorrect total family income information, will avail himself of all state laws to recoup all monies that should be made available to the home for care and maintenance fees, retroactive to the time that these monies became available for the resident's use while he/she was residing at a Louisiana state veterans' home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:

#### **§955. Unusual Financial Circumstances**

A. All residents at a veterans home who feel they have unusual financial circumstances/hardships can request relief and consideration of a waiver or deferment of care and maintenance fees. Residents may apply for this consideration through the home administrator. All requests must include documentation demonstrating the financial circumstance or hardship claimed. The home administrator will forward the request, with an appropriate recommendation, to the secretary for approval or disapproval.

B. All waivers or deferments that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation, with recommendations on each case, to the secretary for further consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1018 (April 2012), LR 45:

### **Subchapter D. Military Family Assistance Program Fund**

#### **§961. Authority**

A. Rules and regulations are hereby established by the Military Family Assistance Board by order of the Military Family Assistance Act, R. S. 46:121 et seq., Act 151 of the 2005 Louisiana Legislature and amended by Act 676 of the 2008 Louisiana Legislature, Act 256 and 877 of the 2010 Louisiana Legislature, Acts 156 and 281 of the 2012 Louisiana Legislature, Acts 185 and 402 of the 2016 Louisiana Legislature, Acts 3 and 60 of the 2017 Louisiana Legislature, and Act 206 of the 2018 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011), amended LR 45:

**§965. Definitions**

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

*Activated Military Personnel* or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as home of residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of 30 days or who is a member of the Louisiana National Guard and called to active state service pursuant to Louisiana R.S. 29:7, or who is a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, as defined in R.S. 46:121.

*Application*—a written request for financial assistance from the Military Family Assistance Fund made on the form captioned Military Family Assistance Fund Application, together with documents related thereto.

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*Eligible Applicant*—activated military personnel or a family member of activated military personnel as defined in R.S. 46:121.

\*\*\*

*Fund Committee*—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Fund which committee shall also serve as an appellate body for all claims of \$1500 or less before a final appeal is made to the full board.

*Honorably Discharged Active-Duty Military Personnel*—a person domiciled in Louisiana who was on full-time active duty in the military service of the United States and received an honorable discharge.

\*\*\*

*Third Party Administrator*—the Louisiana Department of Veterans Affairs Benefits Division, or a designee of the Secretary of the Louisiana Department of Veterans Affairs.

*Veteran*—means any servicemember of the United States Armed Forces who has met any of the following conditions:

- a. completed either 24 months of continuous active duty or the full period of not less than 90 days for which he or she was ordered to active duty, other than active duty for training, and received either an honorable discharge or a general discharge under honorable conditions.
- b. completed at least 90 days of active duty and has been discharged under the specific authority of 10 U.S.C. §1171 or §1173, or has been determined to have a compensable service-connected disability.
- c. has received a discharge with less than 90 days of service for a service-connected disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:

**§967. Eligibility**

A. To be eligible for a grant from the Military Family Assistance Fund, an individual must be either an activated

military person or the family member of an activated military person as defined in R.S. 46:121.

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001, before the activated military person or any family member may submit an application for assistance to the Military Family Assistance Fund.

C. Pursuant to R.S. 46:121, a veteran who applies for assistance from the Military Family Assistance Fund must be a current resident of Louisiana.

D. The Military Family Assistance Fund is a payer of last resort. All applicants shall seek assistance from other available sources prior to making application to the Military Family Assistance Fund. Other available sources include, but are not limited to, Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, Coast Guard Mutual Assistance, Salvation Army, American Red Cross, and Veterans' Emergency Assistance.

E. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

F. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:

**§969. Application Process**

A. Eligible Applicant Responsibilities

- 1. All requests for assistance shall be made through a completed Military Family Assistance Fund Application.
- 2. - 3. ...
- 4. Applications for assistance from the Military Family Assistance Fund shall include copies of applications for other types of assistance filed by the applicant.
- 5. Applications, together with all supporting documents, may be faxed to the MFA Fund third party administrator, may be submitted electronically or online through the Military Family Assistance Fund application submission process provided on the Department of Veterans Affairs website, or may be mailed to: Department of Veterans Affairs, Attn: MFA Third Party Administrator, P.O. Box 94095, Baton Rouge, LA 70804-9095.
- 6. An application for assistance from the Military Family Assistance Fund shall be considered made as of the date that it is received by the third party administrator.
- 7. If an individual acts on behalf of an eligible applicant in preparing and submitting the application, a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant's behalf must be submitted as an attachment to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:

### §973. Award Amounts

A. ...

B. One uniform maximum dollar amount that may be awarded on behalf of an activated military person for a one-time lump sum award shall be \$700. With respect to one-time lump sum awards, the following shall apply.

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than 50 percent residual disability.

2. One-time lump sum awards are in addition to, and not in lieu of, need-based awards.

3. A one-time lump sum award may be made only when extenuating circumstances are present. Extenuating circumstances include, but are not limited to:

a. the circumstance in which the injured military person is recuperating in a location away from home that necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated military person with a service related injury with a greater than 50 percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than 50 percent residual disability at the time application is made, may be requested;

b. the circumstance in which the funeral of an activated military person necessitates travel by family members to attend the funeral. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to attend the funeral of an activated military person may be requested;

c. the circumstance in which the absence of family members to visit the injured activated military person or attend the funeral of the activated military person creates financial needs for the care of a home, pets, children, or others when the financial need is not covered by any other source;

d. such other extenuating circumstances as may be determined on a case-by-case basis by the fund committee.

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war on or after September 11, 2001.

C. With respect to grants for transportation and other related costs of activated military personnel, the following shall apply.

1. One transportation request shall be approved per person per period of mobilization, and pay no greater than \$500 per applicant.

2. The utilization of the lowest cost fare and group rates with other applicants, where practicable, shall be encouraged.

3. The awarded amount shall be subtracted from the maximum dollar amount of \$10,000 per applicant per 12-month period.

4. Consideration for assistance will be limited to activated military personnel whose deployment is for overseas only.

5. Requests for assistance must have the approval from the adjutant general and/or commanding officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011), amended LR 45:

### §977. Third Party Administrator

A. - D. ...

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel as defined in R.S. 46:121;

2. that all awards are made pursuant to a claim that is made by an eligible applicant;

3. that all awards are need-based. The third party administrator, fund committee or Military Family Assistance Board may consider a claim need-based if all of the following apply:

a. - b. ...

c. the undue hardship can be directly or indirectly related to the activation of the military person or honorable discharge of the active-duty military person;

d. - e. ...

f. the applicant or family member has made reasonable attempts to secure alternative funding through another program, recognizing that the approval authority in its discretion accorded under these rules may waive the requirement for that applicant to have sought this alternative funding.

F. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011), amended LR 45:

### §987. Waivers

A. Prior to the approval of a claim, applications and the identity of eligible applicants and their related military personnel shall be confidential unless expressly waived by the eligible applicant in writing. The filing of an appeal before the fund committee or the board shall be considered a waiver of the identity of eligible applicants and their related military personnel or veterans.

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel or veterans, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identity of applicants and their related military personnel or veterans, and all records of the board, the fund committee and the third party administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family



Assistance Program and verification of elements of the application.

D. The board, the fund committee, and the third party administrator are expressly authorized to make public data concerning the number of applications received, the amount of claims approved, the geographic areas of the state from which such applications are received and approved, the number of disapproved applications, and the amount of funds in the Military Family Assistance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011), amended LR 45:

### **Subchapter E. Veterans' Cemeteries**

#### **§990. Fee Waivers**

A. The secretary of the department may waive all or part of the fee charged under R.S. 29:295 for burying spouses and dependent children in Louisiana veterans' cemeteries if unusual financial circumstances or hardships exist. Family members who believe they have unusual financial circumstances or hardships may request relief and consideration of a waiver of the burial fee for the deceased spouse or dependent child. Family members may apply for this consideration through the cemetery director. The application must include appropriate documentation to support a finding that an unusual financial circumstance or hardship exists. If the cemetery director determines that the application and supporting documentation reflect that an unusual financial circumstance or hardship exists, then the director will forward the request with an appropriate recommendation to the secretary for approval or disapproval to waive the fee in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 45:

#### **Family Impact Statement**

1. The Effect on Stability of the Family. The proposed updates to these rules are being proposed to bring LDVA's LAC rules in line with updated statutes enacted since 2012, when LDVA last promulgated new rules. Within these updates and one proposed new rule, LDVA is seeking to expressly allow waivers of fees, only as approved by the LDVA Secretary in very unusual financial hardships for veterans seeking certain specific services at the state veteran homes and cemeteries. In these particular cases, this may help stabilize families in financial crisis at a critical time in their lives.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. None.

3. The Effect on the Functioning of the Family. While most of these proposed rules updates are simply being requested to bring Louisiana Administrative Code rules in line with updated statutes, nevertheless in the particular circumstances where the Military Family Assistance Fund rules are being updated, as well as those rules updates seeking to assist veterans and their dependents in very unusual financial hardships, the ability to respond quickly and with possible fee waivers in some unusual situations

may help stabilize the circumstances in military and veteran families in financial crisis at a critical time in their lives.

4. The Effect on Family Earnings and Family Budget. See answer to #1 and #3.

5. The Effect on the Behavior and Personal Responsibility of Children. None.

6. The Effect on the Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. See answer to #1 and #3.

#### **Poverty Impact Statement**

1. The Effect on Household Income, Assets, and Financial Security. The proposed updates to these rules are being proposed to bring LDVA's LAC rules in line with updated statutes enacted since 2012, when LDVA last promulgated new rules. Within these updates and one proposed new rule, LDVA is seeking to expressly allow waivers of fees, only as approved by the LDVA Secretary in very unusual financial hardships for veterans seeking certain specific services at the state veteran homes and cemeteries. In these particular cases, this may help stabilize families in financial crisis at a critical time in their lives. In addition, updates to the Military Family Assistance Fund rules to bring the rules in line with updated statutes also assist in providing financial security for veterans' families at difficult times when need-based timely financial assistance may be given to those families.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. None.

3. The Effect on Employment and Workforce Development. None.

4. The Effect on Taxes and Tax Credits. None.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. None.

6. The Effect on the Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. None.

#### **Small Business Analysis**

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

1. The Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. None. These rules updates are simply being proposed to bring LDVA's LAC rules in line with statutory updates enacted since 2012, the last time that LDVA promulgated new rules.

2. The Total and Direct Effect on the Cost to the Provider to Provide the Same Level of Service. None.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. None.

#### **Public Comments**

Interested persons may submit written comments to Julie Baxter Payer, Deputy Secretary, Department of Veterans Affairs, P.O. Box 94095-Capitol Station, Baton Rouge, LA 70804-9095 by September 20, 2019.

Joey Strickland  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Commission; Educational Aid; Veterans  
Homes; Assistance Fund**

**Title 4  
ADMINISTRATION  
Part I. General Provisions**

**Chapter 1. Rulemaking Petitions  
§101. Submission of a Rulemaking Petition**

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

There are no anticipated implementation costs or savings to the Department of Veterans Affairs 9LDVA) or local governmental units. The proposed rule changes bring the Louisiana Administrative Code rules in line with updates enacted to the statutes since 2012; the last time that LDVA promulgated new rules. The department has been following statutes and Federal Regulations and these changes codify that practice.

The proposed changes to the State Educational benefits for the children or surviving spouse or a service member of a veteran under certain circumstances; child applications must also meet the dependence requirements of the United States Department of Veterans Affairs. Changes to the Requirements for Veterans' Homes repeal domiciliary resident fees and revise the waiver option requested for all residents who feel they have unusual financial circumstances or hardships. New language authorizes the Secretary to provide fee waivers for Veterans' Cemeteries for family members with unusual financial circumstances or hardships. The changes include clarifications to the Military Family Assistance Program Fund (MFA) eligibility, application, and award process to reflect the current statute allowing all veterans to receive assistance from the MFA.

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

The proposed rule change is not anticipated to have any impact on the revenues of LDVA as the changes regarding fee waivers and MFA is current practice.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Changes reflect economic benefits for certain veterans or their families as a result of the revisions to certain fees and the ability to claim hardship waivers as well as to the Military Family Assistance Program. However, these benefits are already reflected in current practice.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

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

Julie Baxter Payer  
Deputy Secretary  
1908#047

Evan Brousseau  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of the Commissioner**

Rulemaking Petitions (LAC 4:I.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of the Commissioner proposes to adopt a rule outlining the process for considering rulemaking petitions.

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:4 and 49:953, et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 45:

**§103. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:4 and 49:953, et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 45:

**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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Jay Dardenne  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed Rule because the proposed Rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed Rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is not expected to affect competition or employment.

Barbara Goodson  
Deputy Commissioner  
1908#073

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of the Community Development

Rulemaking Petitions (LAC 4:VII.Chapter 22)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of

Community Development proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 4

### ADMINISTRATION

### Part VII. Governor's Office

### Chapter 22. Office of Community

### Development—Rulemaking Petitions

### §2201. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with RS 33:7611 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development LR 45:

### §2203. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with RS 33:7611 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 45:

### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Pat Forbes  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition or employment.

Traci Watts  
Director  
1908#054

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of Facility Planning and Control

Rulemaking Petitions (LAC 34:III.Chapter 11)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of Facility

Planning and Control proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT, AND PROPERTY CONTROL

#### Part III. Facility Planning and Control

#### Chapter 11. Rulemaking Petitions

#### §1101. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with RS 39:103 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 45:

#### §1103. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:103 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 45:

#### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Mark Moses  
Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition or employment.

Mark Moses  
Director  
1908#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of Group Benefits

Rulemaking Petitions (LAC 32:I.Chapter 17)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of Group

Benefits proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 32

### EMPLOYEE BENEFITS

### Part I. General Provisions

### Chapter 17. Rulemaking Petitions

### §1701. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(1), and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 45:

### §1703. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C), 802(B)(1), and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits LR 45:

### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Tommy Teague  
Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed Rule because the proposed Rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed Rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is not expected to affect competition or employment.

Tommy Teague  
Chief Executive Officer  
1908#072

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of Risk Management

Rulemaking Petitions (LAC 37:I.Chapter 11)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of Risk

Management proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 37

### INSURANCE

#### Part I. Insurance and Related Matter

#### Chapter 11. Rulemaking Petitions

#### §1101. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1535 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 45:

#### §1103. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1535 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 45:

#### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Melissa Harris  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rulemaking Petitions**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.  
This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule is not expected to affect competition or employment.

Melissa Harris  
Director  
1908#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal office

**NOTICE OF INTENT  
Office of the Governor  
Division of Administration  
Office of State Lands**

Rulemaking Petitions (LAC 43:XXVII.103 and 105)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of State

Lands proposes to adopt a rule outlining the process for considering rulemaking petitions.

**Title 43**

**NATURAL RESOURCES**

**Part XXVII. State Lands**

**Chapter 1. General Provisions**

**§103. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

- 1. the petitioner's name and address;
- 2. the name of the promulgating agency for the rule in question;
- 3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
- 4. justification for the proposed action; and
- 5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with 50:171 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 45:

**§105. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

- 1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
- 2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with 50:171 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Lands, LR 45:

**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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Jonathan Robillard  
Administrator

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed Rule because the proposed Rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed Rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule is not expected to affect competition or employment.

Jonathan Robillard  
Public Lands Administrator  
1908#071

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of State Payroll

Rulemaking Petitions (LAC 4:III.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of State

Payroll proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 4 ADMINISTRATION Part III. Payroll

#### Chapter 13. Rulemaking Petitions

##### §1301. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455. and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Payroll, LR 45:

##### §1303. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:455. and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Payroll, LR 45:

##### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Andrea Hubbard  
Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition or employment.

Andrea Hubbard  
Director  
1908#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

Office of the Governor  
Division of Administration  
Office of State Procurement

Rulemaking Petitions (LAC 34:V.Chapter 35)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of State

Procurement proposes to adopt a rule outlining the process for considering rulemaking petitions.

### Title 34

### GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

#### Part V. Procurement

#### Chapter 35. Rulemaking Petitions

#### §3501. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement LR 45:

#### §3503. Consideration of a Rulemaking Petition

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement LR 45:

#### 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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Paula Tregre  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rulemaking Petitions**

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

Paula Tregre  
Director  
1908#057

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of Statewide Reporting and Accounting Policy**

Rulemaking Petitions (LAC 4:XIII.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy proposes to adopt a rule outlining the process for considering rulemaking petitions.

**Title 4  
ADMINISTRATION**

**Part XIII. Statewide Reporting and Accounting Policy  
Chapter 3. Rulemaking Petitions**

**§301. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

**AUTHORITY NOTE:** Promulgated in accordance with 39:88.2 and 49:953, et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 45:

**§303. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

**AUTHORITY NOTE:** Promulgated in accordance with 39:88.2 and 49:953, et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Statewide Reporting and Accounting Policy, LR 45:

**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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Afranie Adomako, CPA  
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rulemaking Petitions**

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

Afranie Adomako  
Director  
1908#056

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Office of the State Register**

Rulemaking Petitions (LAC 1:I.111 and 113)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of the State Register proposes to adopt a rule outlining the process for considering rulemaking petitions.

**Title 1**

**ADMINISTRATIVE LAW**

**Part I. Office of the State Register**

**Chapter 1. Preliminary Provisions**

**§111. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

**AUTHORITY NOTE:** Promulgated in accordance with 49:954.1 and 49:953, et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of the State Register LR 45:

**§113. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with 49:954.1 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the State Register LR 45:

#### **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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

David J. Truax  
Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions**

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

David J. Truax  
Director  
1908#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Office of Technology Services**

Rulemaking Petitions (LAC 4:XV.103 and 105)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Office of Technology Services proposes to adopt a rule outlining the process for considering rulemaking petitions.

#### **Title 4**

#### **ADMINISTRATION**

#### **Part XV. Information Technology**

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

#### **§103. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:15.1.1 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 45:

#### **§105. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:15.1.1 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 45:

**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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

Richard "Dickie" Howze  
Chief Information Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Rulemaking Petitions**

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

Richard Howze  
Director  
1908#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Division of Administration  
Property Assistance Agency**

Rulemaking Petitions  
(LAC 34:VII.107, 109 and IX.107, 109)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Division of Administration, Property Assistance Agency proposes to adopt a rule outlining the process for considering rulemaking petitions.

**Title 34**

**GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY CONTROL**

**Part VII. Property Control**

**Chapter 1. General Provisions**

**§107. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:326 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 45:

**§109. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:326 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 45:

## **Part IX. Federal Property Assistance Agency**

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

#### **§107. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition an agency within the Division of Administration for changes to the agency's current rules, or for the adoption of new rules within the agency's purview, an interested person shall submit a written petition to the Division of Administration, Office of the Commissioner. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Commissioner, Division of Administration  
Re: Rulemaking Petition  
P.O. Box 94095, Capital Station  
Baton Rouge, LA 70804-9095

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:326 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 45:

#### **§109. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the promulgating agency for review.

B. Within 90 days of receipt of the rulemaking petition, the agency shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or
2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:326 and 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Assistance Agency, LR 45:

#### **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 child, individual, or family 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 persons are invited to submit written comments via the U.S. Mail to Scott Johnson, General Counsel, Office of General Counsel, Division of Administration, Post Office Box 94095, Baton Rouge, LA 70804. Written comments may also be hand-delivered to Scott Johnson, General Counsel, at 1201 N. Third Street, Claiborne Building, Ste. 7-270, Baton Rouge, LA 70802. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before September 9, 2019, by 4:30 p.m.

James L. Young Jr.  
Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions**

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

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of agencies within the Division of Administration for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

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

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

James L. Young Jr.  
Director  
1908#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services  
Reimbursement Methodology  
(LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.703 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 applied behavior analysis-based therapy services in order to clarify the requirements relative to the appropriate current procedural terminology (CPT) codes utilized for reimbursement for these services.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 1. Applied Behavior Analysis-Based Therapy Services

#### §703. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 may be realigned to be consistent with Louisiana commercial rates or ABA codes adopted by the American Medical Association via current procedural terminology (CPT) codes.

1. ...

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect at the time of service delivery.

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 41:928 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:662 (April 2017), LR 45:

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.

#### 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

#### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 29, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2019. 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.

Rebekah E. Gee MD, MPH  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Applied Behavior Analysis-Based Therapy Services—Reimbursement Methodology

#### 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 19-20. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 19-20 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 19-20. It is anticipated that \$216 will be collected in FY 19-20 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 OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing applied behavior analysis-based (ABA) therapy services in order to clarify the requirements relative to the appropriate current procedural terminology (CPT) codes utilized for reimbursement for these services. Implementation of this proposed Rule will not reduce or increase payments to providers of ABA therapy services since this is an administrative change which does not change the current reimbursement rates or methodology. Condensing the temporary codes to the new permanent codes is not anticipated to result in any additional costs to the program. It is anticipated that implementation of this proposed Rule will not result in costs in FY 19-20, FY 20-21 and FY 21-22, but will benefit providers of ABA therapy services by clarifying existing procedures and ensuring use of the appropriate CPT codes for billing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1908#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Ground Ambulance Provider Fees and  
Enhanced Reimbursements for Qualifying Ground  
Ambulance Service Providers  
(LAC 48:I.4001 and 50.XXVII.331)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 and 50.XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625 and 2626, 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.

Act 299 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to amend the provisions governing the health care service provider fees for ground ambulance service providers to include non-emergency ground ambulance services, and to include non-emergency ground ambulance services in enhanced reimbursement for emergency ground ambulance transportation services. In order to comply with the requirements of Act 299, the

department promulgated an Emergency Rule which amended the provisions governing provider fees and emergency medical transportation enhanced reimbursements (*Louisiana Register*, Volume 45, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule.

**Title 48**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part I. General Administration**

**Subpart 1. General**

**Chapter 40. Provider Fees**

**§4001. Specific Fees**

A. Definitions

*Emergency Ground Ambulance Service Provider*—a non-public, non-federal provider of emergency and non-emergency ground ambulance services.

\*\*\*

B. - D. ...

E. Emergency and Non-Emergency Ground Ambulance Services. Effective August 1, 2016, a fee shall be imposed on emergency ground ambulance service providers for emergency ground ambulance services in accordance with R.S. 46:2626. Effective July 1, 2019, this fee shall also include non-emergency ambulance services.

1. The total assessment for the initial state fiscal year in which the assessment is charged shall not exceed the lesser of the following:

a. ...

b. 1 1/2 percent of the net operating revenue of all emergency ground ambulance service providers assessed relating to the provision of emergency and non-emergency ground ambulance transportation.

2. Except for the first year maximum fee of 1 1/2 percent of the net operating revenue, the department shall not impose any new fee or increase any fee on any emergency ground ambulance service provider on or after July 1, 2016, without first obtaining either of the following:

a. ...

b. written agreement of those providers subject to the fee which provide a minimum of 65 percent of the emergency and non-emergency ground ambulance transports.

3. After the initial year of assessment, the assessment shall be a percentage fee, determined at the discretion of the secretary and subject to the provisions below in collaboration with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency and non-emergency ground ambulance transports in the state of Louisiana.

a. ...

4. Repealed.

F. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2626 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department



of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 3. Emergency Medical Transportation**

#### **Subchapter B. Ground Transportation**

#### **§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers**

##### **A. Emergency Medical Transportation**

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

##### **B. - B.4. ...**

##### **C. Payment Methodology**

1. Payment will include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

##### **2. - 2.a. ...**

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows.

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency and non-emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency and non-emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the reimbursement paid to the provider for the provision of emergency and non-emergency ground ambulance transportation services identified under Subparagraph C.3.b of this Section.

##### **d. ...**

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency and non-emergency ground ambulance transportation services

under Subparagraph C.3.c of this Section from an amount equal to the amount calculated for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.d of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the sum of each of the amounts calculated for emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

##### **g. - h. ...**

##### **D. Effective Date of Payment**

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016, and for non-emergency ground transportation services provided after July 1, 2019. This payment is based on the average amount that would have been paid at the equivalent community rate.

2. After the initial calculation for fiscal year 2015-2016 for emergency ground ambulance transportation services and after the initial calculation for fiscal year 2019-2020 for non-emergency ground ambulance transportation services, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

##### **E. - E.1. ...**

**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 42:1890 (November 2016), amended LR:45

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.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct 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 increases payments to providers for the same services they already render.

### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2019. 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.

Rebekah E. Gee MD, MPH  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Ground Ambulance Provider Fees and Enhanced Reimbursements for Qualifying Ground Ambulance Service Providers

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

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$4,472,989 for FY 19-20, \$4,472,449 for FY 20-21 and \$4,472,449 for FY 21-22. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20, FY 20-21 and 21-22.

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

It is anticipated that the implementation of this proposed Rule will increase statutory dedicated revenue collections by approximately \$4,472,449 for FY 19-20, \$4,472,449 for FY 20-21 and \$4,472,449 in FY 21-22. In addition, is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$8,838,951 for FY 19-20, \$8,838,411 for FY 20-21 and \$8,838,411 for FY 21-22. It is

anticipated that \$540 will be expended in FY 19-20 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20, FY 20-21 and 21-22.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, in compliance with Act 299 of the 2019 Regular Session of the Louisiana legislature, continues the provisions of the July 1, 2019 Emergency Rule which amended the provisions governing ambulance provider fees and reimbursements to implement a provider fee assessment and to provide enhanced reimbursement for non-emergency ground ambulance transportation service providers. Providers of non-emergency ground ambulance transportation services will benefit from implementation of this proposed Rule as it increases payments for services they already provide. It is anticipated that implementation of this proposed Rule will increase programmatic expenditures for medical transportation services by approximately \$13,310,860 for FY 19-20, \$13,310,860 for FY 20-21 and \$13,310,860 for FY 21-22.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will have no effect on competition and employment.

Jen Steele  
Medicaid Director  
1908#050

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Inpatient Hospital Services  
Reimbursement Methodology  
Outlier Pool Rate Increase  
(LAC 50:V.954)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.954 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.

House Concurrent Resolution 5 (HCR 5) of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to set the catastrophic outlier pool aggregate payment amount in Medical Assistance Program to be no less than fifty percent of the amount of the total hospital outlier claims submitted with dates of service in state fiscal year 2017-2018. In order to comply with the requirements of HCR 5, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase outlier pool payments (*Louisiana Register*, Volume 45, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 1. Inpatient Hospital Services

#### Chapter 9. Non-Rural, Non-State Hospitals

##### Subchapter B. Reimbursement Methodology

#### §954. Outlier Payments

A. - I.2. ...

J. Effective on or after July 1, 2019, the outlier pool for admissions during SFY 2019 and subsequent state fiscal years shall cover eligible claims and shall not exceed \$21,092,179 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$21,092,179.

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 36:519 (March 2010), amended LR 39:3096 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

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.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct 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 increases payments to providers for the same services they already render.

#### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on September 29, 2019.

## Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on September 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 26, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after September 9, 2019. 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.

Rebekah E. Gee MD, MPH  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Inpatient Hospital Services Reimbursement Methodology Outlier Pool Rate Increase

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

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$3,727,242 for FY 19-20, \$3,726,972 for FY 20-21 and \$3,726,972 for FY 21-22. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FYs 19-20, 20-21 and 21-22.

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

It is anticipated that the implementation of this proposed Rule will increase statutory dedicated revenue collections by approximately \$3,726,972 for FY 19-20, \$3,726,972 for FY 20-21 and \$3,726,972 for FY 21-22. In addition, it is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$7,365,477 for FY 19-20, \$7,365,207 for FY 20-21 and \$7,365,207 for FY 21-22. It is anticipated that \$270 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FYs 19-20, 20-21 and 21-22.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the July 1, 2019 Emergency Rule which, in compliance with House Concurrent Resolution 5 of the 2019 Regular Session of the Louisiana Legislature, amended the provisions governing the

reimbursement methodology for inpatient hospital services to increase outlier pool payments. Inpatient hospital providers will benefit from implementation of this proposed Rule as it increases outlier pool payments to hospitals. It is anticipated that implementation of this Rule will increase Medicaid programmatic expenditures by approximately \$11,092,719 for FY 19-20 \$11,092,179 for FY 20-21 and \$11,092,179 for FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1908#051

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Office for Citizens with Developmental Disabilities**

Community and Family Support System  
Flexible Family Fund  
(LAC 48:I.16115)

Under the authority of R.S. 28.824, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that, the Louisiana Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), hereby proposes to amend LAC 48:I.16115, Appeals in the Community and Family Support System. The intent of the proposed amendment is to set the timeline for an appeal deadline.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part 1. General Administration**

**Subpart 11. Community and Family Support System**

**Chapter 161. Community and Family Support System—Flexible Family Fund**

**§16115. Appeals**

A. ...

B. All persons receiving an adverse eligibility determination shall have 30 calendar days from the date on the letter notifying the person of the adverse eligibility decision to request an appeal.

C. The local governing entity (LGE) will prepare a summary of evidence upon being notified of an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:561 (April 2019), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

**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 not have an adverse 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 not have an adverse impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

It is anticipated that the proposed Rule will not have a significant adverse effect 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.

**Provider Impact Statement**

After considering House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of 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 about the proposed Rule to Tanya Murphy, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Ms. Murphy is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is 4:30 p.m. on September 30, 2019.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, however, such request must be received no later than 4:30 p.m. on September 10, 2019. If the criteria set forth in R.S. 49:953 (A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 26, 2019 in Room 173 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 parties should first call Allen Enger at (225) 342-1342 after September 10, 2019. 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.

Rebekah E. Gee MD, MPH  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Community and Family Support System  
Flexible Family Fund**

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

The proposed Rule change is anticipated to increase expenditures for the Office of Citizen with Developmental Disabilities (OCDD) by approximately \$299 in FY 20 for the publication of the proposed Rule.

The Flexible Family Fund (FFF) Program provides monthly stipends on a first-come, first-serve basis to families of eligible children with severe developmental disabilities from birth to age 18 to help their families meet extraordinary costs.

This Rule change is being proposed to codify an existing practice of the Flexible Family Fund (FFF) Program appeals section. Currently, families receive written notification of the 30-day deadline to appeal. The proposed amendment codifies the 30-day deadline into the administrative rules.

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

Implementation of the proposed Rule will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed Rule changes will not have an economic cost or benefit to certain families with children with severe developmental disabilities.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed Rule has no known effect on competition and employment.

Julie Foster Hagan  
Assistant Secretary  
1907#019

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Insurance  
Office of the Commissioner**

**Regulation 70—Replacement of Life Insurance  
and Annuities (LAC 37:XIII.Chapter 89)**

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 70—Replacement of Life Insurance and Annuities by repealing §8905.A.11.

The purpose of the amendment to Regulation 70 is to remove the exemption from the regulation of any insurer that markets under the Home Service Marketing Distribution System, as R.S. 22:1553(C), which defined the Home Service Marketing Distribution System, was repealed by Acts 2009, No. 485, §3 and to update statutory references that have changed due to recodification of Title 22 of the Louisiana Revised Statutes.

**Title 37  
INSURANCE**

**Part XIII. Regulations**

**Chapter 89. Regulation 70—Replacement of Life  
Insurance and Annuities**

**Subchapter A. General Provisions**

**§8905. Exemptions**

\* \* \*

A. - A.10. ...

11. Repealed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:910 and R.S. 22:1141(C)(2).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:318 (July 2011), amended LR 45:

**§8917. Violations and Penalties**

A. Any failure to comply with this regulation shall be considered a violation of R.S. 22:1964. Examples of violations include:

A.1. - C. ...

D. Violations of this regulation shall subject the violators to penalties as provided by R.S. 22:1969, 1970, and any other applicable provisions of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:910.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:318 (July 2011), amended LR 45:

**Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

### Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

### Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

### Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

### Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 20, 2019.

James J. Donelon  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Regulation 70—Replacement of Life Insurance and Annuities

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

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed revision aligns the administrative rules with present practice and statute by removing the exemption from Regulation 70 for any insurer that markets under the Home Service Marketing Distribution System. The rule revision is necessary because R.S. 22:1553(C), which defined the Home Service Marketing Distribution System, was repealed by Act 485 of 2009.

#### 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 OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule changes. The proposed revisions align the administrative rules with present practice and statute by removing the exemption from Regulation 70 for any insurer that markets under the Home Service Marketing Distribution System. The rule revisions are necessary because R.S. 22:1553(C), which defined the Home Service Marketing Distribution System, was repealed by Act 485 of 2009.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Nicholas J. Lorusso  
Chief Deputy Commissioner  
1908#040

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

#### Regulation 72—Commercial Lines Insurance Policy Form Deregulation (LAC 37:XIII.Chapter 90)

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 72—Commercial Lines Insurance Policy Form Deregulation.

The purposes of the amendments to Regulation 72 are to update cross-references to redesignated sections of Title 22 of the Louisiana Revised Statutes that were redesignated pursuant to Act 415 of the 2008 Regular Session, to update the purpose of the regulation to make clear that the exemption implemented under this regulation is not experimental, to update acronyms used throughout the regulation, to change the definition of "person" to the same definition used in Title 22, to delete definitions for terms not used in the regulation, to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance, and to update provisions relative to the right to demand a hearing.

**Title 37**  
**INSURANCE**

**Part XIII. Regulations**

**Chapter 90. Regulation 72—Commercial Lines Insurance Policy Form Deregulation**

**§9001. Authority**

A. This regulation is adopted pursuant to R.S. 22:861.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

**§9003. Purpose**

A. The purpose of this regulation is to allow for more flexibility in the placement of insurance with large commercial risks within the parameters of the admitted market by establishing an exemption from the form filing, review and approval requirements of the Louisiana Insurance Code, and to adopt the initial definition of an "exempt commercial policyholder". The exemption implemented under this regulation is predicated upon the continued existence of an open and competitive market and the good faith of insurers in carrying out the fiduciary obligations owed to their insureds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

**§9009. Definitions**

A. ...

\* \* \*

*Authorized Insurer*—shall have the meaning found in R.S. 22:46(3).

*Commissioner*—the commissioner of insurance for the state of Louisiana.

\* \* \*

*Competitive Market*—a market in which a reasonable degree of competition exists or which has not been found to be in violation of R.S. 22:1961 et seq. In determining whether a reasonable degree of competition exists within a line of insurance, the commissioner shall consider the following factors:

a. - f. ...

*Insurer*—shall have the meaning found in R.S. 22:46(10).

*Person*—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:500 (March 2000), amended LR 45:

**§9011. Types of Coverage Exempt from Form Filing and Approval**

A. All kinds of commercial property and casualty insurance, including but not limited to Commercial Property, Boiler and Machinery, Commercial Auto, General Liability, Directors and Officers, Business Owners and Inland Marine insurance, written on commercial risks are exempt from the form filing and approval provisions of R.S. 22:861 if the policy is issued to an exempt commercial policyholder as defined in §9013 of this regulation, except for the following kinds:

A.1. - A.2. ...

B. The exemption provided for in this Section only applies to policy forms. Rate and rule filings must be made with the commissioner as required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:861.F, and R.S. 22:1456.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

**§9013. Special Commercial Entities**

A. - B.3. ...

C. Beginning January 1, 2001, the criteria in Subsection B of this Section must be reviewed on an annual basis by the commissioner for the purposes of determining whether the criteria should be modified. The review must be completed on or before the thirty-first day of March.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, and R.S. 22:861.F.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

**§9015. Disclosure Requirements and Certification Form**

A. - C. ...

D. A copy of the certification form shall be maintained by the insurer and by the producing agent or broker in the policyholder's record for a period of five years from the date of issuance of the insurance policy or renewal policy if at renewal a new certification form is executed. The insurer or producing agent or broker shall make such certification forms available for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861.F, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:501 (March 2000), amended LR 45:

**§9017. Requirements for Maintaining Records**

A. - A.4. ...

B. The record required by this Section may be kept in electronic or written form and shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy or renewal policy if a new certification form is required pursuant to §9015.C. Upon request, the insurer shall produce such record for examination by the commissioner or any person acting on behalf of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:1961 et seq., and R.S. 22:1981.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

#### **§9019. Exempt Policy Forms**

A. Commercial risk property and casualty policy forms which would otherwise have to be filed with and approved by the commissioner are exempt from this requirement if issued to an exempt commercial policyholder. The exemption of the policy form from the requirement that it be filed with and approved by the commissioner is not to be taken by an insurer to mean that an insurance contract effected by the use of such a policy form, or policy forms, may in any manner be inconsistent with the statutory law of this state or public policy as expressed by the courts of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:861, and R.S. 22:1961 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

#### **§9021. Penalties for Failure to Comply**

A. The exemption created by this regulation is a limited one and insurers must strictly comply with the conditions creating the exemption. Failure to comply with the regulation by any person subject to its provisions, after proper notice, may result in the imposition of such penalties as are authorized by law. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, R.S. 22:11, R.S. 22:18, R.S. 22:861, R.S. 22:1961 et seq., and R.S. 22:1554.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 26:502 (March 2000), amended LR 45:

#### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed

amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.



3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 20, 2019.

James J. Donelon  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Regulation 72—Commercial Lines Insurance Policy Form Deregulation

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

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed revisions to Regulation 72 are to update the administrative rules pursuant to Act 415 of 2008. These updates clarify that the exemption from form filing, review, and approval for large commercial insurers implemented under this regulation is no longer experimental. Other updates include revisions to acronyms and the definition of “person;” to replace references to the Louisiana Insurance Rating Commission with the commissioner of insurance; and to update provisions relative to the right to demand a hearing to align with present 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 OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not result in economic costs or benefits to directly affected persons or non-governmental groups, as it aligns the administrative rules with present practice and statute.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Nicholas J. Lorusso  
Chief Deputy Commissioner  
1908#041

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

#### Regulation 80—Commercial Lines Insurance Rate Deregulation (LAC 37:XIII.Chapter 93)

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 hereby gives notice of its intent to repeal

Regulation 80—Commercial Lines Insurance Rate Deregulation. The Department of Insurance is repealing Regulation 80 to comply with Acts 2007, No. 459, § 3 of the Regular Session of the Louisiana Legislature that repealed R.S. 22:1401.1D, under which authority Regulation 80 was originally promulgated.

The purpose of Regulation 80 was to implement the provisions of Acts 2004, No. 878 of the Louisiana Legislature, Regular Session, which exempted commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 93. Regulation Number 80—Commercial Lines Insurance Rate Deregulation

#### §9301. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9303. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9305. Scope and Applicability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9307. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9309. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9311. Types of Insurance Exempt from Rate Filing and Approval Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

#### §9313. Exempt Rates

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

**§9315. Noncompetitive Market; Public Notice and Hearing**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

**§9317. Disciplinary Hearings; Fines**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

**§9319. Effective Date**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1401.1D.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 30:2834 (December 2004), repealed LR 45:

**Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

**Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

**Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

**Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

**Public Comments**

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 20, 2019.

James J. Donelon  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 80—Commercial Lines  
Insurance Rate Deregulation**

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

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule revisions repeal Regulation 80, which was implemented under the provisions of Act 878 of 2004. This regulation exempted commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. LDI is repealing Regulation 80 to comply with Act 459 of 2007, which repealed the provisions of Act 878 of 2004 and no longer aligns with present statute and practice.

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

The proposed rule changes will not affect revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule changes will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule revisions repeal Regulation 80, which was implemented under the provisions of Act 878 of 2004. This regulation exempted commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. LDI is repealing Regulation 80 to comply with Act 459 of 2007, which repealed the provisions of Act 878 of 2004 and no longer aligns with present statute and practice.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule changes will not affect competition or employment.

Nicholas J. Lorusso  
Chief Deputy Commissioner  
1908#042

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Natural Resources  
Office of Conservation**

**Fees (LAC 43:XIX.Chapter 7)**

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation proposes to amend LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed action will adopt Statewide Order No. 29-R-19/20 and Forward (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-18/19.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation—General Operations  
Subpart 2. Statewide Order No. 29-R**

**Chapter 7. Fees**

**§701. Definitions**

\* \* \*

*BOE*—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor calculated based on the most recent 3-year average of the cost of oil and gas as reported by the Louisiana Department of Natural Resources.

\* \* \*

*Surface Mine*—for the purposes of this Chapter, a Surface Mine shall be any coal or lignite mine regulated under the authority of the commissioner of conservation.

*Surface Mining Fee*—a regulatory fee of eight cents per ton on all coal and lignite mined and sold in this state.

*Surface Mining Reclamation Fee*—an annual reclamation fee of six dollars for each acre of land included within the approved mine permit area.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:21 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016), LR 43:2191 (November 2017), LR 44:2013 (November 2018), LR 45:

**§703. Fee Schedule for Fiscal Year 2019-2020 and  
Thereafter**

A. - D.5. ...

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the requirements of R.S. 30:21.B(1)(a). Based on the required calculation and cap established in said statute, taking into account the production of capable wells for the given year, including credits given to exempt incapable wells, a tiered schedule stating the exact fees due for the particular year will be published annually on the DNR/Conservation website.

F. - G.1. ...

H. Surface Mining and Reclamation Fees

1. Permittees of surface mines for coal or lignite shall pay a fee of eight cents per ton on all coal and lignite, mined in the state and sold, to the secretary of the Department of Revenue on a monthly basis and shall be paid using forms prescribed by the secretary of the Department of Revenue.

2. Permittees of surface mines for coal or lignite shall pay an annual fee of six dollars for each acre of land included within the approved mine permit area. Such fee

shall be based upon the number of acres of land within the approved mine permit area on July 1 of each year and shall be paid into the oil and gas regulatory fund of the Office of Conservation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018), LR 45:

#### **§707. Severability and Effective Date**

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-19/20 and Forward and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-19/20 and Forward) supersedes Statewide Order No. 29-R-18/19 and any amendments thereof.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:21 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016), LR 43: 2191 (November 2017), LR 44:2013 (November 2018), LR 45:

#### **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 interest 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 4:30 p.m., September 10, 2019, at the Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. 19-232. All inquiries should be directed to Todd Keating at the above addresses or by phone to (225)342-5507. No preamble was prepared.

Richard P. Ieyoub  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Fees**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to the Department of Natural Resources or local governmental units as a result of the proposed rule changes. Revisions include: changes in the definition to the BOE (annual barrels oil equivalent) from 18.0 to a calculation based on the most recent 3 year average of the cost of oil and gas; adds Surface Mining definitions; replaces the capable oil and gas tiers with a definition; adds a Surface Mining Reclamation Fee of \$6 an acre pursuant to Act 105 of 2019; and changes the severability and effective date of the General Operations Statewide Order No. 29-R which establishes the schedule for the collection of application, production, and regulatory fees by the Office of Conservation. Increased fee revenue will provide a means of financing substitution for ongoing activities currently funded with surface mining fees and other dedicated funds which serve as a match to federal funds and supports the activities of the Office and three personnel.

The agency will retain the maximum revenue caps authorized by R.S. 30:21 et seq.

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

The proposed rule change will add a \$6 per acre fee on each acre of land included within the approved mine permit area. Revenues generated are based upon the total permitted acreage in lignite mines, which is currently 37,678 acres. At \$6 per acre this will generate \$226,068 in fee collections for FY 20. This revenue is expected to decrease by 5% each year as the fee is based on total acreage. As mines close and acreage is reclaimed there is less total acreage to assess. The increase will serve to offset declining revenue from the surface mining fee.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Surface Mining operators will experience an increase in fees assessed. Initial increases are projected at \$226,000 for the first year with declining costs in the future as a result of anticipated reduction in total acreage assessed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule change is not anticipated to have an impact on competition and employment in the public and private sector.

Gary P. Ross  
Assistant Commissioner  
1908#039

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Driving Schools (LAC 55:III.Chapter 1)

Under the authority of R.S. 37:3270 et seq., 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 Sections 143, 145, 146, 147, 148, 151, 153, 154, 157 and 159 under Chapter 1 to implement a more comprehensive version of Title 55 as it relates to the rules governing driving schools and the driver education program. In addition to a more comprehensive version of the rules governing driving schools and the driver education program, the Office of Motor Vehicles implements Act 295 of the 2019 Regular Legislative Session regarding when Class “E” temporary instructional permits are required and in providing an exception to ignition interlock requirements for certain applicants for Class “E” temporary instructional permits.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**§143. Commercial Driving Schools**

**Chapter 1. Driver’s License**

**Subchapter A. General Requirements**

A. Definitions. As used in this Chapter, the following terms have the meanings described below.

\*\*\*

*Eight Hour behind the Wheel Course Assessment*—a program which shall consist of a minimum of eight hours of instruction with the student as the operator of a dual-controlled motor vehicle. If under the age of 18, the student’s parent or guardian may sign, authorizing the instruction. A test is conducted or given at the end of the eight hour driver education course to determine a student’s driving ability.

\*\*\*

*Temporary Instructional Permit*—a Class “E” temporary instructional permit (TIP) obtained from OMV prior to the administration of the knowledge test to the student, operating a motor vehicle during on-road skills instruction or to be administered a road skills test.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1974 (August 2012), amended LR 38:3234 (December 2012), LR 43:1759 (September 2017), LR 45:

**§145. Qualifications for Private Driving School Owners and Instructors**

A. - A.1. ...

2. be at least 21 years of age and have at least 5 years of full licensure driving experience;

A.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1975 (August 2012), amended LR 43:1761 (September 2017), LR 45:

**§147. General Regulations for Private Driving Schools**

A. ...

1. The school shall provide a written document to the prospective student detailing the course to be provided and the fee charged for each service. This document may be signed by the parent (if the student is a minor) or a student (if over the age of eighteen) and the school owner. A copy of this document and the paid receipt shall be provided to the person that signs the document.

2. - 6. ...

7. All schools shall post a sign within the classroom stating that anyone who wishes to file a complaint or has a grievance against the school may contact the Training and Certification Unit at the Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA, 70896, Attn.: Training and Certification Unit. (225) 925-1795 or at ladvingschools@dps.la.gov.

8. - 13. ...

**B. Surety Bond**

1. School owners shall be required to maintain a \$20,000 surety bond while maintaining a license to operate a driving school. In the event of a change of primary or main location of the driving school, a rider to the bond indicating the new address must be obtained and provided to OMV.

B.2. - C. 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2604 (December 2014), LR 41:2665 (December 2015), LR 43:1765 (September 2017), LR 45:

**§148. Secondary/Alternative School Driver Education Program**

A. - A.3.b. ...

4. All instructors shall be approved by DPS and obtain an instructor’s license prior to providing instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1978 (August 2012), amended LR 43:1766 (September 2017), LR 45:

**§151. Regulations for All Driver Education Providers**

**A. General Requirements**

1. The school owner may designate a representative (licensed instructor or office staff of the school) to oversee and assume responsibility for the operation of the school and to sign school documents, except for the Third Party Tester

Agreement. The completed Assignment of Designated Representative form must be on file with DPS.

2. - 28. ...

29. Repealed.

#### B. Records Regulations

1. A school shall have a commercially established primary location where records shall be kept in a secure manner. Records shall be available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Only schools which are currently licensed by June 30, 2012 and currently maintain records at the owner's residence are allowed to do so. If the physical location where records are kept is the owner's residence, the owner agrees to make the records available for inspection. All schools licensed from this point forward will be required to maintain a primary location for the records.

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

ii. optional parental/guardian consent for minor applicants, including identification presented;

B.6.b.iii. - C.9. ...

10. Daily quizzes are recommended to measure the effectiveness of instruction during the classroom course. Daily quizzes shall not replace the final test.

C.11. - E.2. ...

3. Once a year DPS shall furnish the school with new versions of the knowledge test. The school shall shred all previous versions of the tests upon receipt of the new updated versions.

E.4. - F.6. ...

#### G. Temporary Instruction Permit

1. Prior to the administration of a knowledge test in a driver education or pre-licensing course, driving skills instruction in a driver education or pre-licensing course or the administration of a road skills test, a student shall obtain a temporary instructional permit (TIP) from OMV as required by R.S. 32:402.1. School owners will verify that the permit has been obtained and shall make a copy of the TIP to be included in the student's file.

2. In the event that the person applying for a TIP has or has had his driving privileges suspended pursuant to R.S. 32:661 et seq., and the person is required to have an ignition interlock as a condition of reinstatement, then the TIP may be issued for purposes of operating a motor vehicle during the behind the wheel portion of the driver education or pre-licensing course or during the administration of the road skills test without an ignition interlock device being required.

H. - H.1. ...

2. The domiciliary parent/guardian of a minor student may sign the consent prior to any behind the wheel instruction. The consent shall be signed in the presence of the owner or an instructor.

3. - 13. ...

14. Approved scoring criteria shall be standardized, as determined and approved by DPS. Each applicant starts with 100 points. The applicant shall receive 70 points or better to pass the eight-hour behind-the-wheel course.

15. If the driving school instructor suspects that the person is impaired at the time he presents himself for the behind the wheel instruction and training, the driving school instructor shall not conduct the behind the wheel instruction

and the driving school instructor shall promptly report the incident to the OMV.

16. Neither the driving school instructor, nor the driving school employing the driving school instructor, shall be liable in any manner to any person who is denied behind the wheel instruction and training except for any partial refund attributable to the behind the wheel portion of the driver education or pre-licensing course.

I. - J.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1980 (August 2012), amended LR 41:151 (January 2015), amended LR 43:1767 (September 2017), LR 45:

### **§153. Parental Orientation (Formerly §154)**

A. - C. ...

D. In the event the parent is unable to attend the Parental Responsibility Segment, the school may offer the class information online or in a handout that contains all the information that would normally be presented in the class. The parent must initial they have received the information and this must be made part of the student's file. If the class is taken online, confirmation of the online class should also be included in the student's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), LR 43:1772 (September 2017), LR 45:

### **§157. General Regulations for Third Party Testers**

A. - E.10. ...

11. A road skills test shall not be administered to an individual unless the individual is at least of the age of 16 but less than 17 and has held a learner's permit for at least 180 days.

12. If the third party examiner suspects that the person is impaired at the time he presents himself for the administration of a road skills test, the examiner shall not administer the road skills test and the examiner shall promptly report the incident to the OMV.

13. Neither the examiner nor the Third Party Tester employing the examiner shall be liable in any manner to any person who is denied the road skills test except for the refund attributable to the fees charged for a road skills test.

F. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1985 (August 2012), amended LR 38:3235 (December 2012), LR 43:1778 (September 2017), LR 45:

### **§159. Suspension, Revocation, and Penalty Assessment**

A. - A.5. ...

6. Each school shall respond to the findings in the compliance review as to how the school shall correct the violations within the prescribed time stated in the compliance review. The response may be sent via email.

B. - B.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 43:1780 (September 2017), amended LR 45:

#### **Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

#### **Poverty Impact Statement**

The 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.

#### **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 Laura C. Hopes, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to [Laura.hopes@la.gov](mailto:Laura.hopes@la.gov) or to Laura C. Hopes, Attorney, Louisiana State Police, 7979

Independence Blvd., Suite 307, Baton Rouge, LA 70806. The deadline for submitting a request for public hearing is September 10, 2019. All requests for a public hearing sent via written correspondence must be received by September 10, 2019. A public hearing will be held on Wednesday, September 25, 2019 at 10:00 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attended.

Lt. Col. Jason Starnes  
Chief Administrative Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Driving Schools**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in implementation costs or savings to state or local government units. The purpose of the proposed rule change is to adopt provisions pursuant to Act 295 of the 2019 Legislative Session and to provide a more comprehensive version of Title 55 as it relates to the rules governing driving schools, driving instructors and the driver education program.

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

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no anticipated effect on revenue or economic benefit to persons or non-governmental groups as a result of the proposed rule changes.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment.

Lt. Col Jason Starnes  
Chief Administrative Officer  
1908#016

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Office of the State Fire Marshal**

#### **Fireworks (LAC 55:V.Chapter 19)**

In accordance with the provisions of R.S. 40:1563(F) and R.S. 51:650 et seq. relative to the authority of the Louisiana Office of State Fire Marshal to promulgate and enforce rules pursuant to fireworks and public displays, the Louisiana Department of Public Safety, Office of State Fire Marshal hereby proposes to amend and enact rules under Title 55, Part V., Chapter 19 Fireworks, in relation to Class C Pyrotechnic Operator Training and Certification, the adoption of the NFPA Fireworks Safety Standards for Class C Public Displays and the requirement of annual inspections for fire extinguishers which are located at retailers, storage facilities and public displays. Modification is needed to

allow for standardized training and certification and for the safety of the public.

**Title 55**  
**PUBLIC SAFETY**  
**Part V. Fire Protection**

**Chapter 19. Fireworks**

**§1901. Fireworks/Public Display**

A. Pursuant to R.S. 51:655, any person, firm or corporation, or other legal entity desiring a permit for a public display may apply to either the Office of State Fire Marshal, 8181 Independence Blvd., Baton Rouge, LA 70806, or to any certified local authority, which application shall contain the following information and shall be signed by the applicant attesting that the information is accurate:

1. the date, time and place of the public display including the length of time;

2. a site plan detailing the information regarding the discharge and fallout areas as it relates to the proximity of the public and all fire prevention plans and provisions which will be present and in force and available to assure the public safety at the public display;

3. a copy of the license by the Office of State Fire Marshal licensing the manufacturer, importer, distributor, jobber, or retailer who will be supplying and/or conducting the public display to assure the state fire marshal or his certified local authority that the fireworks and the actual presentation and conduct of the public display will not endanger the public safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, the Office of the State Fire Marshal, LR 7:642 (December 1981), amended by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 23:1699 (December 1997), LR 45:

**§1902. Class C Pyrotechnic Operator Training and Certification Requirements**

A. The purpose of this section is to establish the pre-license training and certification requirements for Class C Pyrotechnic Operators. The state fire marshal shall establish a training program for the licensure of Class C Pyrotechnic Operators. A license may be granted upon demonstration that the applicant has a satisfactory understanding of the handling and use of Class C fireworks, equipment used for Class C public displays, and the operations of the display as defined herein.

B. Applicants for Class C Pyrotechnic operator licenses are required to meet the certification requirements pursuant to R.S. 51:655, et seq., and these rules. Upon completion of the pre-license training, an applicant is eligible to take the required examination. An applicant for a Class C Pyrotechnic Operator license shall pass an examination prescribed and administered by the Office of State Fire Marshal. Correctly answering 70 percent or more of the questions will be considered a passing score. If the applicant fails on the first attempt, he is eligible to immediately take the examination a second time. If, however, a passing score is not achieved on the second attempt the applicant may only attempt the examination once every 30 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S.

51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:

**§1904. Adoption of NFPA Standard 1123, Code for Fireworks Display**

A. For the purpose of establishing the criteria for a Class C Public Display and the associated Class C Public Display Operator license, the state fire marshal adopts the following sections of the 2018 edition of NFPA 1123, *Code for Fireworks Display*:

1. NFPA 1123, Chapter 3, Definitions;
2. NFPA 1123, Chapter 4, Requirements for Display Fireworks Aerial Shells and Equipment;
3. NFPA 1123, Chapter 5, Display Site Selection;
4. NFPA 1123, Chapter 8, Operation of the Display;
5. NFPA 1123, Chapter 10, Qualifications (10.1.2 excepted); and
6. NFPA 1123, Annex D.3, Requirements for Consumer Fireworks, Novelties, and Theatrical Pyrotechnics.

B. All Class C Pyrotechnic Operators shall maintain a copy of the currently adopted edition of NFPA 1123 at all Class C public displays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:

**§1905. Retail Fireworks Sales**

A. In addition to the requirements of Louisiana Revised Statutes including but not limited to Louisiana Revised Statutes 51:650, et seq., and more specifically sections 653 and 654, as well as Louisiana Revised Statutes 40:1563, et seq., and more specifically sections 1578.6 and 1605, licensed retail sellers of fireworks are required to comply with the following requirements.

1. There shall be no open flame heating devices in any location from which the sale of fireworks is made at retail.

2. There shall be no sleeping within the facility in which fireworks are sold, offered for sale or stored.

3. In any place where retail fireworks sales are made or offered or retail fireworks are stored there shall be a minimum of one unobstructed exit.

4. The physical facility, such as a fireworks stand, retail fast food outlet or any other similar facility out of which fireworks are sold, offered for sale or stored shall not be located less than 75 feet from any facility or mechanism in which flammable liquids are dispensed and/or stored above ground. Additionally, no fireworks shall be exploded within 75 feet from any facility or mechanism where flammable liquids are dispensed and/or stored above ground.

5. In any retail outlet except those which sell only fireworks, no fireworks shall be stored, displayed, or offered for sale within 10 feet of any required exit unless the fireworks are stored or contained within a container which will resist fire from any outside source.

6. No facility for the retail sale or storage of fireworks shall be located less than 25 feet from a public roadway.

7. All of the wiring in any facility for the retail sale or storage of fireworks shall be in accordance with the National Electric Code.



8. Any facility for the retail sale or storage of fireworks shall have available one serviceable fire extinguisher in accordance with NFPA 10 and L.A.C. 55:V:3001, et seq.

9. In accordance with LAC 55:V:3015.A, all portable fire extinguishers maintained on the premises of any retail location, storage facility, or public display site shall be inspected annually by a contractor who holds a current and valid license from the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 9:691 (October 1983), amended LR 45:

#### **Family Impact Statement**

The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 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 Paeton L. Burkett, Attorney, Office of State Fire Marshal, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to Paeton.Burkett@la.gov or to Paeton L. Burkett, Attorney, Office of State Fire Marshal, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. The deadline for submitting a request for public hearing is September 10, 2019. All requests for a public hearing sent via written correspondence must be received by September 10, 2019.

Jason Starnes  
Chief Administration Officer

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Fireworks**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed Rule is in relation to public firework displays, Class C pyrotechnic operator training and certification requirements, adoption of the National Fire Protection (NFPA) standard code for fireworks display and requirements for inspection of portable fire extinguishers maintained on certain premises storing fireworks. Modification is necessary to allow for Class C operators to have standardized and consistent training and certification and to ensure the utmost safety to the public when attending a fireworks display or retail location.

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

The proposed rule changes will have a very nominal effect on revenue collection of state or local governmental units in that it may result in an increase in the collection of state revenue (not local) of less than \$1,000 per year. The cost for a Class C Pyrotechnic Operator License is \$50 per year. So far this year only 4 licenses have been issued. The Louisiana State Fire Marshal estimates that no more than 20 to 30 licenses per year will be issued.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will allow an individual to acquire a Class C Pyrotechnic Operator License to conduct 1.4G public fireworks displays on behalf of public entities. The cost of the Class C Pyrotechnic Operator license is \$50 per year. Individuals may realize economic benefits in the form of compensation for operating public fireworks displays, but the impact is undeterminable.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have a nominal effect on competition and employment initially, but should the popularity of Class C public fireworks displays expand, a correlating increase in competition and employment may occur. The proposed rule changes allow persons to obtain a Class C

Pyrotechnic Operator License to conduct only Class C (1.4G) public fireworks displays sanctioned by public entities after applicants successfully pass a training course that accentuates the handling of 1.4G fireworks only. The proposed rule changes do not permit the use of the more complex, commercial-grade 1.3G fireworks by Class C pyrotechnic operators.

Lt. Col. Jason Starnes  
Chief Administrative Officer  
1908#013

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of State Police

#### Breath and Blood Alcohol Analysis Methods and Techniques (LAC 55:I.555 and 583)

In accordance with the provisions of La. R.S. 32:663 relative to the authority of Louisiana Department of Public Safety to promulgate and enforce rules pursuant to approval of testing methods, the Louisiana Department of Public Safety, Louisiana State Police hereby proposes to amend rules under LAC 55:I.555 and 583, in relation to breath and blood alcohol analysis to prohibit the blood alcohol results from including a value range or measure uncertainty. Additionally, the proposed rule in relation to Analytical Procedures prohibits a quantification result from including a value range or measurement uncertainty in the event a quantification result of a drug and/or metabolite is reported. Modification is necessary to allow for results to meet national standards as well as consideration for future legislation regarding quantification of a drug and/or metabolite.

#### Title 55

#### PUBLIC SAFETY

#### Part I. State Police

#### Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

#### Subchapter B. Analysis of Blood

#### §555. Certified Techniques of Analyst

A. - D. ...

E. Results shall be expressed in terms of percent w/v (grams percent) that is, grams of alcohol per 100 milliliters of blood rounded downward to the second decimal place, for example, 0.237 grams percent shall be reported as 0.23 grams percent. Blood alcohol results are prohibited from including a value range or measurement uncertainty.

F. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 6:663 (November 1980), amended by the Department of Public Safety and Corrections, Office of State Police, LR 11:259 (March 1985), LR 14:360 (June 1988), LR 17:675 (July 1991), repromulgated LR 17:798 (August 1911), amended LR 26:2624 (November 2000), LR 37:1416 (May 2011), LR 44:95 (January 2018), LR 45:

#### §583. Analytical Procedures

A. ...

B. Positive identification of an analyte shall at a minimum be based on the possible presence of the analyte or the analyte class in the screening test and its presence in the

confirmatory test. Confirmation shall be based on the identification of at least three major ions with that of a reference analyte. Correlation between ion ratios of the base peak and another major peak shall be within 20 percent for gas chromatography/mass spectrometry procedures and within 30 percent for liquid chromatography/mass spectrometry procedures. Retention times between the analyte in question and the reference analyte shall be "within + or = 2 percent" for gas chromatography/mass spectrometry procedures and "within + or - 6 seconds or + or - 10 percent" for liquid chromatography/mass spectrometry procedures. If a quantification result of a drug and/or metabolite is reported, the quantification results is prohibited from including a value range or measurement uncertainty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:663.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 26:2625 (November 2000), amended LR 37:1417 (May 2011), LR 44:1272 (July 2018), LR 45:

#### Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no effect on family earning and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no effect on the behavior and personal responsibility of children.

6. The Effect of this rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rules. This Rule will have no effect on the ability of the family or local government to perform the function as contained in the proposed rules.

#### Poverty Impact Statement

The 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.

#### 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 Laura C. Hopes, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule.

**Public Hearing**

Requests for a public hearing must be submitted in writing either via email or written correspondence. Requests for a public hearing shall be sent to Laura.hopes@la.gov or to Laura C. Hopes, Attorney, Louisiana State Police, 7979 Independence Blvd., Suite 307, Baton Rouge, LA 70806. The deadline for submitting a request for public hearing is September 10, 2019. All requests for a public hearing sent via written correspondence must be received by September 10, 2019. A public hearing will be held on Tuesday, September 24, 2019 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments is not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attended.

Lt. Col. Jason Starnes  
Chief Administrative Officer

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Breath and Blood Alcohol  
Analysis Methods and Techniques**

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

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule in relation to Blood Alcohol Analysis prohibits the blood alcohol results from including a value range or measurement uncertainty. Additionally, the proposed rule in relation to Analytical Procedures prohibits a quantification result from including a value range or measurement uncertainty in the event a quantification result of a drug and/or metabolite is reported. Modification is necessary to allow for reporting results to meet national standards as well as consideration for future legislation regarding quantification of a drug and/or metabolite.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The proposed rule changes will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

The proposed rule changes will not result in any cost or economic benefit to directly affected persons or non-governmental groups.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

The proposed rule changes will not affect competition and employment.

Lt. Col Jason Starnes  
Chief Administrative Officer  
1908#017

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety  
Office of State Police**

Towing, Recovery, and Storage  
(LAC 55:I.1907)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 103 of the 2019 Regular Session, and R.S. 32:1711 et seq., gives notice of its intent to amend rules concerning the Schedule of Fines for towing violations, and amend the conditions for suspensions or revocations of a storage license.

**Title 55  
PUBLIC SAFETY  
Part I. State Police**

**Chapter 19. Towing, Recovery, and Storage  
Subchapter A. Authority, Exemptions, Definitions, Scope §1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties**

**A. Administrative Penalty Assessment**

1. A tow truck owner or operator, an employee or the agent of a tow truck owner or operator, a storage facility owner or operator, an employee or the agent of a storage facility owner or operator, determined by the department to have committed a violation of R.S. 32:1711 et seq., or adopted and promulgated regulations as provided in this Chapter, is subject to legal sanctions being imposed against them. Legal sanctions shall include, but are not limited to, administrative civil penalties, warnings, and suspension and/or revocation of the operator's license, storage inspection license, tow truck license plate.
2. The department shall issue a citation or inspection report for violations of law, rule or regulation which shall specify the offense committed. The citation or inspection report shall provide for the payment of an administrative penalty to the department in an amount prescribed by the department or if a suspension or revocation is being imposed, specify the duration of said suspension or revocation. The penalty shall be paid or imposed within 45 days of issuance and mailing, by first class mail, of the initial notice of violation, unless within that period the person to whom the citation is issued files a written request for an administrative hearing within the 45 days.
3. All assessed and adjudicated administrative penalties and fees shall be paid to the department and deposited in the towing and storage fund.

4. Schedule of Fines

Schedule of Fines	
The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range.	
Exemptions and Other Laws (§1903, 1905, and §1909)	\$50-\$500
Code of Conduct (§1911)	\$100-\$500
Tow Truck License Plate (§1913)	\$50-\$500
Insurance Requirements (§1915)	\$50-\$500
Driver's License Required Skills (§1917)	\$50-\$500
Tow Truck Lighting; Equipment (§1919)	\$25-\$100
Required Equipment (§1921)	\$25-\$100
Capacities of Tow Equipment (§1923)	\$100-\$500
Tow Truck Load Limitations (§1925)	\$100-\$500
Inspections by the Department (§1927)	\$100-\$500
Towing Service to Use Due Care (§1929)	\$100-\$500
Vehicles Towed from Private Prop. (§1930)	\$200-\$500
Storage Facility; Licensing Requirements (§1931)	\$100-\$500
Requirements for ORSV (§1933)	\$100-\$500
Owner Notification of Stored Vehicle (§1935)	\$100-\$500
Administrative Fees (§1937)	\$100-\$500
Permits to Sell and Dismantle (§1939)	\$100-\$500
Towing/Storage Facilities Requirement (§1941)	\$50-\$500
Storage Rates (§1943)	\$100-\$500
Gate Fees (§1945)	\$100-\$500
Law Enforcement Rotation Lists (§1947)	\$50-\$500

5. Effective December 1, 2019, the suspensions of a storage license may be imposed on a third or subsequent violation of the same administrative rule or regulation by a towing or storage facility, its owner, or its employee within a two-year period. Suspensions shall not exceed 30 days, except as provided for in R.S. 49:961(C). Violations of these rules or the Towing and Storage Act during the suspension or a violation of the terms of the suspension shall result in an automatic separate suspension of the storage license. The suspension of a storage license may also be imposed when a towing or storage facility fails to meet the requirements for the issuance of a storage license.

6. Effective December 1, 2019, the revocations of a storage license may be imposed when a storage facility has been issued three or more suspensions.

B. Administrative Hearings

1. A tow truck owner or tow truck operator or a storage facility owner or operator may submit a written request for an administrative hearing within 45 calendar days of the issuance of the initial notice of violation, suspension or revocation.

2. Hearing requests shall be adjudged in accordance with the Administrative Procedure Act.

3. Failure to submit a written request to the department for an administrative hearing within 45 days from the date of the initial notice of violation, suspension, or revocation; or requesting a hearing, being notified by mail and failing to appear at the scheduled hearing date and location shall constitute a default and the violations, suspension or revocation shall become finally affirmed.

4. In such cases, on or after the forty-sixth day the department shall inform the responsible party by first class mail of the conviction and that he has 30 days from the date of this notice to pay the penalty or the Office of Motor Vehicles shall suspend his driver's license and/or vehicle registration. Suspending the vehicle registration shall mean

any registration transaction, including renewal, may be denied.

5. For the purpose of this Part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right. Any tow truck owner may submit a written appeal to the region major requesting a review of an investigation and/or suspension. Review hearings will be held within 10 business days, after a request is made.

C. Forfeiture of Claims

1. Any person who fails to comply with any provision required by these rules and regulations shall be subject to the forfeiture of all claims for monetary charges relating to towing, recovery and storage of the respective vehicle(s), including, but not limited to, the imposition of administrative penalties.

D. Recovery of Administrative Penalties

1. The department in an attempt to recover administrative penalties, may, at its discretion:

a. order the removal of the offending vehicle's license plate or request the Office of Motor Vehicles (OMV) deny the renewal of the offending vehicle's registration, or both:

i. a tow truck license plate removed or denied renewal pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

b. recommend the suspension or deny the renewal of a responsible party's driver license, or both:

i. a driver license suspended pursuant to this Part may only be reinstated upon receipt of payment of fines and fees owed the department;

c. order the vehicles of responsible parties not registered in Louisiana be seized until outstanding fines and fees are paid.

2. These actions are not punitive and used only as a mechanism to garner payment of monies lawfully owed the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 35:2201 (October 2009), LR 36:2576 (November 2010), LR 40:797 (April 2014), LR 45:

**Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not

have any affect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

#### Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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 Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through September 15, 2019.

Lt. Col. Jason Starnes  
Chief Administrative Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Towing, Recovery, and Storage

#### 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 government units. The proposed rule change codifies Act 103 of the 2019 Regular Legislative Session by repromulgating the fine schedule for towing violations, and amending the

conditions for suspensions or revocations of a storage license.

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

The proposed rule change will restore SGR collections for the Office of State Police. OSP historically received approximately \$80,000 in annual fines issued to towing and storage facilities. On November 7, 2018, the First Circuit Court of Appeal ruled in *Mid-City Automotive, L.L.C. vs. State of LA, Department of Public Safety and Corrections, Office of State Police* that these fines were unconstitutional because the fines did not have a maximum in statute. The proposed limit of \$500 is not anticipated to impact total fines collected because over the last five years OSP has not issued a fine above \$500. This impact statement reports a revenue increase because OSP was temporarily unable to levy and collect fines for violation of the La. Towing and Storage Act until a maximum fine was placed in statute in Act 103 of 2019. However, total revenues are not anticipated to exceed those projected prior to cessation of fines as a result of the Court of Appeal ruling in November 2018.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have a minimal effect on costs or economic benefits incurred by directly affected persons or non-governmental groups. The fine schedule will remain the same. The proposed conditions for suspension and revocation of a storage license will have an indeterminate effect on towing and storage facilities depending on those entities' compliance or noncompliance with relevant administrative rules and regulations. The department does not anticipate a significant change in suspensions or revocations as a result of the proposed rule changes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Lt. Col. Jason Starnes  
Chief Administrative Officer  
1908#038

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Revenue Policy Services Division

Prescription of Refunds Claimed Pursuant to the Federal  
Combat-Injured Veterans Tax Fairness Act of 2016  
(LAC 61:I.4914)

Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:1623(G) and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4914.

The primary purpose of this proposed regulation is to implement R.S. 47:1623(G), which was enacted by Act 367 of the 2019 Regular Session of the Louisiana Legislature.

## Title 61

### REVENUE AND TAXATION

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

##### Chapter 49. Tax Collection

##### §4914. Prescription of Refunds Claimed Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016

A. General. R.S. 47: 1623(G) provides for an extension of the prescriptive period applicable to certain individual income tax refunds. Taxpayers who received a federal income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 are entitled to an extension of prescription on the corresponding Louisiana income tax refund. The extension of prescription only applies to refunds allowed pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016.

B. Combat-Injured Veterans Tax Fairness Act of 2016. On December 16, 2016, the President signed the Combat-Injured Veterans Tax Fairness Act of 2016 into law as Public Law 114-292. Public Law 114-292 provides an extension of the federal statute of limitations for refunds of income tax erroneously paid on lump-sum disability severance payments made by the U.S. Department of Defense. For tax years 1991 through 2016, the Department of Defense erroneously withheld income tax from lump-sum disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code.

1. Erroneous Withholding. Federal income tax was erroneously withheld from the following Department of Defense payments:

- a. lump-sum disability severance payments for combat-related injuries; and
- b. lump-sum disability severance payments that would qualify as disability compensation from the Department of Veterans Affairs.

2. Required Notice. Public Law 114-292 requires the Department of Defense to provide notice to affected taxpayers whose exempt payments were subjected to erroneous withholding.

3. Federal Extension. Public Law 114-292 provides an extension of the three-year period for claiming a tax refund pursuant to Section 6511(a) of the Internal Revenue Code. The extension is one year after the date the required notice is provided to the taxpayer.

4. Amended Return or Standard Refund Amount

a. Pursuant to IR-2018-148, the Internal Revenue Service allows affected taxpayers, including the surviving relative of a deceased taxpayer, the option of either:

- i. filing an amended federal income tax return for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from gross income; or
  - ii. claiming a standard refund amount.
- b. The standard refund amounts are as follows:
- i. \$1,750 for tax years 1991 through 2005;
  - ii. \$2,400 for tax years 2006 through 2010;
  - iii. \$3,200 for tax years 2011 through 2016.

C. Louisiana conformity with federal adjusted gross income. Pursuant to R.S. 47:293(1), Louisiana adjusted gross income means the adjusted gross income that is reportable on the federal income tax return. Thus, lump-sum

disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code are likewise exempt from Louisiana income tax. Because Louisiana conforms to federal adjusted gross income, exempt lump-sum disability severance payments that were included in a taxpayer's federal adjusted gross income were by default also included in Louisiana adjusted gross income.

D. Prescription of Refunds. Act 367 of the 2019 Regular Session of the Louisiana Legislature enacted R.S. 47: 1623(G), which provides for an extension of the prescriptive period applicable to certain refunds of Louisiana individual income tax. If a taxpayer receives a federal individual income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016, prescription is extended for the corresponding Louisiana income tax refund.

1. Length of Extension. The prescriptive period does not expire until after two years from the date of the taxpayer's receipt of the U.S. Department of Defense notice issued pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016. The U.S. Department of Defense notice is deemed to be received on the last day of the month that is printed on the notice. For example, if the date of the U.S. Department of Defense notice is July 20, 2018, then the taxpayer has until July 31, 2020 to request a refund. Taxpayers that did not receive a U.S. Department of Defense notice but received a federal refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 have until July 31, 2020 to request a Louisiana refund.

2. Amended Return or Standard Refund Amount

a. Pursuant to R.S. 47: 1623(G), eligible taxpayers have the option of either:

- i. filing an amended Louisiana individual income tax return (Form IT-540) for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from adjusted gross income, or
- ii. claiming a standard refund amount by submitting a completed Form R-6185, *Individual Income Tax Refund Claim Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016*. However, taxpayers are required to make the same election as was made for federal purposes except as provided in paragraph E. For example, if a taxpayer elected to claim the standard refund amount for federal purposes, the taxpayer is required to claim the standard refund amount for Louisiana purposes.

b. The Louisiana standard refund amounts are as follows:

- i. \$326 for tax years 1991 through 2002;
- ii. \$592 for tax years 2003 through 2008;
- iii. \$543 for tax years 2009 through 2010;
- iv. \$637 for tax years 2011 through 2016.

3. Interest. The general provision on interest on refunds provided by R.S. 1624(A)(1) shall apply to refunds issues pursuant to R.S. 47: 1623(G). Pursuant to R.S. 1624(A)(1), interest is allowed on refunds from ninety days after the later of the due date of the return, the filing date of the return or claim for refund on which the overpayment is claimed, or the date the tax was paid.

E. Documentation Required. Taxpayers must attach a copy of the federal form 1040X and a copy of the Department of Defense notice (Letters 6060-A and 6060-D) or other documentation required by the IRS for taxpayers

that did not receive a Department of Defense notice. For the 1991 through 2003 tax periods, taxpayers filing an amended Louisiana individual income tax return (Form IT-540) must attach a copy of the original Louisiana individual income tax return (Form IT-540). Taxpayers who are unable to provide a copy of their original Louisiana return are required to claim the standard refund amount for Louisiana purposes.

F. Survivors of Deceased Veterans. Survivors of veterans who received notice from the Department of Defense that their relative qualified for a tax refund due to the Combat-Injured Veterans Tax Fairness Act of 2016 may submit a claim for refund. Survivors have the option of either filing an amended individual income tax return (Form IT-540) or claiming a standard refund amount. Survivors must also file Form R-6642, *Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer* unless the person filing the claim is the surviving spouse of the veteran and filed a joint tax return with the veteran for the year the veteran received the lump-sum disability severance payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 45:

#### **Family Impact Statement**

The proposed adoption of LAC 61:I.4909.1 regarding prescription of refunds claimed pursuant to the federal Combat-Injured Veterans Tax Fairness Act of 2016 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

#### **Poverty Impact Statement**

The proposed regulation will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

It is anticipated that the proposed Rule should not have a significant 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.

#### **Provider Impact Statement**

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Any interested person may submit written data, views, arguments, or comments regarding this proposed regulation to Bradley Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:30 p.m. on September 24, 2019.

#### **Public Hearing**

A public hearing will be held on September 25, 2019, at 10 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Prescription of Refunds Claimed Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of the proposed rule is to implement R.S. 47:1623(G), which was enacted by Act 367 of the 2019 Regular Session of the Louisiana Legislature. This Act provides for an extension of the prescriptive period applicable to certain individual income tax refunds. The extension of prescription only applies to the state refund on an adjustment made on federal income allowed pursuant to the Combat-Injured Veterans Fairness Act of 2016. Many veterans unknowingly reported such payments as income and the statute of limitations to amend such returns, typically three years from the due date of the return, has prescribed. To resolve this issue of prescription, the Act provides that qualifying veterans who reported such payments as income may request a refund by amending their state return or claim a standard refund amount.

Implementation costs to the Department of Revenue (LDR) are for computer system modification to issue the standard refund amount, and taxpayer's inquiries. These costs are relatively small and will be absorbed in LDR's current appropriation

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

The estimated exposure to state revenue collections is a decrease of approximately \$1.2 million. There would be no effect on revenue collections of local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The taxpayer will incur the cost of completing a claim form and providing copies of documentation, but the costs are estimated to be minimal.

The taxpayer will receive the economic benefit of the refund received, which can range from \$326 to \$637.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The taxpayer will incur the cost of completing a claim form and providing copies of documentation, but the costs are estimated to be minimal.

The taxpayer will receive the economic benefit of the refund received, which can range from \$326 to \$637.

Kimberly Robinson  
Secretary  
1908#025

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Validation and Notice of Local Taxing Authority Sales and Use Tax Exemptions and Exclusions (LAC 61:III.4425)

Under the authority of and in accordance with R.S. 47:337.2 and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, through this Notice of Intent, proposes to adopt a rule requiring local taxing authorities to validate optional sales and use tax exemptions and exclusions adopted by such authorities and to provide notice of future changes to such exemptions and exclusions.

#### Title 61

#### REVENUE AND TAXATION

#### Part III. Administrative and Miscellaneous Provisions

#### Chapter 44. Sales and Use Tax Exemptions

#### §4425. Validation and Notice of Local Taxing Authority Sales and Use Tax Exemptions and Exclusions

##### A. Introduction and Purpose

1. Louisiana Revised Statute 47:337.2 authorizes the promotion of uniformity and simplicity in sales and use tax compliance in Louisiana. In order to effectively administer the collection of sales and use taxes, taxpayers and collectors must be informed of all sales and use tax exemptions and exclusions to be applied on the local level.

##### B. Definitions

*Advisory Committee*—the Uniform Electronic Local Return and Remittance Advisory Committee.

*Local Taxing Authority(ies)*—those parishes, municipalities, special taxing districts, political subdivisions, parish governing bodies, and school boards who are authorized under the provisions of the Constitution of Louisiana, the Louisiana Revised Statutes of 1950 and jurisprudence to levy and collect local sales and use taxes.

*Secretary*—the Secretary of the Louisiana Department of Revenue.

##### C. Applicability

1. This rule applies to all local taxing authorities.

##### D. Validated listing of current local sales and use tax exemptions and exclusions

1. By January 1, 2020, all local taxing authorities shall provide the advisory committee with a listing of optional sales and use tax exemptions and exclusions adopted by local ordinance pursuant to state law. The listing shall include:

a. a clear and simple title and description of each optional exemption and exclusion;

b. reference to the local ordinance, statute, rule and authority related to each optional exemption or exclusion; and

c. any applicable time frames such as when the optional exemption or exclusion expires.

##### E. Notification Method

1. All local taxing authorities shall provide notice of all optional sales and use tax exemptions or exclusions by providing written notification to the advisory committee and secretary by certified mail, return receipt requested, and regular mail.

2. In the event the local taxing authority does not provide notice in the manner prescribed in subsections D and E of this section, the advisory committee shall design and implement the tax collection system from the best information available to them.

##### F. Changes in local sales and use tax exemptions and exclusions

a. All local taxing authorities enacting changes to optional sales and use tax exemptions and exclusions as originally reported in Subsections D and E of this section must provide notification of such changes in the form of a revised list of applicable sales and use tax exemptions at least 60 days before the effective date of any such change(s).

b. This notification of the changes made to the listing of exemptions and exclusions must be made using the method provided in Paragraph E.1 of this section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:337.23(C).

**HISTORICAL NOTE:** Promulgated by Promulgated by the Department of Revenue, Policy Services Division, LR 45:

#### Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

#### Poverty Impact Statement

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

It is anticipated that these proposed amendments should not have a significant 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 these proposed amendments to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written data, views, arguments, or comments regarding this proposed Rule to



Stacey Greaud, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be received no later than 4 p.m. on September 20, 2019.

### Public Hearing

A public hearing will be held on September 25, 2019 at 10:30 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Validation and Notice of Local Taxing Authority Sales and Use Tax Exemptions and Exclusions

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

The purpose of this rule is to require local taxing authorities to validate optional sales and use tax exemptions and exclusions adopted by such authorities and to provide written notice of future changes to such exemptions and exclusions to the Uniform Electronic Local Return and Remittance Advisory Committee. Louisiana Revised Statute 47:337.2 was enacted to benefit both taxpayers and local tax collectors by promoting uniformity to the extent possible in the assessment, collection, administration, and enforcement of the sales and use taxes imposed by taxing authorities and, by compiling them, making them readily available in one place in the revised statutes. The section of law affected by this rule is applicable to local sales tax law and should not affect state sales and use tax practices. The Department of Revenue does not anticipate any implementation costs or savings as a result of this proposed rule. Local taxing authorities will incur some, likely minor, costs associated with compiling, updating, and transmitting the lists of optional sales and use tax exemptions and exclusions to the Advisory Committee.

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

There is no anticipated direct material effect on state or local revenues as a result of this measure.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs to the taxpayers responsible for paying the local sales and use tax imposed by the local taxing authorities. Taxpayers affected by the proposed rule may benefit by an indeterminable amount because of receiving accurate information pertaining to all applicable sales and use tax exemptions and exclusions applied on the local level.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated by this proposal.

Kimberly Robinson  
Secretary  
1908#030

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Removal of Abandoned Crab Traps (LAC 76:VII.367)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1; Volume 42, Number 12; Volume 44, Number 1; Volume 45, Number 2*). The Wildlife and Fisheries Commission took action on July 1, 2019 to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 3. Saltwater Sport and Commercial Fishery §367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 3, 2020 through 11:59 p.m. February 16, 2020 within portions of Jefferson, Orleans, and St. Tammany Parishes as described below:

1. from a point originating from the intersection of the north bound lane of the Lake Pontchartrain Causeway Bridge and the southern shoreline of Lake Pontchartrain (30 degrees 01 minutes 13.054 seconds north latitude, 90 degrees 09 minutes 15.165 seconds west longitude); thence easterly along the southern shoreline of Lake Pontchartrain to Chef Menteur Pass (30 degrees 05 minutes 49.10 seconds north latitude, 89 degrees 49 minutes 09.54 seconds west longitude); thence southerly along the western shoreline of Chef Menteur Pass to its intersection with U.S. Highway 90 at 30 degrees 03 minutes 59.99 seconds north latitude, 89 degrees 48 minutes 19.04 seconds west longitude; thence easterly following the east bound lane of U.S. Highway 90 to its intersection with the north shore of Rigolets Pass (30 degrees 10 minutes 32.08 seconds north latitude, 89 degrees 43 minutes 45.66 seconds west longitude); thence westerly following the north shore of Rigolets Pass to its opening at the northern shore of Lake Pontchartrain; thence westerly following the northern shore of Lake Pontchartrain to its intersection with the north bound lane of the Lake

Pontchartrain Causeway Bridge; thence southerly along the north bound lane of the Lake Pontchartrain Causeway Bridge to the origin.

B. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 3, 2020 through 11:59 p.m. February 16, 2020 within portions of Jefferson, Lafourche, and Plaquemines Parishes as described below:

1. from a point originating at the intersection of the Gulf Intracoastal Waterway and the northern shore of Hero Canal (29 degrees 48 minutes 12.73 seconds north latitude, 90 degrees 04 minutes 09.21 seconds west longitude); thence westerly to a point along the western shore of the Gulf Intracoastal Waterway at 29 degrees 48 minutes 15.14 seconds north latitude, 90 degrees 04 minutes 18.67 seconds west longitude; thence southerly along the western shore of the Gulf Intracoastal Waterway to a point opposite the western shore of Bayou Perot (29 degrees 40 minutes 56.67 seconds north latitude, 90 degrees 11 minutes 36.79 seconds west longitude); thence easterly to a point on the western shore of Bayou Perot at 29 degrees 40 minutes 50.66 seconds north latitude, 90 degrees 11 minutes 25.48 seconds west longitude; thence southerly along the western shore of Bayou Perot to Little Lake; thence southerly along the western shore of Little Lake to 29 degrees 30 minutes 00 seconds north latitude, 90 degrees 12 minutes 01.497 seconds west longitude; thence eastward along 29 degrees 30 minutes 00 seconds north latitude to the eastern shore of Wilkinson Canal (29 degrees 30 minutes 00 seconds north latitude, 89 degrees 56 minutes 58.47 seconds west longitude); thence northerly along the eastern shore of Wilkinson Canal to its termination; thence northerly to the western shore of the Mississippi River at 29 degrees 38 minutes 24.94 seconds north latitude, 89 degrees 57 minutes 1.21 seconds west longitude; thence northerly along the western shore of the Mississippi River to a point easterly of the northern shoreline of Hero Canal (29 degrees 47 minutes 9.60 seconds north latitude, 90 degrees 01 minutes 17.77 seconds west longitude); thence westerly to the northern shore of Hero Canal; thence westerly along the northern shore of Hero Canal to the origin.

C. The use of crab traps shall be prohibited for a 10-day period from 12:00 a.m. February 10, 2020 through 11:59 p.m. February 19, 2020 within portions of Cameron Parish as described below:

1. from a point originating on the eastern shore of Calcasieu Lake at 29 degrees 56 minutes 30 seconds north latitude, 93 degrees 14 minutes 52.30 seconds west longitude; thence southerly following the eastern and southern shore of Calcasieu Lake to its intersection with the eastern shore of East Pass at 29 degrees 50 minutes 21.904 seconds north latitude, 93 degrees 19 minutes 40.934 seconds west longitude; thence southerly following the eastern shore of East Pass to its intersection with the Calcasieu Ship Channel; then southerly along the eastern shore of the Calcasieu Ship Channel to a point located just north of the Cameron Ferry (29 degrees 48 minutes 14.45 seconds north latitude, 93 degrees 20 minutes 43.75 seconds west longitude); thence west along 29 degrees 48 minutes 14.45 seconds north latitude to a point located north of the Cameron Ferry on the western shore of the Calcasieu Ship Channel (29 degrees 48 minutes 14.45 seconds north latitude, 93 degrees 20 minutes 56.436 seconds west

longitude); thence northerly along the western shore of the Calcasieu Ship Channel to a point at 29 degrees 56 minutes 30 seconds north latitude, 93 degrees 20 minutes 25.77 seconds west longitude; thence west along 29 degrees 56 minutes 30 seconds north latitude to the origin.

D. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. February 10, 2020 through 11:59 p.m. February 23, 2020 within portions of Iberia and Vermilion Parishes as described below:

1. from a point originating from the intersection of the Acadiana Navigational Channel and the Gulf Intracoastal Waterway (29 degrees 50 minutes 33.793 seconds north latitude, 91 degrees 50 minutes 26.43 seconds west longitude); thence southwest along the Acadiana Navigational Channel red buoy line to the red navigational marker number 20 (29 degrees 36 minutes 12.551 seconds north latitude, 92 degrees 00 minutes 18.487 seconds west longitude) near the Marsh Island shoreline near Southwest Pass; thence westerly to the Green Light Channel Marker number 21 (29 degrees 36 minutes 44.541 seconds north latitude, 92 degrees 00 minutes 21.808 seconds west longitude); thence westerly to Southwest Point; thence westerly along the southern shore of Vermilion Bay to the eastern shore of Hell Hole; thence southerly along the shore of Hell Hole to its intersection with Hell Hole Bayou; thence westerly to the western shore of Hell Hole; thence northerly along the western shore of Hell Hole to its intersection with the southwestern shore of Vermilion Bay; thence northerly along the southwestern shore of Vermilion Bay to Redfish Point; thence westerly along the shore of Vermilion Bay to its intersection with Freshwater Bayou Canal just past Coles Bayou (29 degrees 44 minutes 54.065 seconds north latitude, 92 degrees 13 minutes 02.277 seconds west longitude); thence northerly along the western shore of Freshwater Bayou Canal to its intersection with the northern shore of the Gulf Intracoastal Waterway; thence easterly along the northern shore of the Gulf Intracoastal Waterway to the origin.

E. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. March 2, 2020 through 11:59 p.m. March 15, 2020 within portions of Orleans, St. Bernard, and St. Tammany Parishes as described below:

1. from a point originating at the intersection of the Mississippi/Louisiana state line and U.S. Highway 90 (30 degrees 14 minutes 20.816 seconds north latitude, 89 degrees 36 minutes 53.218 seconds west longitude); thence westerly along U.S. Highway 90 to its intersection with the western shore of Chef Menteur Pass; thence southerly on the western shore of Chef Menteur Pass to its intersection with the Gulf Intracoastal Waterway; thence westerly on the northern shore of the Gulf Intracoastal Waterway to its intersection with the Inner Harbor Navigation Canal Lake Borgne Surge Barrier (30 degrees 00 minutes 53.88 seconds north latitude, 89 degrees 54 minutes 06.13 seconds west longitude); thence southerly along the Inner Harbor Navigation Canal Lake Borgne Surge Barrier to the western shore of the Mississippi River Gulf Outlet (29 degrees 59 minutes 39.183 seconds north latitude, 89 degrees 54 minutes 29.09 seconds west longitude), thence southerly along the western shore of the Mississippi River Gulf Outlet to its intersection with the western shore of the Shell Beach Canal; thence southerly along the western shore of the Shell

Beach Canal to a point at 29 degrees 51 minutes 13.28 seconds north latitude, 89 degrees 40 minutes 47.54 seconds west longitude; thence easterly to a point on the eastern shore of the Shell Beach Canal (29 degrees 51 minutes 12.82 seconds north latitude, 89 degrees 40 minutes 45.80 seconds west longitude); thence northerly along the eastern shore of the Shell Beach Canal to its intersection with the western shore of the Mississippi River Gulf Outlet; thence northerly to a point located on the eastern shore of the Shell Beach Cut; thence northerly along the eastern shore of the Shell Beach Cut to a point located at its intersection with the southern shore of Lake Borgne; thence easterly and northerly along the south and east shore of Lake Borgne to Malhereux Point (30 degrees 04 minutes 41.392 seconds north latitude, 89 degrees 29 minutes 02.000 seconds west longitude); thence northerly to a point on the Mississippi/Louisiana state line (30 degrees 09 minutes 45.844 seconds north latitude, 89 degrees 29 minutes 02.000 seconds west longitude); thence northerly along the Mississippi/Louisiana state line to the origin.

F. The use of crab traps shall be prohibited for a 14-day period from 12:00 a.m. March 2, 2020 through 11:59 p.m. March 15, 2020 within portions of Terrebonne Parish as described below:

1. from a point originating along the western shore of Bayou Pointe Aux Chenes (29 degrees 25 minutes 59.26 seconds north latitude, 90 degrees 27 minutes 31.39 seconds west longitude) near the intersection of Lower U.S. Highway 665 and Island Road; thence westerly to the south bound lane of Island Road; thence southerly along the south bound lane of Island Road to its intersection with the western boundary of the Pointe Aux Chenes Unit of the Pointe Aux Chenes Wildlife Management Area (29 degrees 24 minutes 25.774 seconds north latitude, 90 degrees 29 minutes 28.429 seconds west longitude); thence northerly along the western boundary of the Pointe Aux Chenes Unit of the Pointe Aux Chenes Wildlife Management Area to its intersection with the southern boundary of the Montegut Unit of the Pointe Aux Chenes Wildlife Management Area (29 degrees 25 minutes 20.378 seconds north latitude, 90 degrees 29 minutes 58.29 seconds west longitude); thence westerly along the southern boundary of the Montegut Unit of the Pointe Aux Chenes Wildlife Management Area to its southwestern most point located on the eastern shore of the Humble Canal (29 degrees 25 minutes 51.125 seconds north latitude, 90 degrees 33 minutes 31.885 seconds west longitude); thence northerly along the eastern shore of the Humble Canal to its intersection with Bayou Terrebonne (29 degrees 26 minutes 17.702 seconds north latitude, 90 degrees 34 minutes 00.193 seconds west longitude); thence westerly to a point located on the western shore of Bayou Terrebonne at 29 degrees 26 minutes 17.66 seconds north latitude, 90 degrees 34 minutes 02.751 seconds west longitude; thence southerly along the western shore of Bayou Terrebonne to its intersection with Bush Canal (29 degrees 22 minutes 07.156 seconds north latitude, 90 degrees 36 minutes 05.437 seconds west longitude); thence westerly along the northern shore of Bush Canal to its intersection with Bayou Little Caillou (29 degrees 22 minutes 52.495 seconds north latitude, 90 degrees 37

minutes 14.931 seconds west longitude); thence southerly along the western shore of Bayou Little Caillou to 29 degrees 17 minutes 00 seconds north latitude, 90 degrees 38 minutes 41.401 seconds west longitude; thence east along 29 degrees 17 minutes 00 seconds north latitude to the western shore of Bayou Pointe Aux Chenes (29 degrees 17 minutes 00 seconds north latitude, 90 degrees 23 minutes 00.507 seconds west longitude); thence northerly along the western shore of Bayou Pointe Aux Chenes to the origin.

G. All crab traps remaining in the closed area during the specified period shall be considered abandoned. Crab trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. All traps removed during a closed area are to be brought to the designated disposal area. No person removing crab traps from the designated closed areas during the closure periods shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January 2012), LR 38:3250 (December 2012), LR 40:96 (January 2014), LR 41:155 (January 2015), LR 42:70 (January 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries and the Wildlife and Fisheries Commission LR 42:2196 (December 2016), LR 44:100 (January 2018), LR 45:78 (January 2019), repromulgated LR 45:282 (February 2019), LR 45:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the Commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### **Family Impact Statement**

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

#### **Provider Impact Statement**

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

#### **Public Comments**

Interested persons may submit written comments relative to the proposed Rule to Mr. Peyton Cagle, Marine Fisheries

Biologist DCL-B, Marine Fisheries Section, 1213 N. Lakeshore Dr., Lake Charles, LA 70611, or via email to pcagle@wlf.la.gov prior to 4:30 p.m., Friday, October 4, 2019.

Alfred R. Sunseri  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Removal of Abandoned Crab Traps**

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

There are no anticipated implementation costs or savings to the Department of Wildlife and Fisheries or local governmental units as a result of the proposed rule change. The proposed rule change would prohibit the use of crab traps in portions of ten parishes at different periods in February and March 2020. The proposed rule would establish four area closures in February banning the local use of crab traps in portions of Jefferson, Orleans, and Saint Tammany parishes (February 3 through February 16, 2020), portions of Jefferson, Lafourche, and Plaquemines parishes (February 3 through February 16, 2020), portions of Cameron Parish (February 10 through February 19, 2020), and portions of Iberia and Vermilion parishes (February 10 through February 23, 2020). It would establish two closures in March prohibiting the local use of crab traps in portions of Orleans, Saint Bernard, Saint Tammany, and Terrebonne parishes between March 2 and March 15, 2020.

The proposed rule changes would also mandate the removal of crab traps from the designated areas by trap owners prior to the closures and authorizes the Louisiana Department of Wildlife and Fisheries (LDWF) or their designees, during the closure, to remove any crab traps within the closed area and transport them to designated disposal sites. LDWF will not incur additional costs in order to remove crab traps prior to these closures.

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

The proposed rule changes is not anticipated to have any impact on the revenues of the state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Crab fishermen who utilize the areas proposed for closure will experience lost fishing time during the designated period and encounter additional costs to temporarily remove their traps. These crab fishermen must either move their traps to open fishing areas or remove their traps from the water for the duration of the closure. Traps that are not removed from waters in the closed areas within the allotted time will be destroyed, potentially creating an additional cost to replace the traps for noncompliant fishermen.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closures, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

The removal of abandoned crab traps should provide improved fishing and reduced fishing costs for recreational saltwater fishermen, commercial fishermen and individuals who operate vessels within the designated areas by reducing encounters with abandoned traps that often result in lost fishing time and damage to the vessel's lower unit or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch that become ensnared and die in these traps, benefiting crab harvesters.

The overall impact of the proposed area closure is anticipated to be minimal because the closure would occur during the time of the year with lowest harvests and adjacent waters will remain open for crab fishermen to continue to fish.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be a negligible effect on competition and employment as a result of the rule change, waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps to these areas.

Bryan McClinton  
Undersecretary  
1908#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

Department of Agriculture And Forestry  
Office of the Commissioner

Medical Marijuana Program

The following is a list of pesticide active ingredients the Department of Agriculture and Forestry has approved for use on cannabis plants. The pesticide product shall be registered by the manufacturer annually with the department. The registration shall expire on December 31 of each year.

Approved/Registered Active Ingredients for Cannabis Use	
Pesticide Label Type	Active Ingredient
Fungicide	Azadirachtin
Insect Repellent	Azadirachtin
Insecticide	Azadirachtin
Nematicide	Azadirachtin
Fungicide	Bacillus subtilis GB03
Fungicide	Canola Oil
Insecticide	Canola Oil
Repellent	Castor Oil
Rodenticide	Castor Oil
Repellent	Cedarwood Oil
Insect Repellent	Cinnamon
Insecticide	Cinnamon
Fungicide	Cinnamon Oil
Insect Repellent	Cinnamon Oil
Insecticide	Cinnamon Oil
Fungicide	Citric Acid
Insecticide	Citric Acid
Repellent	Citronella Oil
Fungicide	Clove Oil
Herbicide	Clove Oil
Insect Repellent	Clove Oil
Insecticide	Clove Oil
Fungicide	Copper Hydroxide
Fungicide	Copper Octanoate
Fungicide	Corn Oil
Insecticide	Cornmint Oil
Fungicide	Cottonseed Oil
Insecticide	Cottonseed Oil
Plant Growth Regulator	Cytokinin
Insecticide	Diatomaceous Earth
Fungicide	Garlic Oil
Insect Repellent	Garlic Oil
Insecticide	Garlic Oil
Vertebrate Repellent	Garlic Oil
Insecticide	Geraniol
Insecticide	Geranium Oil
Plant Growth Regulator	Gibberellic Acid
Fungicide	Gliocladium virens G-21
Algaecide Slimicide	Hydrogen Peroxide (Dioxide)
Disinfectant	Hydrogen Peroxide (Dioxide)
Fungicide	Hydrogen Peroxide (Dioxide)
Herbicide	Hydrogen Peroxide (Dioxide)
Fungicide	Kaolin
Plant Growth Regulator	Indole-3-Butyric Acid
Insecticide	Kaolin

Approved/Registered Active Ingredients for Cannabis Use	
Pesticide Label Type	Active Ingredient
Plant Growth Regulator	Kaolin
Vertebrate Repellent	Kaolin
Insect Repellent	Lauryl Sulfate
Insect Repellent	Lemongrass Oil
Fungicide	Linseed Oil
Insecticide	Linseed Oil
Miticide	Linseed Oil
Insecticide	Malic Acid
Fungicide	Mineral Oil/Petroleum Distillate
Insecticide	Mineral Oil/Petroleum Distillate
Miticide	Mineral Oil/Petroleum Distillate
Fungicide	Neem Oil
Insect Repellent	Neem Oil
Insecticide	Neem Oil
Nematicide	Neem Oil
Insect Repellent	Peppermint
Insecticide	Peppermint
Insecticide	Peppermint Oil
Algaecide Slimicide	Peroxyacetic Acid
Fungicide	Peroxyacetic Acid
Herbicide	Peroxyacetic Acid
Fungicide	Phosphorous Acid Mono- And Di- Potassium, Salts of
Plant Growth Regulator	Phosphorous Acid Mono- And Di- Potassium, Salts of
Insect Repellent	Piperonyl Butoxide
Insecticide	Piperonyl Butoxide
Fungicide	Potassium Bicarbonate
Fungicide	Potassium Sorbate
Miticide	Potassium Sorbate
Insect Repellent	Pyrethrins
Insecticide	Pyrethrins
Fungicide	Reynoutria sachalinensis
Fungicide	Rosemary Oil
Herbicide	Rosemary Oil
Insect Repellent	Rosemary Oil
Insecticide	Rosemary Oil
Insecticide	Sesame Oil
Insecticide	Sodium Chloride
Invertebrate Control	Sodium Ferric EDTA
Fungicide	Sodium Lauryl Sulfate
Insecticide	Soybean Oil
Miticide	Spearmint oil
Fungicide	Streptomyces lydicus WYEC 108
Fungicide	Sulfur
Insecticide	Sulfur
Insect Repellent	Thyme Oil
Insecticide	Thyme Oil
Fungicide	Trichoderma asperellum strain ICC 012
Fungicide	Trichoderma gamsii strain ICC 080
Insect Repellent	White Pepper

Mike Strain, DMV  
Commissioner

1908#036

**POTPOURRI**

**Department of Civil Service  
Division of Administrative Law**

Notice of Public Hearing

In compliance with Act 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Division of Administrative Law will hold a hearing for the purpose of receiving comments on any rule of the Division of Administrative Law, LAC Title 1, Part III, which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place at the Division of Administrative Law, 1020 Florida Street, Baton Rouge, LA 70802, on Friday, September 27, 2019 at 10 a.m.

At the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing, regarding these rules only. The Division of Administrative Law will consider fully all written and oral comments. However, comments must be received in writing in order to be submitted to the legislative oversight committees. Written comments may be submitted in advance of the hearing to Lindsey Hunter, General Counsel, P.O. Box 44033, Baton Rouge, LA 70804. All written comments must include the name, contact information and signature of the person submitting the comments and must be postmarked no later than Thursday, September 26, 2019.

To request reasonable accommodations for persons with disabilities, please contact Tina Perkins, Administrative Hearings Clerk, at 225-342-1800 at least three business days prior to the scheduled hearing.

Emalie A. Boyce  
Director

1908#029

**POTPOURRI**

**Board of Regents**

Public Hearing Notice

In compliance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, the Board of Regents hereby gives notice that a public hearing will be held at its offices at 1201 N. Third Street, Suite 6-200, Baton Rouge, LA 70802 at 10 a.m. on September 20, 2019 for the purpose of receiving comments from any interested person regarding any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. The scope of the hearing includes the rule-making functions of the Board of Regents as well as the various entities and advisory bodies for which the Board of Regents is responsible, such as the Louisiana Office of Student Financial Assistance, the Louisiana Proprietary

Schools Advisory Commission and the Louisiana Tuition Trust Authority.

Interested persons are invited to attend, and to submit oral or written comments at the hearing. Additionally, all interested persons are invited to submit written comments in advance of the hearing to Stephanie Tomlinson, Board of Regents, P.O. Box 3677, Baton Rouge, LA 70821-3677.

All written comments must include the name and contact information of the person submitting the comments and must be received no later than the start of the hearing at 10 a.m. on September 20, 2019 if the person submitting is not in attendance. The Board of Regents will consider all oral and written comments received from those in attendance at the hearing, as well as those written comments submitted in advance which are timely received. Oral comments must be submitted to the Board of Regents in writing as outlined above in order to be submitted to the legislative oversight committees.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Stephanie Tomlinson in writing at the Board of Regents, P.O. Box 3677, Baton Rouge, LA 70821-3677, or by email at stephanie.tomlinson@laregents.edu or by phone at (225) 342-4253.

Requests for special assistance must be received no later than 4:30 p.m. on September 18, 2019. Any questions should be directed to Stephanie Tomlinson at (225) 342-4253.

Dr. Kim Hunter Reed, Ph.D.  
Commissioner

1908#014

**POTPOURRI**

**Office of the Governor**

**Capital Area Groundwater Conservation Commission**

Public Notice—Pumping Charges for Ground Water Users

Notice is hereby given that the Board of Commissioners of the Capital Area Ground Water Conservation District, which consists of the parishes of Ascension, East and West Baton Rouge, East and West Feliciana, and Pointe Coupee, plan to increase the pumping charges for non-exempt ground water users from \$10 per million gallons of water pumped to \$20 per million gallons of water pumped. The board has determined that this increase is necessary to fund remediation of projected saltwater intrusion into groundwater in the capital area. The Capital Area Groundwater Conservation District plans to install several exploratory wells 2,000 feet below the surface (2,000-foot sand) to determine the location of saltwater and the best location for a saltwater scavenger well. This action is in accordance with R.S. 38:3076(14) and R.S. 38:3079.

A public hearing will be held September 24, 2019 at 10 a.m. in the District office, 3535 S. Sherwood Forest, Ste. 137, Baton Rouge, LA 70816. Oral comments will be accepted at that meeting.

The commission will accept written comments until 4:30 p.m. on September 23, 2019, if delivered to the office listed above or mailed to the following address:

Capital Area Groundwater Conservation Commission  
3535 S. Sherwood Forest, Ste. 137  
Baton Rouge, LA 70816

Anthony Duplechin  
Executive Director

1908#063

**POTPOURRI**

**Office of the Governor  
Commission on Law Enforcement and Administration of  
Criminal Justice**

Public Hearing Notice

The Commission on Law Enforcement hereby gives notice of a public hearing pursuant to R.S. 49:953(C)(2)(a) (Act 454 of the 2018 Regular Legislative Session) for the purpose of allowing any interested person the opportunity to comment on any rule of the commission, or any board, council or commission administered by it which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Some of the programs overseen by the commission include, but are not limited to: commission grant programs and policies, peace officer standards and training, privacy and security, jail facilities guidelines, LCJIS, sentencing commission, asset forfeiture, crime victims reparations, and innocent compensation.

The hearing will take place at the end of the commission's quarterly meeting on September 19, 2019 at 11:30 a.m. at the Hilton Baton Rouge Capitol Center, 201 Lafayette St., Baton Rouge, LA 70801.

To request reasonable accommodations for persons with disabilities call the commission office at 225-342-1530.

At the public hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing regarding these rules only. The commission will consider fully all written and oral comments. Comments must be received in writing in order to be submitted to the legislative oversight committees.

Written comments may be submitted in advance of the hearing to Bob Wertz, LA Commission on Law Enforcement, Box 3133, Baton Rouge, LA 70821. The deadline for submitting comments is Friday, September 20, 2019.

Jim C. Craft  
Executive Director

1908#035

**POTPOURRI**

**Department of Health  
Board of Examiners of Psychologists**

Public Hearing Notice

The Board of Examiners of Psychologists hereby gives notice of a public hearing pursuant to R.S. 49:953(C)(2)(a) (Act 454 of the 2018 Regular Legislative Session) for the purpose of allowing any interested person the opportunity to

comment on any rule of the board which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place at the board office, 4334 S. Sherwood Forest Blvd., Suite C150, Baton Rouge, LA 70816 on Thursday October 10, 2019 at 9:30 a.m.—11:30 a.m. To request reasonable accommodations for persons with disabilities call the board office at 225-295-8410. Please direct any views, if in writing, regarding the board's rules, to the LSBEP Attn. Jaime Monic, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C150, Baton Rouge, LA 70816. Deadline for submitting written comments is Wednesday, October 9, 2019. Oral comments regarding the board's rules will be considered, but in order to be submitted to the legislative oversight committees, the comments must be in writing.

Jaime T. Monic  
Executive Director

1908#074

**POTPOURRI**

**Department of Health  
Radiologic Technology Board of Examiners**

Public Hearing Notice  
(LAC 46:LXVI. Chapters 1 - 15)

In compliance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, the Radiologic Technology Board of Examiners hereby gives notice that a public hearing will be held at the Louisiana Hospital Association, 9521 Brookline, Baton Rouge, LA 70809 at 9 a.m. on October 9, 2019 for the purpose of receiving comments on any rule of the agency.

All interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing regarding board rules only. The agency will consider fully all written and oral comments. Comments must be received in writing in order to be submitted to the legislative oversight committees. Furthermore, written comments must (1) state the name and address of the person submitting the comments and be dated to include original signature, (2) include an exact statement of the changes sought and the effect of the proposed change on existing practice, and (3) include data, opinions or arguments in support of request. Written comments are to be submitted to Kenneth Jones, Executive Director, 3108 Cleary Ave, Suite 207, Metairie, LA 70002. Comments must be postmarked at least 10 business days prior to the scheduled hearing.

The hearing site is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearings, please contact the executive director in writing with your request at least 10 business days prior to the scheduled hearing.

Kenneth Jones  
Executive Director

1908#001

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation  
Environmental Division**

Notice of Hearing (Docket No. Env 2019-03)

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6 p.m., Thursday, September 26, 2019, at the Red River Parish Courthouse, third floor assembly room, located at 615 East Carroll Street, Coushatta, LA.

At such hearing, the commissioner, or his designated representative, will hear testimony relative to the application of Pinnergy, LTD., 111 Congress Ave., Suite 2020, Austin, Texas 78701. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration and production waste (E&P Waste) fluids located on Hwy 514 in Section 22, Township 14 North, Range 9 West in Red River Parish.

The application is available for inspection by contacting Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North 3<sup>rd</sup> Street, Baton Rouge, LA. Copies of the application will be available for review at the Red River Parish Police Jury located at 615 East Carroll Street, Coushatta, LA and the Red River Parish Public Library located at 410 East Carroll Street, Coushatta, LA, no later than 30 days prior to the hearing date. Verbal information may be received by calling Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Thursday, October 3, 2019, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation  
Environmental Division  
P.O. Box 94275  
Baton Rouge, Louisiana 70804  
Re: Docket No. ENV 2019-03  
Commercial Facility Well Application  
Red River Parish

Richard P. Ieyoub  
Commissioner

1908#024

**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
Aldridge Operating Co., LLC	Peason Ridge	S	Hodges	001	237985
Aldridge Operating Co., LLC	Peason Ridge	S	A J Hodges swd	001	973574
Brockman Family Limited Partnership	Monroe	M	Moore N	008	144709
Brockman Family Limited Partnership	Monroe	M	Moore N	005	144778
Brockman Family Limited Partnership	Monroe	M	Moore N	004	144785
Brockman Family Limited Partnership	Monroe	M	Moore N	009	144822
H. & H. Development Co.	Monroe	M	Rabun	001	45161
H. & H. Development Co.	Monroe	M	Rabun	002	45162
H. & H. Development Co.	Monroe	M	Rabun-Harrell	001	49554
H. & H. Development Co.	Monroe	M	Hodge A	001	104767
H. & H. Development Co.	Monroe	M	W J Wegman Jr	001	147346
H. & H. Development Co.	Monroe	M	W J Wegman Jr	002	147347
H. & H. Development Co.	Monroe	M	B J Hodge	001	147539
H. & H. Development Co.	Monroe	M	L&R Fowler	001	148299
H. & H. Development Co.	Monroe	M	L&R Fowler	002	148300
H. & H. Development Co.	Monroe	M	Sturgis Nix	001	149071
H. & H. Development Co.	Monroe	M	Sturgis Nix	002	149072
H. & H. Development Co.	Monroe	M	Read	003	149178
H. & H. Development Co.	Monroe	M	Hodge	001	149477
H. & H. Development Co.	Monroe	M	Hodge	002	149478
H. & H. Development Co.	Monroe	M	Hodge	003	150481
H. & H. Development Co.	Monroe	M	Wheeler	001	151731
H. & H. Development Co.	Monroe	M	Wheeler	002	151732



Operator	Field	District	Well Name	Well Number	Serial Number
H. & H. Development Co.	Monroe	M	JJJ	002	161932
H. & H. Development Co.	Monroe	M	JJJ	001	161939
H. & H. Development Co.	Monroe	M	Hodge B	001	162490
H. & H. Development Co.	Monroe	M	Hodge B	002	162491
H. & H. Development Co.	Monroe	M	West	001	162492
H. & H. Development Co.	Monroe	M	West	002	162493
Memco Exploration & Production, LLC	Caddo Pine Island	S	Enis swd	001	234456
Memco Exploration & Production, LLC	Caddo Pine Island	S	Enis	002	234991
Memco Exploration & Production, LLC	Caddo Pine Island	S	Enis	003	235140
Memco Exploration & Production, LLC	Caddo Pine Island	S	Gimbert Etal	001	248067

Richard P. Ieyoub  
Commissioner

1908#027

## POTPOURRI

### Department of Public Safety Oil Spill Coordinator's Office

#### Notice—Breton Island 2005 Oil Spill

**Action:** Notice of Availability of a Final Damage Assessment and Restoration Plan/Environmental Assessment (Final DARP/EA) for LOSCO NRDA case file LA2005\_0612\_1105 (Breton Island 2005).

**Agencies:** Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSPO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); and the U.S. Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS), collectively referred to herein as the "Trustees".

**Authorities:** The Oil Pollution Act of 1990 (OPA), 33 USC 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to

act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at *Louisiana Administrative Code* Title 43, Part XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the June 12, 2005 crude oil discharge into Breton Sound, Plaquemines Parish, Louisiana incident. Hess Corporation (HESS) was identified as the Responsible Party for the incident.

**Summary:** Pursuant to 15 C.F.R. §§990.23, 990.55 and *Louisiana Administrative Code* 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Final Damage Assessment and Restoration Plan/Environmental Assessment for the Breton Island 2005 Oil Spill and Restoration Project" is final and available to the public as of August 20, 2019. The Final DARP/EA identifies the natural resources and services that were determined to be injured by the incident, describes the assessment procedures used to quantify injury, outlines the scaling techniques and restoration alternative selection process, and presents the Trustees' selected plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources resulting from the incident. The Final DARP/EA evaluates restoration alternatives that the Trustees considered and identifies the Trustees' selected restoration alternative, which is to create Brown Pelican habitat on North Breton Island, Louisiana.

The Draft DARP/EA was available to the public for a 30-day review and comment period, which extended from May 20, 2019 through June 19, 2019. Public review of the Draft DARP/EA is consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. §2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the OSPRA regulations, *Louisiana Administrative Code* Title 43, Part XXIX, et. seq. The Trustees did not receive comments during the public comment period and have prepared the Final DARP/EA for implementation.

Interested members of the public are invited to view the Final DARP/EA via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Breton Island 2005 Final Damage Assessment and Restoration Plan/Environmental Assessment Available) or by requesting a copy of the document from Gina Muhs Saizan at the following address:

Gina Muhs Saizan  
Louisiana Oil Spill Coordinator's Office  
Department of Public Safety and Corrections  
P.O. Box 66614  
Baton Rouge, LA 70896  
(225) 925-6606

**For Further Information:** Contact Gina Muhs Saizan at (225) 925-6606 or by email at [gina.saizan@la.gov](mailto:gina.saizan@la.gov).

**Supplementary Information:** On November 20, 2006, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 32, No. 11, pp. 2192-2193) to notify the public that they intended to conduct restoration planning for the incident and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of

natural resources injured and/or natural resource services lost as a result of the incident. In November 2018, Hess agreed to settle their NRDA liability for a cash amount, and the trustees published a Notice of Availability of a proposed Consent Decree for Natural Resource Damages in the *Louisiana Register* on November 20, 2018 (Vol. 44, No. 11, pp. 2094-2095). The trustees did not receive comments during the 30-day public comment period, and on March 15, 2019, the United States District Court for the Eastern District of Louisiana signed and entered the Consent Decree. A signed copy of the Consent Decree is available via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for Breton Island Consent Decree).

Marty J. Chabert  
Oil Spill Coordinator

1908#033

### **POTPOURRI**

#### **Department of Revenue Office of Alcohol and Tobacco Control**

##### **Public Hearing Notice**

In compliance with the Administrative Procedure Act, more specifically R.S. 49:953(C)(2) as adopted by Act 454 of the 2018 Regular Legislative Session, the Office of Alcohol and Tobacco Control hereby gives notice of a public hearing to receive comments and testimony concerning the entirety of its rules as to whether any of them may be contrary to law, outdated, unnecessary, overly complex, or burdensome.

A public hearing on these rules is scheduled for Tuesday, October 8, 2019, at 1:30 p.m., at the office located at State Police Headquarters, 7919 Independence Boulevard, Room 3000, Baton Rouge, LA 70806. Interested persons are invited to attend, and submit oral or written comments at the hearing. Additionally, all interested persons are invited to submit written comments in advance of the hearing to R. Danielle Barringer, Attorney, the Office of Alcohol and Tobacco Control, 7979 Independence Boulevard, Suite 101, Baton Rouge, Louisiana 70806. All written comments must include the name and contact information of the person submitting the comments, and must be received no later than the start of the hearing at 1:30 p.m. on Tuesday, October 8, 2019 if the person submitting is not in attendance.

ATC will consider all oral and written comments received from those in attendance at the hearing, as well as those written comments submitted in advance which are timely received. Oral comments must be submitted to ATC in writing as outlined above in order to be submitted to the legislative oversight committees. Additionally, any individual that needs special assistance in order to attend or speak at this public hearing should notify R. Danielle Barringer in writing at the Office of Alcohol and Tobacco Control, 7979 Independence Boulevard, Suite 101, Baton Rouge, Louisiana 70806 or by email at [Danielle.Barringer@atc.la.gov](mailto:Danielle.Barringer@atc.la.gov), or by telephone at 225-925-

4018. Request for special assistance must be received no later than 4:30 p.m. on Tuesday, October 1, 2019. Any questions should be directed to R. Danielle Barringer at 225-925-4018.

Juana Marine-Lombard  
Commissioner

1908#062

### **POTPOURRI**

#### **Department of Revenue Policy Services Division**

##### **Notice of Public Hearing**

In compliance with Act 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue will hold a public hearing for the purpose of receiving comments on any rule of Revenue and Taxation, LAC Title 61 "Part I, Taxes Collected and Administered by the Secretary of Revenue, LAC Title 61 "Part III, Administrative and Miscellaneous Provisions", LAC Title 42 "Louisiana Gaming, Part 1 Charitable Bingo, Keno, Raffle", and LAC Title 55 Public Safety, Part VII Alcohol and Tobacco Control on Wednesday, September 25, 2019 at 10 a.m. in the Mardi Gras Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

At the public hearing, all interested persons will be afforded an opportunity to submit comments either orally or in writing, regarding those rules the person believes are contrary to law, outdated, unnecessary, overly complex, or burdensome.

The Department of Revenue and its Offices of Alcohol and Tobacco Control and Charitable Gaming will consider fully all written and oral comments. However, only written comments received by the agency will be included in the department's report to the legislative oversight committees. Written comments may be submitted prior to the hearing to Annie L. Gunn, Attorney, Policy Services Division, Department of Revenue, P.O. Box 44098, Baton Rouge, LA 70804-4098. All written comments must include the name, contact information and signature of the person submitting the comments and must be received no later than Tuesday, September 24, 2019.

The hearing site is accessible to persons using wheelchairs or other mobility aids via the LaSalle Street entrance. If other reasonable accommodations are required in order to participate in the hearings, please contact Denise Emery at (225) 219-2780 at least five business days prior to the scheduled hearing.

Kimberly Lewis Robinson  
Secretary

1908#026

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