

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Manufactured Housing Commission

Manufactured Housing Repairs (LAC 55:V.Chapter 5)

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 45:04; amended 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 45:3 (April 2019), effective March 25, 2019, amended LR 45:

Chief H. “Butch” Browning, Jr.
State Fire Marshal

1908#006