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This public document is published in accordance with R.S. 49:954.1. The publication date for this issue of the *Louisiana Register* is September 20, 2022. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

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# Executive Orders

## EXECUTIVE ORDER JBE 22-17

Flags at Half-Staff—Maurice Edwin “Moon” Landrieu

WHEREAS, Maurice Edwin “Moon” Landrieu, a distinguished citizen, public servant, former member of the Louisiana Legislature, former member of the New Orleans City Council and Mayor of the City of New Orleans, United States Secretary of Housing and Urban Development, and Louisiana Court of Appeals judge, died on Monday, September 5, 2022, at the age of 92;

WHEREAS, he is survived by his loving wife of nearly sixty-eight years, Verna Satterlee Landrieu; daughters Mary, Madeleine, Melinda, Melanie, and Michelle; sons Mitch, Mark, Martin, and Maurice; thirty-seven grandchildren; and sixteen great-grandchildren;

WHEREAS, born on July 23, 1930, in Uptown New Orleans to Joseph and Loretta Landrieu, Moon Landrieu graduated from Jesuit High School and obtained his Bachelor’s degree and his Juris Doctorate from Loyola University of New Orleans before serving his nation honorably in the United States Army as a member of the Judge Advocate General’s Corps from 1954 to 1957; upon completion of his military service to our nation, he embarked on a long and storied career in politics and public service;

WHEREAS, he first served the people of New Orleans and his home state of Louisiana in the House of Representatives of the Louisiana Legislature from 1960-1966 where he was a staunch opponent of racist segregation and a champion of civil rights, unafraid to speak truth to power and to stand up for Black citizens at a turbulent time in our state and nation’s history; indeed, his vote was the sole dissent to a segregationist bill passed by the Legislature in a 1960 special legislative session called to resist federal integration orders;

WHEREAS, in 1966, Landrieu won election to the New Orleans City Council as Councilman-at-large, and he continued his work representing all the people of New Orleans, notably leading the charge in desegregating public accommodations in the city, to further the goals of the Civil Rights Act of 1964;

WHEREAS, in 1970, Moon Landrieu won election to serve as Mayor of New Orleans, in which role he oversaw the desegregation and integration of city government and public facilities; under Landrieu’s stewardship, the City of New Orleans for the first time recognized and incorporated the voices of the city’s Black residents and their communities in positions of top leadership;

WHEREAS, Moon Landrieu also led the charge for a dramatic expansion of civic projects for recreation and tourism, including an extensive redevelopment of the

riverfront, while preserving and rehabilitating hundreds of historic properties; and he is responsible for much of the vibrant iconic landscape of New Orleans as it stands today, which many millions of visitors around the world have come to know and love;

WHEREAS, following his service as Mayor of New Orleans and as president of the United States Conference of Mayors, Landrieu served from 1979-1981 as Secretary of the United States Department of Housing and Urban Development, having been appointed by President James Earl “Jimmy” Carter, Jr.; and in this position Landrieu helped to rehabilitate another of America’s great cities, playing a key role in saving New York City from a devastating financial crisis;

WHEREAS, never one to sit on the sidelines, Landrieu returned again to public service in 1992, serving as a judge on Louisiana’s Fourth Circuit Court of Appeal until 2000;

WHEREAS, Moon Landrieu was a lifelong public servant and a visionary leader, who answered the call to service without hesitation; he never stopped fighting for justice, for the wellbeing and success of his community, his city, his state, and his nation; and while he will be greatly missed, the legacy of his tireless and era-defining work on behalf of the people of the City of New Orleans and the State of Louisiana will live on for many generations to come.

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 Maurice Edwin “Moon” Landrieu, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise on Tuesday, September 6, 2022, to sunset on Saturday, September 10, 2022.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on Saturday, September 10, 2022.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 6th day of September, 2022.

John Bel Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Ardoin  
Secretary of State  
2209#015

# Emergency Rules

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC28:CXXXI.1341)

In accordance with the provisions of R.S. 17:6(A)(10) and the emergency rulemaking provisions of the Administrative Procedure Act (APA), R.S. 49:962, the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

The revisions relate to the availability of an add-on endorsement to teach Algebra I, which will be available to teachers with an existing Louisiana teaching certification and align this add-on endorsement with the geometry endorsement adopted by BESE in June 2022. This Declaration of Emergency, effective August 24, 2022, is for a period of 180 days from adoption, or until promulgated as a Rule.

#### Title 28 EDUCATION

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

#### §1341. Algebra I

A. Eligibility requirements:

1. valid OS or standard, professional level 1 Louisiana teaching certificate or higher; and
2. pass the Algebra I exam.

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 48:462 (March 2022), repromulgated LR 48:1070 (April 2022), amended LR 48:

James Garvey  
President

2209#004

## DECLARATION OF EMERGENCY

### Board of Elementary and Secondary Education

Camera Installation in Certain Special Education Classrooms (LAC 28:XLV.743 and 745; CXV.332; and CXXI.303 and Chapter 5)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:962 et seq., the Board of Elementary and Secondary Education has amended *Bulletin 996—Standards for Teacher and/or Educational Leader Preparation Programs* (LAC 28:XLV.743 and 745); *Bulletin 741—Louisiana Handbook for School Administrators* (LAC 28:CXV.332); and *Bulletin 746—Louisiana Standards for State Certification of School Personnel* (LAC 28:CXXXI.303 and Chapter 5).

The revisions relate to legislation enacted during the 2022 Regular Legislative Session regarding installation of cameras in certain special education classrooms, and exam and GPA requirements for admittance into educator preparation programs and educator certification issuance. This Declaration of Emergency, effective August 24, 2022, is for a period of 180 days from adoption, or until finally adopted as a Rule.

#### Title 28 EDUCATION

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

#### Leader Preparation Programs

#### Chapter 7. Louisiana State Standards for Educator Preparation Programs

#### Subchapter C. Teacher Preparation Programs

#### §743. Minimum Requirements for Traditional Teacher Preparation Programs

A. - D.3....

E. To be admitted into a traditional teacher preparation program, candidates must meet minimum GPA requirements of 2.20 or higher grade point average (GPA) on a 4.00 scale.

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 43:1330 (July 2017), amended LR 43:2492 (December 2017), LR 45:229 (February 2019), LR 48:1274 (May 2022), LR 48:1758 (July 2022), LR 48:

#### §745. Minimum Requirements for Alternate Teacher Preparation Programs

A. - F.1. ...

2. meet minimum 2.20 or higher undergraduate GPA on a 4.00 scale to enter a teacher preparation program; and

3. pass the required content examinations or meet alternate requirements pursuant to Bulletin 746. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area.

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 43:1331 (July 2017), amended LR 43:2492 (December 2017), LR 45:1751 (December 2019), LR 46:324 (March 2020), LR 48:1274 (May 2022), LR 48:1759 (July 2022), LR 48:

#### Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

#### Chapter 3. Operation and Administration

#### §332. Installation and Operation of Cameras in Certain Special Education Settings

A. Each LEA shall adopt policies relative to the installation and operation of cameras that record both video and audio in a classroom.

1. The policies shall be adopted not later than December 31, 2022, or within 60 days of the receipt of

funding for the installation of cameras, whichever occurs first.

2. Not later than January 15, 2023, each governing authority shall submit a copy of the policies adopted pursuant to this Section to the state Department of Education.

3. Within 10 days of any revisions of the policies, each governing authority shall submit a copy of the policies to the department.

B. For the purposes of this section, *classroom* shall mean a self-contained classroom or other special education setting in which a majority of students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day and for which a parent or legal guardian has requested a camera to be installed. *Classroom* shall not mean special education classrooms and other special education settings where the only students with exceptionalities receiving special education and related services are those who have been deemed to be gifted or talented and have not been identified as also having a disability.

C. The policies developed pursuant to this section shall include provisions for the following:

1. the location and placement of cameras, including a prohibition against recording of the interior of a restroom or any area designated for students to change or remove clothing;

2. written notice of the placement of the cameras to be provided to persons who enter a classroom where a camera is installed, including teachers and other school employees, students in the classroom, the students' parents and legal guardians, and authorized visitors;

3. training concerning the provisions of this Section for any teacher or other school employee who provides services in a classroom where cameras are installed;

4. the retention, storage, and disposal of the video and audio data recorded, including a requirement that the recordings be retained for at least one month from the recording date;

5. protecting student privacy and for determining to whom and under what circumstances the recordings may be disclosed including:

a. limiting the viewing of the recordings to the superintendent or his designee and the parent or legal guardian of a recorded student upon request, and

b. requiring any person who views a recording and suspects the recordings show a violation of state or federal law to report the suspected violation to the appropriate law enforcement agency;

6. requiring each camera installed to be in compliance with the National Fire Protection Association's Life Safety Code;

7. procedures for the approval or disapproval of a request for the installation and operation of cameras in a classroom;

8. procedures regarding how a parent or legal guardian may request the installation and operation of cameras in his child's classroom; and

9. procedures regarding how a parent or legal guardian may request to review a recording, under what circumstances a request may be made, and any limitations to a request.

D. Recordings made pursuant to this Section shall be confidential and shall not be public record. However, a recording may be viewed by the superintendent or his designee, the parent or legal guardian of a recorded student, or by law enforcement officials as provided in the policies required by this Section. The recordings shall not be considered *personally identifiable information* as defined in R.S. 17:3914.

E. The governing authority of each public elementary and secondary school is authorized to accept, administer, and make use of federal, state, and local funds, any public and private grants and donations, and, when considered appropriate and feasible, to accept nonmonetary resources in the form of services or equipment for use in connection with the installation and operation of cameras pursuant to this Section.

1. The department shall assist public school governing authorities in identifying state and federal funds that may be used for the installation and operation of cameras pursuant to this Section.

2. Upon receipt of such funds, grants, donations, or nonmonetary resources, the governing authority shall install and operate the cameras according to the policies adopted pursuant to this section.

3. Funds granted by Act 588 of the 2022 Legislative Session shall be solely used for costs associated with the installation of cameras pursuant to this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1948.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

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

**Chapter 3. Initial Teacher Certification**

**Subchapter B. Testing Required for Certification Areas §303. Certification Exams and Scores**

A. A teacher applicant for certification must successfully complete the appropriate written or computer-delivered assessment identified in this Section prior to issuance of a Louisiana educator credential.

1. - 1.b. Repealed.

A.2. - B. ...

\* \* \*

C. Certification Areas  
 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
* * *					
Computer Science Earth Science Environmental Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana. For initial teacher certification, 30 semester hours in the content area is required in lieu of an exam.	---	---	---	157
* * *					

\* The passing score for tests taken prior to January 1, 2020 is 160.

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
Subject Area	Praxis Test	Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available. For initial teacher certification, 30 semester hours in the content area is required in lieu of an exam.	---	160		160	or	157
* * *							

D. - G. ...

\* \* \*

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), amended LR 48:416 (March 2022), repromulgated LR 48:1018 (April 2022), LR 48:

**Chapter 5. Teaching Credentials, Licenses and Certifications**

**Subchapter A. Standard Teaching Certificates**

**§507. Professional Level Certificates**

A. Level 1 is the entry-level professional certificate, valid for three years. The level 2 and level 3 certificates are valid for five years.

B. Louisiana Graduate Eligibility. Level 1 professional certificate requires successful completion of a state-approved traditional or alternate teacher preparation program, in accordance with LAC 28:XLV.Chapter 7.

1. Alternate preparation completers completing a one-year in-state residency as teacher of record must hold a practitioner's license (PL) in the certification area in which the teacher preparation program was completed and receive mentoring, as outlined in LAC 28:XLV.996, during the first year on a PL by a school-based mentor teacher in accordance with §553 of this Chapter.

2. Alternate preparation candidates completing a one-year residency out-of-state must hold a resident teacher certificate in accordance with LAC 28:XLV.996. If the candidate completed the residency as teacher of record, holding a practitioner's license above is not required.

3. Undergraduate program completers and alternate preparation completers completing a one-year in-state residency must hold a resident teacher certificate in

accordance with §535 of this chapter and receive mentoring by a classroom-based mentor teacher in accordance with §553 of this Chapter.

4. Undergraduate program completers completing a one-year out-of-state residency must hold a resident teacher certificate in accordance with LAC 28:XLV.996 and §535 of this Chapter.

5. Grade Point Average Requirements:

a. minimum 2.20 undergraduate grade point average (GPA) on a 4.00 scale for entry into a teacher preparation program;

b. minimum 2.50 program GPA on a 4.00 scale upon completion of teacher preparation program;

c. satisfactorily complete all program requirements as set forth by BESE, including any requirements for clinical practice, at graduation;

d. for post-baccalaureate candidates only that do not have the required program GPA, if the program does not award credit hours, the applicant shall demonstrate mastery of competencies as required by the program administrator and by the school system in which the applicant completes required clinical practice and may be issued a TEP.

6. Exam Requirements. Passing scores on appropriate pedagogy, certification area, and specialty area exams in accordance with §303 of this Part, and in alignment with the content area in which the program was completed.

7. Applicants must be recommended by a state-approved university or private program provider for certification.

8. Applicants must have the required number of semester hours in the teaching of reading and literacy:

a. 9 semester hours for certification in Birth-K, PK-3, 1-5, general special education 1-5, and mild/moderate special education 1-5;

b. 6 semester hours for certification in middle grades 4-8, general special education 4-8, and mild/moderate special education 4-8;

c. 3 semester hours for certification in secondary 6-12 content areas, all-level K-12 areas, general special education 6-12, and mild/moderate special education 6-12;

d. 9 semester hours for certification in special education areas of early interventionist, hearing impaired, significant disabilities, and visually impaired.

e. Alternate preparation completers are required to complete the same number of semester hours or equivalent contact hours, or pass the adopted teaching of reading exam.

f. Beginning with the 2024-2025 school year and beyond, alternate preparation completers are required to complete the same number of semester hours, pass the adopted Teaching of Reading exam, or complete the BESE-approved literacy foundations training.

C. Out-of-State (OS) Graduate Eligibility. Level 1 professional certificate requires a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602. Credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education; and

1. hold a standard out-of-state teaching certificate, or if no certificate was issued, a letter from the state education agency (SEA) or teacher preparation program provider in the state of origin verifying eligibility in that state for a certificate in the certification area(s); and

2. pass all parts of exams required for Louisiana certification in accordance with §303 of this Part for the area(s) of certification, and the specialty area or content area exam in the certification area in which the teacher preparation program was completed or in which initial certification was issued;

3. complete student teaching, internship, residency, or year(s) of successful teaching experience as required by teacher preparation program provider; and

4. has not been out of teaching in the five year period immediately preceding first employment or application for a Louisiana educator credential.

5. An applicant who has not taught in five years may be issued a one-year non-renewable OS1 certificate during completion of six semester hours required for issuance of a three-year non-renewable OS certificate.

6. National board certification fulfills exam requirements in corresponding areas for educators holding out-of-state certification/licensure.

7. Three years of successful teaching experience in another state, as verified by the employing authority or SEA, fulfills exam requirements in corresponding areas.

8. The employing authority must recommend applicant for further employment, and request issuance of a valid Louisiana educator credential.

D. Foreign Applicant Eligibility. OS and Level 1 professional certificates require a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602. Credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate

Registrars and Admissions Officers (AACRAO) for evaluation with the original course-by-course evaluation including a statement verifying the comparability of the baccalaureate degree in the field of education.

1. If the degree is received from an institution located in another state/country, the guidelines prescribed for out-of-state applicants must be followed.

2. Level 1 criteria also includes passing scores on appropriate pedagogy, certification area, and specialty area exams in accordance with §303 of this Part.

E. Level 2 professional certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 1 certificate;

2. successfully meet the standards of effectiveness for three years pursuant to state law and LAC 28:CXLVII.130 with any out-of-state experience verified as successful by the out-of-state employing authority or SEA; and

3. accrue three years of experience in an approved educational setting.

4. If the level 2 certificate is the initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 1 certificated teacher qualifies for advancement to a level 2 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

F. Level 3 professional certificate eligibility requirements:

1. hold or meet eligibility requirements for a level 2 certificate;

2. earn a graduate degree from a college or university accredited in accordance with 34 CFR 602; and

3. have five years of experience in an approved educational setting with any out-of-state experience verified as successful by the out-of-state employing authority or SEA.

4. If the level 3 certificate is initial certificate, a state-approved teacher preparation program provider must submit the request.

5. If the level 2 certificated teacher qualifies for advancement to a level 3 certificate, the request for the higher certificate must be submitted directly to the LDE by the employing authority.

G. Renewal/Extension Guidelines for Level 1, Level 2, and Level 3 Certificates

1. Level 1 certificate is valid for three years initially and may be extended thereafter for a period of one year at the request of a Louisiana employing authority with extensions of Level 1 certificates being limited to two such extensions.

2. Level 2 and level 3 certificates are valid for five years initially and may be renewed thereafter for a period of five years at the request of a Louisiana employing authority, with renewal of level 2 and level 3 certificates, contingent upon candidates successfully meeting the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to state law and LAC 28:CXLVII.130.



H. Temporary Employment Permit (TEP) Applicant Eligibility. Level 1 professional certificates require a minimum of a baccalaureate degree from a college or university accredited in accordance with 34 CFR 602.

1. Candidates completing a teacher preparation program must obtain either:

a. passing scores on appropriate pedagogy, certification area, and specialty area exams in accordance with §303 of this Part; or

b. successfully meet the standards of effectiveness at the level of highly effective or effective proficient for five years pursuant to LAC 28:CXLVII.130.

2. Candidates who have not completed a teacher preparation program but holds a graduate degree from a college or university accredited in accordance with 34 CFR 602 in the subject area for which employment is granted must complete pre-service training prior to the first day as a teacher of record.

a. The Louisiana employing authority must submit the application recommending certification to the LDE, including a signed affidavit verifying there is no other available applicant meeting certification requirements for the specific teaching position.

b. The teacher must be mentored by a certified mentor teacher in accordance with §553 of this Chapter.

c. Standards of effectiveness must be successfully met at the level of highly effective or effective proficient for five years in accordance with LAC 28:CXLVII.130.

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 48:

#### §511. Out-of-State (OS) Certificate

A. An out-of-state (OS) certificate, valid for a three-year period, is not renewable, and is issued to a teacher who has completed an out-of-state teacher preparation program and either holds or is eligible for a standard certificate in the state in which the program was completed. The teacher is not initially eligible for a level 1, 2, or 3 Louisiana certificate but meets Louisiana certification requirements with the exception of the exam requirements in accordance with §303 of this Part. OS certification provides a transition period that permits the holder to be employed in Louisiana K-12 schools while completing Louisiana exam requirements. For continued employment as a teacher in a Louisiana school system after the three-year period has elapsed, the OS certificate holder must fulfill guidelines for a level 1 or higher-level certificate.

B. - B.6. ...

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. Pass exam(s) required for Louisiana certification in accordance with §303 of this Part.

2. National Board Certification fulfills exam requirements in corresponding areas for educators holding out-of-state certification/licensure.

3. Three years of successful teaching experience in another state, as verified by the employing authority or SEA fulfills exam requirements in corresponding areas.

4. The employing authority must request issuance of a valid Louisiana educator credential.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 35:2754 (December 2009), LR 36:2001 (September 2010), LR 40:1332 (July 2014), LR 48:432 (March 2022), repromulgated LR 48:1036 (April 2022), LR 48:

#### §513. World Language Certificate (WLC) PK-12

A. - D. ...

E. Professional Certificate. A professional level 1 certificate may be issued after successful completion of exam requirements in accordance with §303 of this Part.

F. ...

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 48:433 (March 2022), repromulgated LR 48:1036 (April 2022), LR 48:

#### §515. Practitioner Licenses

A. - A.4.a. ...

b. 2.20 or higher undergraduate GPA on a 4.00 scale to enter a teacher preparation program; and

c. passing scores on exam requirements in accordance with §303 of this Part, or if no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area for admission to the program.

4.d. - 7.a. ...

b. 2.20 GPA or higher on a 4.00 scale to enter a teacher preparation program;

A.7.d. - D. ...

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 48:433 (March 2022), repromulgated LR 48:1037 (April 2022), LR 48:

#### Subchapter B. Nonstandard Teaching Credentials

##### §527. Temporary Authority to Teach (TAT)

A. - B.2. ...

3. The applicant must have at least a 2.20 undergraduate GPA.

C. - D.1. ...

a. the applicant provides evidence that the required exam(s) for admission into a teacher preparation program has been taken at least twice since the issuance of the TAT or TAT renewal;

b. - d. ...

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 48:437 (March 2022), repromulgated LR 48:1041 (April 2022), LR 48:

#### Subchapter B. Nonstandard Teaching Credentials

##### §531. Temporary Employment Permit (TEP)

A. Temporary employment permit (TEP) may be issued to any person who holds a graduate degree from a college or university accredited in accordance with 34 CFR 602 in the subject area for which employment is granted or any person meeting all certification requirements except passage of

exam requirements. A TEP is issued for one year, renewable annually, and may be held a maximum of five years while the holder pursues standard certification via successful years of teaching or satisfaction of state exam requirements. Upon completion of the five years of employment on a TEP, for continued employment in a Louisiana school system, the holder must fulfill guidelines for a level 1 or higher-level certificate.

B. Eligibility Guidelines 1. Applicant meets all certification requirements with the exception of passing all exam requirements in accordance with §303 of this Part but who scores within 10 percent of the score required for passage of all exams.

1. The Louisiana employing authority must submit the application to the LDE.

2. The Louisiana employing authority must submit a signed affidavit to the LDE stipulating that there is no other applicant meeting all certification requirements who is available for employment for a specific teaching position.

3. Issuance of a TEP may not waive the requirement that the person must successfully complete the exam.

4. Applicant must be mentored by a certified mentor in accordance with §553 or §1369 of this Part.

C. Eligibility Guidelines 2. Applicant has not completed a teacher preparation program but holds a graduate degree from a college or university accredited in accordance with 34 CFR 602 in the subject area for which employment is granted and must complete pre-service training prior to the first day as a teacher of record.

1. The Louisiana employing authority must submit the application recommending certification to the LDE, including a signed affidavit verifying there is no other available applicant meeting certification requirements for the specific teaching position.

2. The teacher must be mentored by a certified mentor teacher in accordance with §553 or §1369 of this Chapter.

3. Standards of effectiveness must be successfully met at the level of highly effective or effective proficient for five years in accordance with LAC 28:CXLVII.130.

D. Renewal Requirements. A TEP can be renewed up to four times upon verification of:

1. required exams retaken twice within one year from the date the TEP was issued;

2. mentorship provided by a school-based mentor teacher credentialed in accordance with §553 or §1369 of this Part;

3. standards of effectiveness successfully met at the level of highly effective or effective proficient pursuant to LAC 28:CXLVII.130;

4. affidavit signed by local superintendent, or designee, of good faith efforts to recruit certified personnel that include posting positions for which a TEP is issued; and

5. no regularly certified, competent, and suitable applicant is available.

6. The employing school system must submit the application on behalf of 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 48:437 (March 2022), repromulgated LR 48:1041 (April 2022), LR 48:

## §535. Resident Teacher Certificate (R)

A. - C.1. ...

2. placement in a classroom in a public or approved nonpublic school with a teacher of record who holds a valid level 1, 2, 3, type A, or type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746; and

3. 2.20 GPA or higher on a 4.0 scale for entry into the program.

4. Resident teachers placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness in accordance with LAC 28:CXLVII.130.

D. - H. ...

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 48:437 (March 2022), repromulgated LR 48:1041 (April 2022), LR 48:

James Garvey  
President

2209#005

## DECLARATION OF EMERGENCY

### Department of Health Bureau of Health Services Financing

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule, adopted on June 24, 2020, which further amended Title 50 of the *Louisiana Administrative Code* due to the COVID-19 public health emergency. This Emergency Rule included provisions waiving the timeframe for Medicaid applicants and enrollees

to request a fair hearing and established a post-eligibility review process for asset verification (*Louisiana Register*, Volume 46, Number 7). The department rescinded the extension of the timeframe for fair hearing requests effective July 1, 2021 and is also no longer performing post-eligibility asset verification reviews; however, due to a clerical error, those provisions were included in the Emergency Rule promulgated effective October 21, 2021 in order to continue the expiring provisions of the June 24, 2020 Emergency Rule (*Louisiana Register*, Volume 47, Number 10). As a result, the department promulgated an Emergency Rule which rescinded and replaced the provisions of the October 21, 2021 Emergency Rule (*Louisiana Register*, Volume 47, Number 11). This Emergency Rule is being promulgated in order to continue the provisions of the October 20, 2021 Emergency Rule. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective October 17, 2022, the Department of Health, Bureau of Health Services Financing hereby amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on June 24, 2020 throughout the duration of the COVID-19 public health emergency declaration:

**Medicaid Eligibility (LAC 50:III.Subpart 1)**

For the duration of the COVID-19 public health emergency declaration, the following requirements for coverage under the Medical Assistance Program (Medicaid) will be relaxed:

**Chapter 23. Eligibility Groups and Medicaid Programs**

The department shall provide coverage under the Medical Assistance Program for uninsured individuals described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Social Security Act as follows:

In accordance with section 1902(a)(10)(XVIII) of the Social Security Act, the medical assistance made available to uninsured individuals (as defined in subsection 1902(ss)) eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) is limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) administered during the COVID-19 public health emergency declaration (and the administration of such product) and any visit described in section 1916(a)(2)(G) furnished during the emergency period.

**Services for Special Populations—Hospice Recipient Eligibility—Waiver of Payment for Other Services (LAC 50:XV.3503)**

During the COVID-19 public health emergency declaration, the department waives the provisions requiring daily visits by the hospice provider to all clients under the age of 21 in order to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will still be completed based on clinical need of the beneficiary and family, and availability of staff as requested by the family. The use of telemedicine visits as an alternative is allowed.

**Medical Transportation Program—Emergency Medical Transportation—Ground Transportation Reimbursement (LAC 50:XXVII.325)**

For the duration of the COVID-19 public health emergency declaration, reimbursement will be allowed for ambulance providers for allowable services on site without transport. Services provided by the ambulance provider shall be within established treatment protocols, under the direct supervision of a licensed physician.

**Pharmacy—Copayment and Maximum Quantity (LAC 50:XXIX.111 and 119)**

During the period of state or federal declared emergency, member co-pays may be waived and select pharmacy edits may be revised to encourage recipients to get all necessary maintenance medications during one pharmacy visit.

Members are able to start receiving up to a 90-day supply, as appropriate, of maintenance medications that are not controlled substances. These include cardiovascular drugs (hypertension, coronary artery disease, thrombosis), diabetes drugs, respiratory drugs (inhaled and oral), contraceptives, antiretrovirals, direct-acting antivirals for hepatitis C, immunosuppressives, antipsychotics, and antidepressants, among others.

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.

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

Dr. Courtney N. Phillips  
Secretary

2209#040

**DECLARATION OF EMERGENCY**

**Department of Treasury  
Deferred Compensation Commission**

Administration and Distributions  
(LAC 32:VII.701, 707 and 711)

The Louisiana Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:962 and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.701, 707 and 711 regarding qualified birth and adoption distributions, required minimum distributions, the age at which participants may make in-service distributions, and repayment of certain loans to qualified participants. This Emergency Rule is necessary to allow plan participants who qualify for the relief provided by the Setting Every Community Up for Retirement Enhancement (“SECURE”)

Act (effective December 20, 2019) and the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act (effective March 27, 2020).

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute immediate peril to the public health, safety, or welfare (R.S. 49:962) Due to public health threat created by COVID-19, on January 31, 2020, Secretary of Health and Human Services Alex M. Azar II determined that a public health emergency continually exists and had existed since January 27, 2020. Additionally, Governor John Bel Edwards declared a public health emergency in the State of Louisiana (Proclamation No. JBE 2020-25) on March 11, 2020. Subsequently, on March 13, 2020, President Donald J. Trump declared a national emergency related to COVID-19. Finally, Xavier Becerra, the current Secretary of Health and Human Services, renewed the determination of a public health emergency made by former Secretary Alex M. Azar II and himself on July 15, 2022. As of August 15, 2022, 1,400,265 cases of COVID-19 have been confirmed in Louisiana, resulting in 17,699 deaths. The economic impact to individuals in Louisiana, including plan participants has also been devastating. Many businesses and governmental entities have been forced to furlough or lay off employees, resulting in even greater financial hardship. The COVID-19 pandemic has caused an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan. Moreover, the Louisiana Deferred Compensation Commission must adopt the following emergency rule in order to comply with both the SECURE and CARES Act; and thus, avoid penalties from the United States (R.S. 49:962).

In order to provide relief to those plan participants who have been adversely affected by the COVID-19 pandemic, the following emergency rule is necessary so that qualifying plan participants may take advantage of the relief provided in the SECURE Act and CARES Act.

This Emergency Rule was adopted on August 16, 2022, and shall be effective on August 16, 2022. This Emergency Rule shall remain in effect for 180 days, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

#### **Title 32**

### **EMPLOYEE BENEFITS**

## **Part VII. Public Employee Deferred Compensation**

### **Subpart 1. Deferred Compensation Plan**

#### **Chapter 7. Distributions**

#### **§701. Conditions for Distributions**

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. - 4. ...

5. the participant makes a qualified birth or adoption distribution pursuant to Section 113 of the Setting Every Community Up for Retirement Act of 2019. Any such qualified birth or adoption distribution shall not exceed \$5,000 per birth or adoption. The commission or plan

administrator may rely upon a participant’s birth or adoption certificate for purposes of determining eligibility; or

6. the calendar year in which an in-service participant attains age 59 1/2.

B. ...

C. In order to implement the provisions of the Setting Every Community Up for Retirement Enhancement (SECURE) Act, enacted on December 20, 2019, relating to required minimum distributions, including but not limited to §707 and §711 of the Plan, the Commission is hereby authorized to enter into any and all agreements with the Plan Administrator so that the Plan is in compliance with all federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 48:

#### **§707. Deferred Commencement Date at Separation from Service**

A. Following the date in which the participant severs employment, the participant may select a deferred commencement date for all or a portion of the participant's account balance. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 72.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 48:

#### **§711. Death Benefits**

A. - B. ...

C. Death of Participant before Participant's Required Beginning Date. If the participant dies before the required beginning date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in this §711, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 72, if later.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 48:

Virginia Burton  
Chairwoman

2209#003

## DECLARATION OF EMERGENCY

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

#### 2022 Recreational Red Snapper Season Closure

Louisiana's private and state charter season for the harvest of red snapper was previously opened on May 27, 2022 as a weekends only season (Friday, Saturday, and Sunday) to include the Mondays of Memorial Day, Independence Day, and Labor Day. Under the provisions of state management, NOAA Fisheries has delegated season and bag limit authority as well as allocated a quota to the Louisiana Department of Wildlife and Fisheries. Landings estimates generated from the LA Creel program indicate that Louisiana's annual allocation of red snapper is projected to be met, or could be met by September 6, 2022. In order to avoid exceeding the established allocation, the season must be closed.

In accordance with the emergency provisions of R.S. 49:962, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the authority given to the secretary by the commission at its regular April 2022 meeting and in LAC 76:VII.335.G.5 to modify the red snapper season under the provisions of NOAA delegated state management, the secretary hereby declares:

The season for the private recreational and state charter harvest of red snapper in Louisiana state waters shall close at 12:01 a.m. on Monday, September 19, 2022 and shall remain closed until further notice. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters, except for federally permitted charter boats or commercial Individual Fishing Quota holders operating under federal law during federally established seasons and rules for those vessels.

Jack Montoucet  
Secretary

2209#034

## DECLARATION OF EMERGENCY

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

#### 2022-2023 Oyster Season on Public Areas of Louisiana

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:962, which allows the Wildlife and Fisheries Commission (Commission) to use emergency procedures to set oyster seasons and under the authority of R.S. 56:433 and R.S. 56:435.1.1, which mandates that the commission shall set oyster seasons each year in the natural reefs, the commission does hereby set and declare the 2022/2023 oyster season in Louisiana state waters as follows:

The Hackberry Bay, Lake Mechant and Bay Junop Public Oyster Seed Reservation as described in R.S. 56:434, and Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay

Public Oyster Seed Grounds shall open to the harvest of seed oysters for bedding purposes at one-half hour before sunrise on Monday, October 17, 2022, and shall close to the harvest of seed oysters for bedding purposes at one-half hour after sunset on Monday, October 17, 2022.

The Hackberry Bay, Lake Mechant, Bay Gardene and Bay Junop Public Oyster Seed Reservation as described in R.S. 56:434, Vermilion/East and West Cote Blanche Bay/Atchafalaya Bay Public Oyster Seed Grounds and 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.513, including all areas east of Mississippi River, Louisiana Department of Health (LDH) Shellfish Harvest Areas 1, 2, 3, 4, 5, 6, 7 shall open to the harvest of market oysters for direct sale at one-half hour before sunrise on Tuesday, October 18, 2022, and shall close to the harvest of market oysters at one-half hour after sunset on April 1, 2023.

Calcasieu Lake Public Oyster Area as described in R.S. 56:435.1.1, in specific the West Cove shall open one-half hour before sunrise on Saturday, October 15, 2022, and East Cove shall open one-half hour before sunrise on Sunday, January 1, 2023.

These actions shall not supersede public health closures.

During the 2022/2023 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 limit not to exceed 30 sacks of oysters per vessel, except for Calcasieu Lake. The daily limits for Calcasieu Lake shall not exceed 15 sacks of oysters per vessel per day in aggregate between West Cove and the East Side, with no more than 5 sacks coming from the East Side per day. The possession limit shall be twice the daily limit. 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, October 17, 2022 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, in exception for Calcasieu Lake.

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 Department of Wildlife and Fisheries (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 as described in R.S. 56:433.

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

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

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

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

11. Every vessel harvesting oysters from the Public Oyster Areas for market shall report harvest information to the Department of Wildlife and Fisheries before 9 p.m. each day fished. Vessels shall provide the following information: Captain's name, oyster harvester number, boat number, the total number of sacks harvested that day, and the public oyster area fished. Call 1-800-442-2511 or send email to [oyster@wlf.la.gov](mailto:oyster@wlf.la.gov) to submit harvest reports. This reporting does not substitute for trip ticket reporting.

The following areas shall remain closed for the entire 2022/2023 oyster season:

1. The Sister Lake Public Oyster Seed Reservations Public Oyster Seed Ground as described in R.S. 56:434.

2. The 2022 Drum Bay Cultch Plant with the following coordinates.

North Plant

- 29 degrees 53 minutes 24.837 seconds,
- 89 degrees 17 minutes 08.500 seconds
- 29 degrees 53 minutes 50.990 seconds,
- 89 degrees 16 minutes 30.541 seconds
- 29 degrees 54 minutes 12.658 seconds,
- 89 degrees 16 minutes 43.889 seconds
- 29 degrees 53 minutes 55.360 seconds,
- 89 degrees 17 minutes 30.601 seconds

South Plant

- 29 degrees 52 minutes 32.400 seconds,
- 89 degrees 19 minutes 18.340 seconds
- 29 degrees 52 minutes 36.238 seconds,
- 89 degrees 18 minutes 40.818 seconds
- 29 degrees 53 minutes 07.579 seconds,
- 89 degrees 19 minutes 36.541 seconds
- 29 degrees 53 minutes 18.409 seconds,
- 89 degrees 19 minutes 07.703 seconds

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

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

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

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

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

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

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

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

Prior to any action, the Secretary shall notify the Chair of the Commission of the intention to make any or all of the changes indicated above.

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

Joe McPherson  
Chairman

2209#018

## DECLARATION OF EMERGENCY

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

#### Temporary Reduction in Recreational Creel Limits on Spring Bayou, Avoyelles Parish

The Department of Wildlife and Fisheries received a written request from the Avoyelles Parish Police Jury for a reduction in daily recreational creel limits for freshwater fish species during the drawdown scheduled for September 6 through December 31, 2022, to protect fish stocks.

In accordance with the emergency provisions of R.S. 49:962 which allows the Wildlife and Fisheries Commission to employ emergency procedures pursuant to the adoption of a rule, and under the authority of R.S. 56:6(25)(a) and R.S. 56:325(C), which provides that the Wildlife and Fisheries Commission may set recreational daily take limits, possession limits, and seasons for freshwater fish, the Wildlife and Fisheries Commission hereby declares:

The recreational daily creel limit for all freshwater fish species on Spring Bayou in Avoyelles Parish, Louisiana shall be as follows from September 6, 2022 through December 31, 2022.

1. Black Bass (Largemouth and Spotted): no size limit, five fish per day.
2. Striped and hybrid Striped Bass: no size limit, three fish per day with no more than one over 30 inches total length.
3. White Bass: no size limit, 25 fish per day.
4. Black and White Crappie: no size limit, 25 fish per day in the aggregate.
5. Yellow Bass: no size limit, 25 fish per day.
6. Bowfin (Choupique): 16 inches minimum length, no creel limit.
7. Buffalofish: 16 inches minimum length, 15 fish per day.
8. Catfish (Blue, Channel, and Flathead): Blue – 12 inches minimum length, Channel – 11 inches minimum length, Flathead – 14 inches minimum length; 50 fish per day in aggregate with up to 15 undersized catfish of the three species combined.

9. Freshwater Drum (Gaspergou): 12 inches minimum length, 15 fish per day.

10. Paddlefish: 30 inches maximum lower jaw fork length, 1 fish per day; fish must not be alive and must not be harvested by snagging.

11. Shad: no size limit, 25 pounds per day.

The Wildlife and Fisheries Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to reinstate the statewide recreational daily creel limit for all freshwater fish species on Spring Bayou in Avoyelles Parish, Louisiana as necessary prior to December 31, 2022 upon notification to the Chairman.

Joe McPherson  
Chairman

2209#025

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Horticulture Programs Nursery Stock Dealers (LAC 7:XXIX.117)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3801 and R.S. 3:3808, the Department of Agriculture and Forestry ("Department") has amended and adopted the Rule set forth below. The Rule changes the word "horticulture service" to "landscape horticulturist" when referencing a particular license. In 2008, the horticulture service and landscape contractor licenses were consolidated into one license, a landscape horticulturist license. The term horticulture service is no longer being used and that license no longer exists. R.S. 3:3815 provides that license renewals shall be issued as a landscape horticulturist license and this particular rule was never updated to reflect that change. This Rule is hereby adopted on the day of promulgation.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

#### Chapter 1. Horticulture

#### §117. Professional and Occupational Standards and Requirements

A. - E.9. ...

F. Nursery Stock Dealer

1. - 3. ...

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, landscape horticulturist license, retail florist license or a wholesale florist license.

F.5. - I.6.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016), LR 46:1077 (August 2020), LR 48:2287 (September 2022).

Mike Strain, DVM  
Commissioner

2209#009

## RULE

### Board of Regents Proprietary School Section

#### Forms (LAC 28:III.2301)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq. and Proprietary School Law, R.S. 17:3140 et seq., the Board of Regents has amended the rules and regulations to LAC 28:III.2301. These changes include removing redundancy in the description of the forms related to oversight of licensed Louisiana proprietary schools and proprietary school student records. The changes also include the removal of form names, which are not relative to rulemaking. The streamlining of the proprietary school forms section will allow for expedited process improvement if a form needs to be renamed or updated or if a new form needs to be created. The changes will also allow for improved function of new online systems to better serve proprietary schools in the state. This Rule is hereby adopted on the day of promulgation.

#### Title 28

#### EDUCATION

#### Part III. Proprietary Schools

#### Chapter 23. Forms

#### §2301. Proprietary Schools Licensure Forms

A. In order to obtain a new proprietary school license, an individual or organization will have to fill out forms published by the commission that include the following information:

- a. institutional contact information;
- b. programmatic information;
- c. surety information;
- d. recruitment and instructional staff information;
- e. tuition and financial documentation.

B. In order to renew a proprietary school license, an individual or organization will have to fill out forms published by the commission that include the following information:

- a. institutional contact information;
- b. programmatic information;
- c. surety information;
- d. recruitment and instructional staff information;
- e. tuition and financial documentation;
- f. student data.

C. In order for an individual or institution to amend a licensed school's data or programs, an individual or organization will have to fill out forms published by the commission that include the following information:

- a. institutional contact information;
- b. programmatic information;
- c. surety information;
- d. recruitment and instructional staff information;
- e. tuition and financial documentation.



D. In order for a former student to receive records or restitution, an individual will have to fill out forms published by the commission that include the following information:

- a. student contact and identifying information;
- b. school, program and enrollment information;
- c. tuition and payment information;
- d. direction of requested materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2.

HISTORICAL NOTE: Promulgated by the Board of Regents, Proprietary School Section, LR 40:1688 (September 2014), amended LR 44:1005 (June 2018), amended LR 48:2287 (September 2022).

Dr. Susannah Craig  
Deputy Commissioner

2209#073

## RULE

### Office of the Governor Board of Home Inspectors

Licensure and Standards of Practice  
(LAC 46:XL.113, 115, 121, 123, 139, and 305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 17:1475(4), the Board of Home Inspectors has amended its administrative rules. The changes to §113 limits the validity of criminal background checks of applicants to one year from issuance. The changes to §115 allow for the removal of certain client information from inspection reports submitted upon license renewal. The changes to §121 allow pre-licensing education classes to count toward continuing education hours. They also provide qualifications for continuing education providers to teach certain classes, requirements to provide notice to the board of certain classes it intends to teach and sets a minimum number of in person hours they must offer each year to remain certified. The changes to §123 provide requirements that certain client identifying information be included in inspection reports. The changes to §139 set forth disciplinary action against education providers who violate the rules. The changes to §305 further define the systems and components to be inspected or excluded from reports. This Rule is hereby adopted on the day of promulgation.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XL. Home Inspectors

#### Chapter 1. General Provisions

#### §113. Qualifications for Licensure and Application

A. Applicants must have:

1. - 7. ...
8. applied to the Louisiana State Police for a criminal background check, pay all costs associated therewith and submit the results to the board. Background checks shall expire 365 days after the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 43:1910 (October 2017), LR 48:2288 (September 2022).

#### §115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. ...

B. Upon renewal of a license, the licensee shall submit a copy of a completed inspection report form from the previous licensing period. Client information, including name, phone number, email and inspection fee amount, may be deleted from the form. Reports must comply with §123 of this Chapter.

C. - E. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 36:2858 (December 2010), LR 37:2405 (August 2011), LR 41:919 (May 2015), LR 43:1910 (October 2017), LR 48:2288 (September 2022).

#### §121. Continuing Education; Instructors

A.1. - A.2. ...

B. Continuing Education Courses

1. - 7. ...

8. The licensee may receive up to a maximum of 10 hours of continuing education credit per licensing period for any combination of the following types of classes as set forth in Paragraphs 5-8 of this Subsection:

a. - c. ...

d. courses designated for pre-licensing education as set forth in §119.C.1 of this Chapter.

9. Continuing education courses must be taught by continuing education providers who meet the criteria set forth in §121.F.1. Qualified guest lecturers may teach courses on behalf of continuing education provider instructors. The continuing education provider shall be responsible for confirming the qualifications of the guest lecturer.

10. Any remaining balance of continuing education hours must be obtained by participation in live presentation CE classes taught by a board-certified education provider.

11. All licensees must attend a board-approved report writing and standards of practice seminar at least once every three years.

C.1. - F.3. ...

4.a. A certified continuing education provider shall be authorized to offer any continuing education courses that teach items specifically covered within the standards of practice, without applying for prior approval of the chief operating officer and/or board. The continuing education provider shall be responsible for verifying that the course work falls within the scope of the standards of practice or building construction field.

b. a certified continuing education provider wishing to offer the report writing seminar must be approved by the board prior. The provider must notify the board of their intent and provide the board with an outline of their

classroom presentation. The presentation must cover all the items included in the board-approved report writing seminar outline.

c. all certified continuing education providers approved by the board to offer the report writing seminar must attend a board-approved report writing instructor train the trainer seminar at least once every three years.

5. - 6. ...

7. The names and contact information for all approved continuing education providers will be posted on the board's official website.

8. All continuing education classes to be attended by three or more students must be reported to the LSBHI at least 10 days prior to the date the class will be held.

9. All certified continuing education providers shall offer a minimum of eight in-person hours of home inspection industry offerings each year in order to retain board approval to provide continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 43:314 (February 2017), LR 43:1911 (October 2017), LR 48:2288 (September 2022).

### **§123. Home Inspection Reports; Consumer Protection**

A. All home inspection reports shall comply with all requirements as set forth in the standards of practice, these rules and the home inspector licensing law. Home inspection reports shall specify the municipal address of the home inspected, the client(s) for whom the home was inspected and the date of the inspection. Home inspection reports shall not be resold for any reason.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 41:920 (May 2015), LR 48:2289 (September 2022).

### **§139. Prohibited Acts: Penalties and Costs**

A. - F. ...

G. The board may suspend or revoke any certification or license, or censure, fine, or impose probationary or other restrictions on any education provider who violates any provisions of these rules or the Home Inspector Licensing law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 41:921 (May 2015), LR 43:314 (February 2017), LR 43:1912 (October 2017), LR 48:2289 (September 2022).

## **Chapter 3. Standards of Practice**

### **§305. Purpose and Scope**

A. ...

B. Home inspectors shall:

1. provide the client with a written pre-inspection contract, whenever possible, which shall:

a. - b. ...

c. state that the inspection is limited to only those systems or components, as set forth in these standards of practice, as agreed upon by the client and the inspector or expressly excluded in writing;

d. contain copies of the standards of practice and Code of Ethics; and

B.1.e. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 38:2532 (October 2012), LR 43:1912 (October 2017), LR 48:2289 (September 2022).

Morgan Spinosa  
Chief Operating Officer

2209#032

## **RULE**

### **Office of the Governor Division of Administration Racing Commission**

Claiming Rule (LAC 35:XI.Chapter 99)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has amended LAC 35:XI.9911 and 9913. In addition, the Racing Commission has adopted LAC 35:XI.9914 and 9949. §9911, §9913, and §9914 updates and clarifies the standards for cases in which horse claims can be voided. §9949 establishes standards for purse-to-claim price ratios. This Rule is hereby adopted on the day of promulgation.

## **Title 35**

### **HORSE RACING**

#### **Part XI. Claiming Rules and Engagements**

#### **Chapter 99. Claiming Rule**

#### **§9911. Claiming Procedures**

A. All claims shall be signed, sealed, time stamped and deposited in a locked box provided for that purpose in a designated place, at least 15 minutes prior to post time for each race. The claim box shall be opened by the stewards and all claims shall remain in their possession. The claim envelopes shall not be opened by the stewards earlier than 10 minutes prior to post time for the designated race. Notification will be made by the stewards to the proper officials of any claim or claims, if any. No money shall accompany the claim. Each person desiring to make a claim, unless he shall have such amount to his credit with the horsemen's bookkeeper, must first deposit with the horsemen's bookkeeper the whole amount of his claim in cash, for which a receipt will be given. If more than one person shall enter a claim for the same horse, the disposition of the horse shall be decided by lot by one of the stewards or his deputy, and the person so determined to have the right of the claim shall become the owner of the horse whether it be alive or dead, sound or unsound or injured during the race or after it, except as otherwise provided by voided and voidable claims sections. Any horse, other than the winner, that has

been claimed, shall be taken to the paddock after the race has been run, for delivery to the claimant unless sent to the retention barn for delivery to the claimant after the specimen has been collected.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 1:497 (November 1975), amended LR 2:446 (December 1976), LR 3:42 (January 1977), LR 4:285 (August 1978), LR 48:2289 (September 2022).

### **§9913. Vesting of Title; Tests**

A. Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. The successful claimant shall then become the owner of the horse whether alive or dead, sound or unsound, or injured at any time after leaving the starting gate, during the race or after, except as otherwise provided by voided and voidable claims section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), amended LR 3:42 (January 1977), LR 4:285 (August 1978), LR 5:136 (June 1979), amended by the Office of the Governor, Division of Administration, Racing Commission LR 30:1476 (July 2004), LR 31:3160 (December 2005), LR 35:2756 (December 2009), LR 48:2290 (September 2022).

### **§9914. Voided and Voidable Claims**

A. A claim shall be voided if a horse is a starter as determined by the regulatory authority, and the horse:

1. dies on the racetrack; or
2. suffers an injury which requires the euthanasia of the horse as determined by the official veterinarian while the horse is on the racetrack.

B. A claim is voidable at the discretion of the new owner for a period of one hour after the race is made official, for any horse:

1. that is vanned off the track at the direction of the official veterinarian; or
2. that is observed by the official veterinarian to be lame or unsound while on the racetrack for that race; or
3. that is observed by the official veterinarian to have bled through its nostrils while on the track.

C. The successful claimant may request on the claim blank at the time he makes his claim that the horse be tested for the presence of equine infectious anemia via a Coggins test and/or erythropoietin and/or darbepoietin.

1. Should the test for equine infectious anemia prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana.

2. Should the test for recombinant erythropoietin and/or darbepoietin prove positive, it shall be cause for a horse to be returned to his previous owner and barred from racing in the state of Louisiana until such time as the horse tests negative.

3. Additionally, if such erythropoietin and/or darbepoietin positive result is found, the claimant, claimant's trainer or claimant's authorized agent shall have 48 hours in which to request the claim be declared invalid, such request to be made in writing to the stewards.

4. The expense of the tests and the maintenance of the horse during the period requested for the tests shall be absorbed by the successful claimant.

5. If such tests are requested the claimed horse will be sent to the retention barn of the Louisiana State Racing Commission where the state veterinarian will draw blood samples.

a. Blood samples drawn to test for equine infectious anemia shall be sent to a laboratory approved by the Louisiana Livestock Sanitary Board for the conduct of such test.

b. Blood samples drawn to detect by immunoassay recombinant erythropoietin and/or darbepoietin shall be sent to the Louisiana State Racing Commission's state chemist.

6. Notwithstanding any inconsistent provision of the Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer's responsibility based upon the finding by the laboratory that erythropoietin and/or darbepoietin was present in the sample taken from that horse.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 48:2290 (September 2022).

### **§9949. Purse to Claim Price Ratio**

A. The purse-to-claim price ratio in claiming races for open bred horses shall not be greater than a 3:1 ratio, except for races where supplements are added for accredited Louisiana bred horses who compete in open bred races, where the purse-to-claim price ratio shall not be greater than 4:1.

B. The purse-to-claim price ratio for restricted accredited Louisiana bred races shall not be greater than 4:1, except where the conditions for the race limit the entries to accredited Louisiana bred horses sired by stallions standing in the state as of the breeding date where the ratio shall not be greater than 5:1.

C. Modifications to Subsections A and B of this Section may be made at any duly noticed meeting of the Racing Commission.

1. Approved modifications shall be posted on the Racing Commission's website and posted at the Racing Commission's racetrack offices.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 4:141, R.S. 4:142, and R.S. 4:148.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 48:2290 (September 2022).

Charles A. Gardiner, III.  
Executive Director

2209#023

**RULE**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Horses Suspended Concurrent with Trainer  
(LAC 46:XLI.321)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has adopted LAC 46:XLI.321. The Rule establishes that horses are suspended from racing concurrently with their trainers, who have been suspended for six months or more, unless the stewards approve transfer of those horses to other trainers, excluding relatives and employees of the suspended trainer as specified, as requested by their owners. This Rule is hereby adopted on the day of promulgation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLI. Horseracing Occupations**

**Chapter 3. Trainer**

**§321. Horses Suspended Concurrent with Trainer**

A. All horses in the charge of a trainer at the time of a violation and also during the pendency of violation proceedings and appeals, where the trainer’s license has been revoked or suspended for six months or more, shall not be permitted to race during the period of such trainer’s suspension. Upon application by the owners of such suspended horses, the stewards may approve the bona fide transfer of such horses to the care of another registered trainer, and upon such approved transfer, such horses may be entered to race, unless said horse is on the stewards’ list for a positive test until the horse is removed from the stewards’ list.

B. The trainer whose license has been revoked or suspended for six months or more must remove all signage and relinquish all assigned stalls to the track, and horses may not be transferred to any relative of the suspended trainer, current employee of the suspended trainer, or person employed by the suspended trainer within a year prior to the trainer’s suspension. For purposes of this Section, the term *relative* shall be deemed to be any past or present spouses, children, past or present spouses of children, siblings, past or present spouses of siblings, children of siblings, half-siblings, past or present spouses of half-siblings, children of siblings, parents, past or present spouses of parents, grandparents, past or present spouses of grandparents, grandchildren, and past or present spouses of grandchildren.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142, and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 48:2291 (September 2022).

Charles A. Gardiner, III.  
Executive Director

2209#024

**RULE**

**Office of the Governor  
Division of Administration  
Racing Commission**

**Use of Riding Crop in Thoroughbred Races  
(LAC 35:VII.8902)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, the Racing Commission has adopted LAC 35:VII.8902. The Rule establishes proper use of a riding crop in thoroughbred racing and sets penalty standards for violations. This Rule is hereby adopted on the day of promulgation.

**Title 35**

**HORSE RACING**

**Part VII. Equipment and Colors**

**Chapter 89. Whips**

**§8902. Use of Riding Crop in Thoroughbred Races**

A. Although the use of a riding crop is not required, a jockey who uses a riding crop during a thoroughbred race shall do so only in a manner consistent with exerting his or her best efforts to win.

B. In any thoroughbred race in which a jockey will ride without a riding crop, an announcement of that fact shall be made over the public address system.

C. An electrical or mechanical device or other expedient designed to increase or retard the speed of a horse in a thoroughbred race, other than a riding crop approved by the stewards, shall not be possessed by anyone, or applied by anyone to a horse at any time at a location under the jurisdiction of the commission.

D. A riding crop shall not be used on a two-year-old horse in thoroughbred races before April 1 of each year.

E. Allowable uses of a riding crop in thoroughbred races include the following:

1. the riding crop may be used at any time, without penalty, if, in the opinion of the stewards, the riding crop is used to avoid a dangerous situation or preserve the safety of other riders or horses in a race;

2. use of the riding crop in the overhand fashion for a total of six times from the three-eighths pole to the finish line, only to be used two times in succession and then must give a horse a chance to respond;

3. if necessary during a race, a riding crop may be used in a backhanded fashion on the hindquarters from the three-eighths to the finish line. This use will not be counted toward the use of the crop six times in the overhand fashion;

4. tapping the horse on the shoulder with the crop in the down position, while both hands are holding onto the reins and both hands are touching the neck of the horse; and

5. showing or waving the crop without contact with the horse and giving the horse time to respond before striking the horse.

F. Use of the riding crop to make contact with a horse to maintain focus and concentration, to control the horse for

safety of the horse and rider, or to encourage a horse is allowed in thoroughbred races, with the following exceptions:

1. in any manner, other than backhanded on the hindquarters as set forth in Paragraph 3 of Subsection E, tapping on the shoulder as set forth in Paragraph 4 of Subsection E, or resulting in more than six times in the overhand manner as set forth in Paragraph 2 of Subsection E;

2. the riding crop shall not be used more than twice in succession and the horse must be given a chance to respond before using it again;

a. "Chance to respond" is defined as one of the following actions by a jockey:

i. pausing the use of the riding crop on their horse before resuming again;

ii. pushing on their horse with a rein in each hand, keeping the riding crop in the up or down position;

iii. showing the horse the riding crop without making contact; or

iv. moving the riding crop from one hand to the other.

3. with the rider's wrist above helmet height;

4. on the head, flanks, or on any other part of its body other than the shoulders or hindquarters;

5. during the post parade or after the finish of the race except if necessary to control the horse;

6. excessive or brutal use of the crop causing injury to the horse;

7. causing welts or breaks in the skin;

8. if the horse is clearly out of the race or has obtained its maximum placing; and

9. if the horse is showing no response.

G. A riding crop shall not be used to strike another person.

H. Use of the crop during workouts shall be permitted so long as such use does not violate Subsection F of this rule.

I. The giving of instructions by any licensee that, if obeyed, would lead to a violation of this Section may result in disciplinary action also being taken against the licensee who gave the instructions.

J. Only padded/shock absorbing riding crops approved by the stewards, which have not been modified in any way, may be carried in a thoroughbred race.

K. During a thoroughbred race, if a jockey rides in a manner contrary to this Rule, at the stewards' discretion, the stewards may impose a warning or fine of \$100 to \$500 or a suspension. If in the opinion of the stewards the violation is egregious or intentional, the stewards have the discretion to impose both a fine and a suspension. Factors in determining whether a violation is egregious include, but are not limited to:

1. recent history of similar violations;

2. number of uses over the total and consecutive limits described; and

3. using the crop in the overhanded position more than six times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147, R.S. 4:148, and R.S. 4:172.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission LR 48:2291 (September 2022).

Charles A. Gardiner, III.  
Executive Director

2209#022

## RULE

### Department of Health Board of Dentistry

Disciplinary Action Expungement;  
Continuing Education Requirements  
(LAC 46:XXXIII.322 and 1607)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.322 and 1615. This Rule is hereby adopted on the day of promulgation.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Profession

#### Chapter 3. Dentists

#### §322. Expungement of Disciplinary Actions

A. A dentist may apply for the expungement of advertising violations provided:

1. a period of five years has elapsed from the date the consent decree was executed by the board president or order issued after a disciplinary hearing;

2. the dentist has not had any subsequent disciplinary actions of any kind taken against him by the board or any other licensing or certifying agency since the initial advertising violations in question;

3. ...

4. the board will retain all records relative to the expunged advertising violations, and they may use same in connection with future disciplinary proceedings, if any.

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 33:2562 (December 2007), amended by Department of Health, Board of Dentistry, LR 46:1676 (December 2020), repromulgated LR 47:42 (January 2021), amended LR 48:2292 (September 2022).

#### Chapter 16. Continuing Education Requirements

#### §1607. Exemptions

A. - A.4. ...

5. dentists holding a retired volunteer dental license pursuant to R.S. 37:761.1 who work fewer than 250 hours per calendar year during the renewal period; however, if the dentist holding the retired volunteer dental license maintains a sedation permit, the requirements of §1611.H still apply.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and (13).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:661 (June 1994), amended LR 24:1117 (June 1998), LR 26:1613 (August 2000), repromulgated LR 27:1894 (November 2001), amended LR 41:1284 (July 2015), amended by the Department of Health, Board of Dentistry, LR 44:46 (January 2018), LR 45:1762 (December 2019), LR 48:2292 (September 2022).

Arthur Hickham, Jr.  
Executive Director

2209#068

## RULE

### Department of Health Bureau of Health Services Financing

Experimental Procedures  
Routine Care for Beneficiaries in Clinical Trials  
(LAC 50:I.305)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:I.305 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 1. General Provisions

#### Chapter 3. Experimental Procedures

#### §305. Routine Care for Beneficiaries in Clinical Trials

A. The Medicaid program shall cover routine patient costs for items and services furnished in connection with participation in a qualifying clinical trial in accordance with section 1905(gg) of the Social Security Act.

B. - C.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:796 (June 2020), amended LR 48:2293 (September 2022).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2209#056

## RULE

### Department of Health Bureau of Health Services Financing

Home Health Program—Durable Medical Equipment  
Enteral Formula Reimbursement  
(LAC 50:XIII.10301)

The Department of Health, Bureau of Health Services Financing has amend LAC 50:XIII.10301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security

Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XIII. Home Health Program

#### Subpart 3. Medical Equipment, Supplies and Appliances

#### Chapter 103. Reimbursement Methodology

#### §10301. General Provisions

A. - F. ...

G. Effective for dates of service on or after October 1, 2022, fees for enteral formulas will be set at 90 percent of 2021 Rural Medicare fees. For enteral formulas without a corresponding Medicare fee, the Medicaid fees will be set at the lowest fee at which the item has been determined to be widely available based on a review of similar formulas, usual and customary fees charged in the community, and other Medicaid states.

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 35:1894 (September 2009), amended LR 36:1247 (June 2010), LR 36:2041 (September 2010), LR 39:1050 (April 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 48:2293 (September 2022).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2209#057

## RULE

### Department of Health Bureau of Health Services Financing

Home Health Program—Emergency Provisions  
(LAC 50:XIII.104)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:XIII.104 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XIII. Home Health Program

#### Subpart 1. Home Health Services

#### Chapter 1. General Provisions

#### §104. Emergency Provisions

A. In the event that the federal or state government declares an emergency or disaster, the Medicaid Program may temporarily allow non-physician practitioners (advanced practice registered nurses and physician assistants) to order and review home health services, including the completion of associated documentation, if

such action is deemed necessary to insure sufficient services are available to meet beneficiaries' needs.

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 48:2293 (September 2022).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2209#058

## RULE

### Department of Health Bureau of Health Services Financing

Hospice Services  
Emergency Services and Inpatient Care  
(LAC 50:XV.3503 and 4309)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.3503 and §4309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 3. Hospice

#### Chapter 35. Recipient Eligibility

##### §3503. Waiver of Payment for Other Services

A. - E. ...

F. In the event that the federal or state government declares an emergency or disaster, the Medicaid Program may temporarily waive the provision requiring daily visits by the hospice provider to all clients under the age of 21 to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will still be completed based on clinical need of the beneficiary, family, and availability of staff, as requested by the family. The use of telemedicine visits as an alternative is allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:129 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:1563 (November 2020), LR 48:2294 (September 2022).

##### §4309. Limitation on Payments for Inpatient Care

A. ...

1. During the 12-month period beginning November 1 of each year and ending October 31, the number of inpatient

respite care days for any one hospice beneficiary may not exceed five days per occurrence.

2. - 2.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:132 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:2294 (September 2022).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2209#059

## RULE

### Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for  
Persons with Intellectual Disabilities  
Complex Care Reimbursements  
(LAC 50:VII.32915)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:VII.32915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part VII. Long Term Care

##### Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

#### Chapter 329. Reimbursement Methodology

##### Subchapter A. Non-State Facilities

##### §32915. Complex Care Reimbursements

A. Private (non-state) intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may receive an add-on payment to the per diem rate for providing complex care to Medicaid beneficiaries, when medically necessary. The add-on payment shall be a flat fee daily amount and consists of payment for one of the following components alone or in combination:

1. direct service worker add-on;
2. skilled nursing add-on; and
3. equipment add-on;
4. - 7. Repealed.

B. To qualify, beneficiaries must meet medical necessity criteria established by the Medicaid Program. Supporting medical documentation must also be submitted as specified by the Medicaid Program. The duration of approval of the

add-on payment(s) is at the sole discretion of the Medicaid Program and shall not exceed one year.

C. Medical necessity of the add-on payment(s) shall be reviewed and re-determined by the Medicaid Program no less than annually from the date of initial approval of each add-on payment. This review shall be performed in the same manner and using the same medical necessity criteria as the initial review.

D. Each add-on payment requires documentation that the enhanced supports are already being provided to the beneficiary, as specified by the Medicaid program.

1. - 2.a.iii. Repealed.

E. One of the following admission requirements must be met in order to qualify for the add-on payment:

1. the beneficiary has been admitted to the facility for more than 30 days with supporting documentation of medical necessity; or

2. the beneficiary is transitioning from another similar agency with supporting documentation of medical necessity.

3. Repealed.

F. The Medicaid Program shall require compliance with all applicable laws, rules, and regulations as a condition of an ICF/IID's qualification for any complex care add-on payment(s) and may evaluate such compliance in its initial annual qualifying reviews.

1. - 2. Repealed.

G. The following additional requirements apply:

1. Beneficiaries receiving enhanced rates must be included in annual surveys to ensure continuation of supports and review of individual outcomes.

2. Fiscal analysis and reporting is required annually.

H. - I.3.e. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:276 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1447 (August 2018), LR 45:273 (February 2019), LR 48:2294 (September 2022).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Dr. Courtney N. Phillips  
Secretary

2209#060

**RULE**

**Department of Health  
Office of Public Health**

Public Health Immunization Requirements  
(LAC 51:II.701)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the

Louisiana Department of Health, Office of Public Health (LDH/OPH), has amended §701, Immunization Schedule, of Part II of Title 51. The amendments remove vaccines for SARS-CoV-2 from the list of required vaccinations for school entry and attendance. This Rule is hereby adopted on the day of promulgation.

**Title 51**

**PUBLIC HEALTH—SANITARY CODE**

**Part II. The Control of Diseases**

**Chapter 7. Public Health Immunization  
Requirements**

**§701. Immunization Schedule  
[formerly paragraph 2:025]**

A. The Office of Public Health (OPH) will determine the Louisiana immunization schedule, with appropriate immunizations for age using the current immunization schedule from the Advisory Committee for Immunization Practice (ACIP) of the United States Public Health Service (USPHS). Compliance for school and day care center entry will be based on the individual having received an appropriate number of immunizations for his/her age of the following types:

1. vaccines which contain tetanus and diphtheria toxoids, including Diphtheria and Tetanus (DT), Diphtheria/Tetanus/Acellular Pertussis (DTaP), Tetanus and Diphtheria (Tdap), Tetanus Toxoid (TT) or combinations which include these components;

2. polio vaccine, including Inactivated Polio Vaccine (IPV), or combinations which include this component;

3. vaccines which contain measles antigen, including Measles, Mumps, and Rubella (MMR) and combinations which include these components;

4. vaccines which contain hepatitis antigen, including Hepatitis B (HepB), Hepatitis A (HepA), and combinations which include these components;

5. vaccines which contain varicella antigen, including varicella and combinations which include this component.

6. vaccines which contain meningococcal antigen and combinations which include this component.

7. Repealed.

B. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030, and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012), amended by the Department of Health, Office of Public Health, LR 45:670 (May 2019), LR 46:590 (April 2020), LR 47:1877 (December 2020), LR 48:2295 (September 2022).

Joseph Kanter, MD, MPH  
State Health Officer  
and  
Dr. Courtney N. Phillips  
LDH Secretary

2209#036



## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 84—Recognition and Selection of the Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (LAC 37:XIII.Chapter 107)

The Department of Insurance, pursuant to the authority of Louisiana Insurance Code, R.S. 22:1 et seq., specifically R.S. 22:11, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 84—Recognition and Use of the 2001 CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits, henceforth known as Regulation 84—Recognition and Selection of Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

The purpose of Regulation 84 is to prescribe usage of the appropriate mortality tables for life insurance, particularly minimum reserve liabilities and nonforfeiture benefits, in recognition of the Standard Valuation Manuals adopted by the National Association of Insurance Commissioners (NAIC). Policies issued on or after January 1, 2020 will now use mortality tables from the Valuation Manuals most recently adopted by NAIC, rather than the 2001 CSO Mortality Table in use immediately prior to that date. This Rule is hereby adopted on the day of promulgation.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 107. Regulation 84—Recognition and Selection of Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

##### §10701. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §753 and the Standard Nonforfeiture Law for Life Insurance, see Title 22 §936.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:2296 (September 2022).

##### §10703. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of the applicable Commissioners Standard Ordinary (CSO) Mortality Table in accordance with R.S. 22:753 (the Standard Valuation Law for Life Insurance), R.S. 22:936 (the Standard Nonforfeiture Law for Life Insurance) and Sections 10909.A and Sections 10909.B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:2296 (September 2022).

##### §10705. Definitions

\* \* \*

*Valuation Manual*—manual of valuation instructions as adopted by NAIC that sets forth the minimum reserve and related requirements for jurisdictions where the Standard Valuation Law or legislation including substantially similar terms and provisions has been enacted. The purpose of the VM-20 is to assign the appropriate CSO mortality table and interest rate for use in determining the minimum nonforfeiture standard for life insurance policies issued on or after the operative date of the applicable *Valuation Manual* as authorized and superseded by applicable state requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:2296 (September 2022).

##### §10707. CSO Mortality Tables

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in Subsection B to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes. Notwithstanding the preceding, the commissioner may specify restrictions on the use of this table for certain categories of life insurance for which the use of this table's mortality assumption is not representative of the business' underlying mortality experience.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued January 1, 2009 through December 31, 2016, to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable.

C. Subject to the conditions stated in this regulation, either the 2001 CSO Mortality Table or the 2017 CSO Mortality Table may be used in determining the minimum standards for policies issued January 1, 2017 through December 31, 2019, to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable.

D. Subject to the conditions stated in this regulation, minimum standards for policies issued on or after January 1, 2020 shall be determined using the mortality table in the Valuation Manual adopted by the NAIC at the time of issuance of the policy.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005), amended LR 48:2296 (September 2022).

##### §10709. Conditions

A. - A.1. ...

2. smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by R.S. 22:753 and use composite mortality tables to determine the basic minimum

reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

A.3. - B. ...

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 10911 of Regulation 85 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in §2109.A.1 of Regulation 47 of the Louisiana Insurance Regulations. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005), amended LR 48:2296 (September 2022).

#### **§10711. Applicability of the 2001 CSO Mortality Table or Its Successor Table to Regulation 85**

A. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, may be used in applying Regulation 85 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, in §10707 of this regulation.

1. Section 10905.A.(2).(b). The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20.

2. Section 10907. All calculations are made using the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in §10909.B of this regulation. The value of " $qx+k+t+1$ " is the valuation mortality rate for deficiency reserves in policy year  $k+t$ , using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Section 10909.A. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum standard for basic reserves.

4. Section 10909.B. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in §10909.B.3.a. through i. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, unless the combination is explicitly required by regulation or necessary

to be in compliance with relevant actuarial standards of practice.

5. Section 10911.C. The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20.

6. Section 10911.E.4. The calculations specified in §10911.E shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

7. Section 10911.F.4. The calculations specified in §10911.F shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

8. Section 10911.G.2. The calculations specified in §10911.G shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

9. Section 10913.A.1.b. The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005), amended LR 48:2297 (September 2022).

#### **§10713. Gender-Blended Tables**

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, through December 31, 2016, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

B. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2017, until the operative date of VM-20 as established by the NAIC, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2017 CSO Mortality Table (M) and the 2017 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2017 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

C. For any ordinary life insurance policy delivered or issued for delivery in this state on and after the operative date of VM-20 as established by the NAIC, that utilizes the same premium rates and charges for male and female lives

or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is prescribed in VM-20 that is a blend of the prescribed mortality tables male and female rates may, at the option of the company for each plan of insurance, be substituted for the prescribed mortality table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

D. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

E. It shall not, in and of itself, be a violation of R.S. 22:1211 et seq. for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 48:2297 (September 2022).

#### **§10717. Effective Date**

A. This regulation shall take effect upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 48:2298 (September 2022).

James J. Donelon  
Commissioner

2209#035

### **RULE**

#### **Department of Insurance Office of the Commissioner**

#### **Regulation 100—Coverage of Prescription Drugs through a Drug Formulary (LAC 37:XIII.Chapter 141)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby amends Regulation 100 to provide updates in regard to the specific notice requirements a health insurance issuer must follow when implementing a modification of certain drug coverages in accordance with Act No. 217 of the 2021 Regular Session. This Rule is hereby adopted on the day of promulgation.

#### **Title 37**

#### **INSURANCE**

#### **Part XIII. Regulations**

#### **Chapter 41. Regulation Number 100—Coverage of Prescription Drugs through a Drug Formulary**

#### **§14101. Purpose**

A. ...

B. The purpose of the amendment to Regulation 100 is to update the Regulation to account for the notice requirements that were added to R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) by Act No. 217 of the 2021 Regular Session that a health insurance issuer must follow when modifying certain drug coverages offered in the group and individual markets.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, R.S. 1068(D) and R.S. 22:1074(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 48:2298 (September 2022).

#### **§14111. Requirements for the Modification Affecting Drug Coverage**

A. - B. ...

C. A modification of drug coverage for any drug increasing over \$300 per prescription or refill with an increase in the wholesale acquisition cost of at least 25% in the prior 365 days may occur at any time provided that 30-day notice of the modification of coverage is given. The 30-day notice of the modification of coverage shall include information on the health insurance issuer's process for an enrollee's physician to request an exception from the health insurance issuer's modification of drug coverage for purposes of continuity of care of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, R.S. 1068(D) and R.S. 22:1074(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 48:2298 (September 2022).

#### **§14115. Requirements for Modifying a Group Insurance Product**

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. - 5. ...

6. As an exception to the requirement that a modification must occur at the time of coverage renewal, modification of drug coverage for any drug increasing over \$300 per prescription or refill with an increase in the wholesale acquisition cost of at least 25 percent in the prior 365 days may occur at any time provided that 30-day notice of the modification of coverage is given. The 30-day notice of the modification of coverage shall include information on the health insurance issuer's process for an enrollee's physician to request an exception from the health insurance issuer's modification of drug coverage for purposes of continuity of care of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, R.S. 1068(D) and R.S. 22:1074(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 48:2298 (September 2022).

#### **§14117. Requirements for Modifying an Individual Insurance Product**

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. - 5. ...

6. As an exception to the requirement that a modification must occur at the time of coverage renewal, modification of drug coverage for any drug increasing over \$300 per prescription or refill with an increase in the

wholesale acquisition cost of at least 25 percent in the prior 365 days may occur at any time provided that 30-day notice of the modification of coverage is given. The 30-day notice of the modification of coverage shall include information on the health insurance issuer's process for an enrollee's physician to request an exception from the health insurance issuer's modification of drug coverage for purposes of continuity of care of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, R.S. 1068(D) and R.S. 22:1074(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 48:2298 (September 2022).

James J. Donelon  
Commissioner

2209#002

## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions (LAC 37:XIII.16101)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 112.

The purpose of the amendment to Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. This Rule is hereby adopted on the day of promulgation.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 161. Regulation Number 112—Adoption of NAIC Handbooks, Guidelines, Forms and Instructions

#### §16101. NAIC Handbooks, Guidelines, Forms and Instructions Incorporated by Reference

A. ...

B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:

1. The Financial Condition Examiner's Handbook, 2021 edition.

2. The Annual and Quarterly Statement Instructions, Property and Casualty, 2021 edition.

3. The Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2021 edition.

4. The Annual and Quarterly Statement Instructions, Health, 2021 edition.

5. The Annual and Quarterly Statement Instructions, Title, 2021 edition.

6. The Annual and Quarterly Statement Instructions, Fraternal, 2021 edition.

7. The Annual and Quarterly Statement Blanks, Property and Casualty, 2021 edition.

8. The Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2021 edition.

9. The Annual and Quarterly Statement Blanks, Health, 2021 edition.

10. The Annual and Quarterly Statement Blanks, Title, 2021 edition.

11. The Annual and Quarterly Statement Blanks, Fraternal, 2021 edition.

12. The Accounting Practices and Procedures Manual, 2021 edition.

13. The Financial Analysis Handbook, 2021 edition.

14. The Own Risk and Solvency Assessment Guidance Manual, 2021 edition.

15. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2021 edition.

16. The Risk-Based Capital Forecasting and Instructions, 2021 edition.

17. The Market Regulation Handbook, 2021 edition.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:1208 (September 2019), amended LR 46:993 (July 2020), amended LR 47:1328 (September 2021), amended LR 48:2299 (September 2022).

James J. Donelon  
Commissioner

2209#019

## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 122—Roles and Responsibilities of Pharmacy Benefit Managers and Pharmacy Services Administrative Organizations (LAC 37:XIII.Chapter 185)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has promulgated Regulation 122—Roles and Responsibilities of Pharmacy Benefit Managers and Pharmacy Services Administrative Organizations. Regulation 122 defines the roles and responsibilities solely within the purview of pharmacy benefit managers and pharmacy services administrative organizations as required by R.S. 22:1660.9(C). This Rule is hereby adopted on the day of promulgation.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 185. Regulation Number 122—Roles and Responsibilities of Pharmacy Benefit Managers and Pharmacy Services Administrative Organizations

#### §18501. Purpose

A. The purpose of this regulation is to define the roles and responsibilities solely within the purview of pharmacy benefit managers and pharmacy services administrative organizations as required by R.S. 22:1660.9(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2299 (September 2022).

### §18503. Applicability and Scope

A. Regulation 122 shall apply to all pharmacy benefit managers and pharmacy services administrative organizations licensed in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

### §18505. Definitions

*Pharmacy Benefit Manager*—a person, business, or other entity and any wholly or partially owned or controlled subsidiary of such entity that either directly or through an intermediary manages or administers the prescription drug and device portion of one or more health benefit plans on behalf of a third party, including insurers, plan sponsors, insurance companies, unions, and health maintenance organizations, in accordance with a pharmacy benefit management plan. The management or administration of a plan may include but is not limited to review, processing of drug prior authorization requests, adjudication of appeals and grievances related to the prescription drug benefit, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

*Pharmacy Services Administrative Organization*—an entity that provides a contracted pharmacy with administrative, contracting, or payment services relating to prescription drug benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

### §18507. Roles and Responsibilities of Pharmacy Benefit Managers

A. The roles and responsibilities solely within the purview of pharmacy benefit managers are as follows:

1. administering prescription drug plans for health plan sponsors;
2. formulary and benefit design support and management;
3. establishing reimbursement rates and making payments on behalf of health plan sponsors;
4. establishing and managing pharmacy networks to ensure network adequacy on behalf of health plans;
5. performing drug utilization management;
6. administering disease management and drug adherence programs; and
7. negotiating rebates and discounts from drug manufacturers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

### §18509. Roles and Responsibilities of Pharmacy Services Administrative Organizations

A. The roles and responsibilities solely within the purview of pharmacy services administrative organizations are as follows:

1. negotiating contracts, drug reimbursement rates, payments, and audit terms on behalf of pharmacy clients with pharmacy benefit managers;
2. billing and collecting payments from payers on behalf of pharmacies;
3. using contractual agreements to develop networks of member pharmacies. These agreements generally authorize pharmacy services administrative organizations to interact with third-party payers and pharmacy benefit managers;
4. negotiating access for pharmacies to networks and patients;
5. facilitating the purchase of prescription drugs and other medical products from drug manufacturers and providing for delivery to pharmacies for dispensing; and
6. assisting pharmacy clients with business strategy, pricing appeals, claims reconciliation, and certification and credentialing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

### §18511. Effective Date

A. This regulation shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1641(8), R.S. 22:1655, R.S. 22:1660.1(B)(1), R.S. 22:1660.8, R.S. 22:1660.9(C) and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 48:2300 (September 2022).

James J. Donelon  
Commissioner

2209#020

### RULE

#### Department of Natural Resources Office of Conservation

#### Class III (Solution-Mining) Injection Wells (LAC 43:XVII.Chapter 33)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the power delegated under the laws of the state of Louisiana, the Department of Natural Resources, Office of Conservation has amended Statewide Order No. 29-M-3 (LAC 43:XVII. Subpart 5. Chapter 33) to facilitate the permitting, siting, construction, operation, monitoring, and site closure of Class III (solution-mining) injection wells.

The Department of Natural Resources, Office of Conservation has amended provisions governing the oversight of the Class III solution-mining program within the Underground Injection Control (UIC) Program located within the Office of Conservation. A Solution-Mined Cavern is a cavity created within the salt stock by dissolution with water. Oversight for the Class III program is held by the Underground Injection Control Program (UIC Program), located within the Louisiana Office of Conservation. Class III wells are a federally-designated well class that allow for the injection of water to create cavities within geologic salt bodies. The UIC Program has held Primary Enforcement Authority from the United States Environmental Protection Agency (US EPA) for Class III wells since 1982. This Rule is hereby adopted on the day of promulgation.

#### **Title 43**

### **NATURAL RESOURCES**

## **Part XVII. Office of Conservation—Injection and Mining**

### **Subpart 5. Statewide Order No. 29-M-3**

## **Chapter 33. Class III (Solution-Mining) Injection Wells**

### **§3301. Definitions**

*Act*—Part I, Chapter 1 of Title 30 of the Louisiana Revised Statutes.

*Active Cavern Well*—a solution-mining well or cavern that is actively being used, or capable of being used, to mine minerals, including standby wells. The term does not include an inactive cavern well.

*Application*—the filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a solution-mining well or parts thereof.

*Aquifer*—a geologic formation, groups of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Blanket Material*—sometimes referred to as a *pad*. The blanket material is a fluid or gas placed within a cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid or gas possessing similar noncorrosive, non-solvent, low density properties. The blanket material is placed against the cavern roof, within the cavern neck, and between the cavern's outermost hanging string and innermost cemented casing.

*Brine*—water within a salt cavern that is saturated partially or completely with salt.

*Cap Rock*—the porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, and occasionally sulfur.

*Casing*—metallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

*Catastrophic Collapse*—the sudden failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

*Cavern Neck*—the uncased wellbore between the deepest casing shoe and the cavern roof, if present.

*Cavern Roof*—the uppermost part of a cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

*Cavern Well*—a well extending into the salt stock to facilitate the injection and withdrawal of fluids into and from a salt cavern.

*Cementing*—the operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

*Circulate to the Surface*—the observing of actual cement returns to the surface during the primary cementing operation.

*Commissioner*—the commissioner of conservation for the state of Louisiana.

*Contamination*—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

*Dual-Bore Mining*—for the purposes of these rules, dual bore mining shall be defined as the solution-mining process whereby fluid injection and brine extraction are accomplished through different permitted wells.

*Effective Date*—the date of final promulgation of these rules and regulations.

*Emergency Shutdown Valve*—for the purposes of these rules, a valve that automatically closes to isolate a solution-mining well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

*Exempted Aquifer*—an aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §3303.E.2.

*Existing Solution-Mining Well or Project*—a well, salt cavern, or project permitted to solution-mine prior to the effective date of these regulations.

*Facility or Activity*—any facility or activity, including land or appurtenances thereto, that is subject to these regulations

*Fluid*—any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

*Ground Subsidence*—the downward settling of the Earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

*Groundwater Aquifer*—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

*Groundwater Contamination*—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

*Hanging String*—casing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

*Improved Sinkhole*—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Inactive Cavern Well*—a solution-mining well or cavern that is capable of being used to solution-mine minerals but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §3309.I.3 and §3331.

*Injection and Mining Division*—the Injection and Mining Division of the Louisiana Office of Conservation within the Louisiana Department of Natural Resources.

*Injection Well*—a well into which fluids are being injected, excepting fluids associated with active drilling operations.

*Injection Zone*—a geological formation, group of formations or part of a formation receiving fluids through a well. The portion of the salt stock from the top of the salt stock to the original total depth of the injection well.

*Leaching*—the process of introducing an under-saturated fluid into a salt cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

*Mechanical Integrity*—an injection well has mechanical integrity if there is no significant leak in the casing, tubing, or packer and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

*Mechanical Integrity Pressure and Leak Test* (also called *Mechanical Integrity Test*)—a test performed to determine whether a cavern or well has mechanical integrity.

*Migrating*—any movement of fluids by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

*New Cavern Well*—a solution-mining well permitted by the Office of Conservation after the effective date of these regulations.

*Office of Conservation*—the Louisiana Office of Conservation within the Department of Natural Resources.

*Open Borehole*—the portion of the drilled well bore that is uncased at any point in time.

*Operator*—the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

*Owner*—the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

*Permanent Conclusion*—no additional solution-mining activities will be conducted in the cavern. This term will not apply to caverns that are being converted to hydrocarbon storage.

*Permit*—an authorization, license, or equivalent control document issued by the commissioner to implement the requirements of these regulations. Permit includes, but is not limited to, area permits and emergency permits. Permit does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a draft permit.

*Person*—an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

*Post-Closure Care*—the appropriate monitoring and other actions (including corrective action) needed following cessation of a solution-mining project to ensure that USDWs are not endangered.

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution-mining for brine.

*Project*—a group of wells or salt caverns used in a single operation.

*Public Water System*—a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

*Release*—the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

*Salt Dome*—a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

*Salt Stock*—a typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

*Schedule of Compliance*—a schedule or remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the act and these regulations.

*Site*—the land or water area where any facility or activity is physically located or conducted including adjacent land used in connection with the facility or activity.

*Solution-Mined Cavern*—a cavity created within the salt stock by dissolution with water.

*Solution-Mining Well*—a well which injects for extraction of minerals including:

1. mining of sulfur by the Frasch process;
2. in situ production of uranium or other metals.
3. solution mining of salts or potash.

*State*—the state of Louisiana.

*Subsidence*—see *ground subsidence*.

*Surface Casing*—steel pipe placed inside the conductor casing in the borehole which extends below, and is protective of, the USDW and other shallow geologic formations.

*UIC*—the Louisiana State Underground Injection Control Program.

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the Commissioner of Conservation.

*Underground Source of Drinking Water*—an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
  - a. currently supplies drinking water for human consumption; or
  - b. contains fewer than 10,000 mg/l total dissolved solids; and which is not an exempted aquifer.

*USDW*—see *underground source of drinking water*.

*Waters of the State*—both surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

*Well*—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, a subsurface fluid distribution system.

*Well Plug*—a fluid-tight seal installed in a borehole or well to prevent movement of fluids.

*Workover*—to perform one or more of a variety of remedial operations on an injection well, such as cleaning, perforation, changing tubing, deepening, squeezing, plugging back, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:316 (February 2014), amended LR 42:413 (March 2016), LR 48:2301 (September 2022).

### §3303. General Provisions

A. - A.3. ...

B. Prohibition of Unauthorized Injection

1. The construction, conversion, or operation of a solution-mining well without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the state of Louisiana.

2. - 3. ...

C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected or produced fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the solution-mining well shall have the burden of showing that this requirement is met.

C.2. - E.2.c. ...

F. Exceptions/Variances/Alternative Means of Compliance

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions, variances, or alternative means of compliance to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception, variance, or alternative means of compliance, and any associated mitigating measures shall not result in an unacceptable increase of endangerment to the environment, or the health, safety, and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception, variance, or alternative means of compliance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

a. When injection does not occur into, through, or above an underground source of drinking water, the commissioner may authorize a Class III well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required herein to the extent that the reduction in requirements will not result in an increased risk of movements of fluids into an underground source of drinking water or endanger the public.

b. When reducing requirements under this Section, the commissioner shall issue a fact sheet in accordance with §3311.F explaining the reasons for the action.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The commissioner may require public notice and a public hearing prior to granting any exception or variance if he determines it to be in the public interest or otherwise appropriate. The requester of the exception or variance shall be responsible for all costs associated with any public notice or public hearing.

3. Operators of solution-mining wells and/or caverns may operate in accordance with alternative means of compliance previously approved by the commissioner of conservation. Alternative means of compliance shall mean operations that are capable of demonstrating a level of performance, which meets or exceeds the standards contemplated by these regulations. Owners or operators of caverns existing at the time of these rules may submit alternative means of compliance to be approved by the commissioner of conservation. The commissioner may review and approve upon finding that the alternative means of compliance meet, ensure, and comply with the purpose of the rules and regulations set forth herein provided the proposed alternative means of compliance ensures comparable or greater safety of personnel and property, protection of the environment and public, quality of operations and maintenance, and protection of the USDW.

G. - G.1. ...



2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or comprising geoscientific work as defined by R.S. 37.711.1 et seq. and required by the Office of Conservation must be prepared, sealed, signed, and dated by a licensed professional geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, designs, specifications, details, calculations, drawings, opinions, recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by La. R.S. 37.681 et seq. and required by the Office of Conservation must be prepared, sealed, signed, and dated by a licensed professional engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for Class III wells or projects in order to protect USDWs and the health, safety, and welfare of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:318 (February 2014), amended LR 42:414 (March 2016), LR 48:2303 (September 2022).

### §3305. Permit Requirements

A. - D.1. ...

a. the authorization is made in writing by a principal executive officer of at least the level of vice-president;

D.1.b. - F. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:319 (February 2014), amended LR 42:414 (March 2016), LR 48:2304 (September 2022).

### §3307. Application Content

A. The following minimum information shall be required for each permit application for a solution-mining well to create a new solution-mining salt cavern. The applicant shall also refer to the appropriate application form for any additional information that may be required.

1. For Class III solution-mining wells being simultaneously permitted for Class II hydrocarbon storage and/or Class V storage, a single consolidated submittal containing all applications may be accepted.

B. Administrative Information:

1. all required state application form(s);
2. the nonrefundable application fee(s) as per LAC 43:XIX.Chapter 7 or successor document;
3. name and mailing address of the applicant and the physical address of the solution-mining well facility;
4. operator's name, address, telephone number, and e-mail address;
5. ownership status as federal, state, private, public, or other entity;
6. brief description of the nature of the business associated with the activity;

7. activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations;

8. - 9.f. ...

g. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

9.h. - 10. ...

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility will be provided as required in §3309.B. Before making a final permit decision, the official instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

12. a map with accompanying tabulation identifying names and addresses of all property owners within the area of review of the solution-mining well.

C. Maps and Related Information

1. certified location plat of the solution-mining well and/or area permit boundary prepared and certified by a registered land surveyor licensed and in good standing with the Louisiana Professional Engineering and Land Surveying Board. The location plat shall be prepared according to standards of the Office of Conservation;

2. topographic or other map(s) extending at least one mile beyond the property boundaries of the facility in which the solution-mining well is located depicting the facility and each well where fluids are injected underground, and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township and range of the area in which the solution-mining well is located and any parish, city or municipality boundary lines within one mile of the facility location;

4. map(s) showing the solution-mining well for which the permit is sought, the project area or property boundaries of the facility in which the solution-mining well is located, and the applicable area of review. Within the area of review, the map(s) shall show the well name, well number, well state serial number, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems, and water wells. The map(s) shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads. Only information of public record and pertinent information known to the applicant is required to be included on the map(s);

5. - 7. ...

8. maps and vertical cross-sections detailing the geologic structure of the local area. The cross-sections shall be structural (as opposed to stratigraphic cross-sections), be referenced to sea level, show the solution-mining well and the cavern being permitted, all adjacent salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other boreholes and wells that penetrate the salt stock. Cross-sections should be oriented to indicate the closest approach to adjacent caverns, boreholes, wells, the edge of the salt stock, etc., and shall extend at least one mile beyond the edge of the salt stock unless the edge of the salt stock and any existing oil and gas production can be demonstrated in a shorter distance and is administratively

approved by the Office of Conservation. Salt caverns shall be depicted on the cross-sections using data from the most recent salt cavern sonar. Known faulting in the area shall be illustrated on the cross-sections such that the displacement of subsurface formations is accurately depicted;

9. - 10. ...

D. Area of Review Information. Refer to §3313.E for area of review boundaries and exceptions. Only information of public record or otherwise known to the applicant need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures that penetrate or are within the salt stock in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review:

1. a discussion of the protocol used by the applicant to identify wells and manmade structures that penetrate or are within the salt stock in the defined area of review;

2. - 4.a.i. ...

ii. current or previous use of the cavern (waste disposal, hydrocarbon storage, solution-mining), current status of the cavern (active, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

D.4.a.iii. - E. ...

1. for existing caverns the results of the latest cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §3313.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed or plugged and abandoned;

3. plans for performing the geological, geomechanical, geochemical, and hydrogeological studies of §3313 to assess the stability of the salt stock and overlying and surrounding sediments based on past, current and planned well and cavern operations. If such studies have already been done, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the solution-mining well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the solution-mining well and cavern, if applicable, to include borehole diameters; all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; the depth datum; and any other pertinent details;

6. surface site diagram(s) of the facility in which the solution-mining well is located including but not limited to surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, field offices, monitoring and safety equipment and location of such equipment, required curbed or other retaining wall heights, etc.;

7. unless already obtained, a proposed formation testing program to obtain the information required below:

7.a. - 11.d ...

e. the safety requirements of §3321, including, but not limited to an emergency action plan, controlled site

access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, systems test and inspections, and surface facility retaining walls and spill containment, contingency plans to cope with all shut-ins or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

f. the monitoring requirements of §3323, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, and subsidence monitoring, as well as a description of methods that will be undertaken to monitor cavern growth due to under saturated fluid injection;

g. - n. ...

F. If an alternative means of compliance has previously been approved by the commissioner of conservation within an approved area permit, applicants may submit the alternative means of compliance for new applications for wells within the same area permit in order to meet the requirements of E.11.d, e, and f of this Section.

G. - G.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:320 (February 2014), amended LR 42:414 (March 2016), LR 48:2304 (September 2022).

### §3309. Legal Permit Conditions

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a solution-mining well shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, conduct post-closure care of the solution-mining well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the solution-mining cavern including but not limited to Class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3337.A and post-closure plan of §3337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43: XVII.3309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. - 3.a.ii ...

b. Assistance to residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

B.4. - C. ...

D. Duty to Halt or Reduce Activity. It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the

permitted activity to maintain compliance with the conditions of this Rule or permit.

E. - I.4. ...

a. well construction or conversion is complete, including submission of a notice of completion, a completion report, and all supporting information (e.g., as-drilled location plat, as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §3325;

b. a representative of the commissioner has inspected the well and/or facility and finds it is in compliance with the conditions of the permit; and

4.c. - 8.b. ...

i. monitoring or other information (including a failed mechanical integrity test) that suggests the solution-mining operations may cause an endangerment to underground sources of drinking waters, oil, gas, other commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the injection/withdrawal system (including a failed mechanical integrity test of) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or cavern.

I.9. - J. ...

1. Authorization to Operate. Authorization by permit to operate a solution-mining well shall be valid for the life of the well, unless suspended, modified, revoked and reissued, or terminated for cause as described in §3311.K. The commissioner may issue, for cause, any permit for a duration that is less than the full allowable term under this Section. Permitting of a Class III solution-mining well and cavern for Class II hydrocarbon storage or Class V storage does not nullify or void the existing Class III solution-mining permit unless expressly ordered by the commissioner.

2. Authorization to Drill, Construct, or Convert. Authorization by permit to drill, construct or convert a new solution-mining well shall be valid for two years from the effective date of the permit. If drilling or conversion is not begun in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the time of Paragraph 2 above; however, the Office of Conservation shall approve the request for one year only for just cause and only if the permitting conditions have not changed. The operator shall have the burden of proving claims of just cause.

K. Compliance Review. The commissioner shall review each issued solution-mining well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether a minor modifications are needed, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the Commissioner of Conservation.

1. As a part of the five-year compliance review, pursuant to RS 40:4.M.2, the operator shall submit the following minimum information to the Office of Conservation, based upon best available information.

a. Structural Map. A structural map of the top of salt including an aerial view of the maximum outline(s) of the operator's caverns and any other adjacent solution-mining caverns, disposal caverns, storage caverns or room and pillar mines. The maximum cavern outlines shall be based upon the latest sonar survey for each cavern.

b. Cross-Sections

i. Cross-sections illustrating the closest approach between an operator's caverns, between an operator's caverns and any adjacent solution-mining caverns, disposal caverns, storage caverns, or room and pillar mines if indicated to be proximal to adjacent caverns or mines.

ii. Cross-sections illustrating the closest approach between the operator's caverns and the edge of salt stock, if the edge of the cavern, based upon the best available information, is indicated to be less than 500 feet from the edge of the salt stock.

iii. All cross-sections shall be based upon the latest sonar survey for each cavern and the latest structural map of the top of salt based upon the best available information.

c. A tabulation of each of the operator's caverns with minimum offset distances listed to adjacent caverns, the edge of salt, and adjacent property boundaries.

2. As a part of the five-year compliance review, the well operator shall review the closure and post-closure plan and associated cost estimates of §3337 to determine if the conditions for closure are still applicable to the actual conditions.

3. As a part of the five year compliance review, the operator shall submit any other information required by the commissioner.

L. Schedules of Compliance. The permit may specify a schedule of compliance leading to compliance with the act and these regulations.

1. Time for Compliance. Any schedules of compliance under this Section shall require compliance as soon as possible but not later than three years after the effective date of the permit.

2. Interim Dates. Except as provided in Subparagraph b below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

L.2.a. - M.1.a. ...

b. within the same salt dome, facility site, or project; and

1.c. - 4. ...

5. Any approved area permit for hydrocarbon storage in solution-mined salt caverns shall encompass and be valid for future Class III solution-mining wells and resulting caverns constructed for the purpose of future hydrocarbon storage.

N. Recordation of Notice of Existing Solution-Mining Wells. The owner or operator of an existing solution-mining well shall record a certified survey plat of the well location in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six months after the effective date of these rules and the owner or operator shall furnish a date/file stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he

determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. Additional Conditions. The Office of Conservation shall, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety, and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:323 (February 2014), amended LR 42:414 (March 2016), LR 48:2305 (September 2022).

### §3311. Permitting Process

A. - B. ...

1. The applicant shall make public notice that a permit application for a solution-mining well or wells, or an area permit, is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. Without exception, the applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period. If the applicant is dually permitting a well for both Class III solution-mining and Class II hydrocarbon storage or Class V storage, the public notice of intent for both applications may be combined.

2. The notice shall be published once in the legal advertisement sections in the official state journal and the official journal of the parish of the proposed project location. The cost for publishing the notice of intent shall be the responsibility of the applicant and shall contain the following minimum information:

a. - d. ...

3. The applicant shall submit the proof of publication of the notice of intent when submitting the application.

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original paper application form, with required attachments and documentation, and one copy of the same to the Office of Conservation. The commissioner may request additional paper copies of the application, either in its entirety or in part, if needed. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. In addition to submitting the application on paper, the applicant shall submit an exact duplicate of the paper application in an electronic format approved by the commissioner. The electronic version of the application shall contain the following certification statement.

This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) to the Louisiana Office of Conservation.

2. - 3. ...

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely.

a. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

D. - D.1. ...

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the commissioner shall require the applicant to give public notice that the following actions have occurred:

i. a draft permit has been prepared under §3311.E; and

ii. a public hearing has been scheduled under §3311.D.

b. No public notice or public hearing is required for additional wells drilled or for conversion under an approved area permit or when a request for permit modification, revocation and reissuance, or termination is denied under §3311.K.

c. In Iberia Parish, no permit to drill or operate a new solution-mined cavern or to return an inactive solution-mining cavern to service shall be issued without a public hearing. The owner or operator shall give public notice of the hearing on 3 separate days within a period of 30 days prior to the public hearing, with at least 5 days between each publication notice, both in the official state journal and in the official journal of Iberia Parish.

2. Public Notice by Applicant

a. Public notice of a hearing shall be published by the applicant in the legal advertisement section of the official state journal and the official journal of the parish of the proposed project location not less than 30 days before the scheduled hearing. If the applicant is dually permitting a well for both Class III solution-mining and Class II hydrocarbon storage or Class V storage the public notice of a hearing for both applications may be combined.

b. The applicant shall provide notice of a scheduled hearing by forwarding a copy of the notice to:

i the Office of Conservation Injection and Mining Division;

ii property owners immediately adjacent to the proposed project;

iii operators of existing projects located on or within the salt stock of the proposed project;

iv United States Environmental Protection Agency;

v Louisiana Department of Wildlife and Fisheries;

vi Louisiana Department of Environmental Quality;

vii Louisiana Office of Coastal Management;

viii Louisiana Office of Conservation, Pipeline Division;

ix Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;

x the governing authority for the parish of the proposed project; and

xi any other interested parties.

3. Public Notice Contents. Public notices shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;

b. name and address of the regulatory agency processing the permit action;

c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application;

e. a statement that a draft permit has been prepared under §3311.E;

f. a brief description of the public comment procedures;

g. a brief statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

h. the time, place, and a brief description of the nature and purpose of the public hearing, if one has already been scheduled;

i. a reference to the date of any previous public notices relating to the permit;

j. any additional information considered necessary or proper by the commissioner.

#### 4. Application Availability for Public Review

a. The applicant shall file at least one copy of the complete permit application with:

i. the local governing authority of the parish of the proposed project location at least 30 days before the scheduled public hearing to be available for public review; and

ii. in a public library in the parish of the proposed project location.

b. A duplicate of the complete permit application in electronic format shall be submitted to the Office of Conservation.

#### E. - F.2. ...

3. The fact sheet shall be distributed to the permit applicant, all persons identified in §3311.D.2, and, on request, to any interested person.

#### G. Public Hearing

1. If a public hearing has been requested, the Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing is set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant. If the applicant is dually permitting a well for both Class III solution-mining and Class II hydrocarbon storage or Class V gas storage, both applications may be considered at the same public hearing.

2. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.

3. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend

the comment period by so stating before the close of the hearing.

4. A transcript shall be made of the hearing and such transcript shall be available for public review.

5. Repealed.

H. - H.2.a. ...

b. briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or hearing.

3. The Office of Conservation may issue a final permit decision within 30 days following the close of the public comment period; however, this time may be extended due to the nature, complexity, and volume of public comments received.

4. A final permit decision shall be effective on the date of issuance.

5. The owner or operator of a solution-mined cavern permit shall record a certified survey plat and final permit, which shall include any orders, permits to construct, and permits to inject, in the mortgage and conveyance records of the parish in which the property is located. A date/file stamped copy of the plat and final permit is to be furnished to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

H.6. - I.3.d. ...

#### J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly show that the permit has been transferred. It is a violation of these rules and regulations to operate a solution-mining well without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the solution-mining well before receiving written approval from the Office of Conservation.

J.2. - K.6.d. ...

e. allow for a change in ownership or operational control of a solution-mining well where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation;

6.f. - 7.a.iii. ...

b. If the Office of Conservation decides to terminate a permit, the Office shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under §3311.E. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §3311.K.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:326 (February 2014), amended LR 42:416 (March 2016), LR 48:2307 (September 2022).

### §3313. Site Assessment

A. - A.1. ...

2. stability of the salt stock and overlying and surrounding sediments;

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

4. The proximity of all existing and proposed solution-mining caverns to the periphery of the salt stock and to manmade structures within the salt stock shall be demonstrated to the Office of Conservation at least once every five years (see §3309.K) by providing the following:

a. an updated structure contour map of the salt stock. The updated map should make use of all available data. The horizontal configuration of the salt caverns should be shown on the structure map and reflect the caverns' maximum lateral extent as determined by the most recent sonar caliper surveys; and

b. vertical cross-sections of the salt caverns showing their outline and position within the salt stock... Cross-sections should be oriented to indicate the closest approach of the salt cavern wall to the periphery of the salt stock. The outline of the salt cavern should be based on the most recent sonar caliper survey.

C. Core Sampling

1. Unless specifically exempted by the commissioner, at least one well at the site of the solution-mining well (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Repealed.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, x-ray diffraction, microstructure, and where necessary, potential for adjacent cavern connectivity, with emphasis on cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under cavern operating conditions. Test results, analyses, and operating recommendations shall be summarized in an interpretive report.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual solution-mining well or project area (area permit) that may influence the integrity of the salt stock, solution-mining well, and cavern, or contribute to the movement of injected fluids outside the cavern, wellbore, or salt stock.

1. - 2.e. ...

3. Water Samples. A representative number of water wells identified under §3313.E.2.b shall be sampled and analyzed by an accredited laboratory for chloride and total dissolved solids.

F. Corrective Action

1. For manmade structures in the area of review that penetrate the salt stock and are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the cavern or into underground sources of drinking water.

1.a. - 5. ...

6. In determining the adequacy of proposed corrective action and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the commissioner:

6.a. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:330 (February 2014), amended LR 42:416 (March 2016), LR 48:2309 (September 2022).

### §3315. Cavern Design and Spacing Requirements

A. This Section provides general standards for design of caverns to assure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall stress physical and environmental safety. The owner or operator shall continually review the design throughout the construction and operation phases taking into consideration pertinent additional detailed subsurface information and shall include provisions for protection from damage caused by hydraulic shock. If necessary, the original development and operational plans shall be modified to conform to good engineering practices.

B. - B.1.a.ii. ...

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with §3315.B.1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

b. New Solution-Mining Caverns. No part of a newly permitted solution-mining cavern shall extend closer than 100 feet to the property of others without the consent of the owner(s).

2. Adjacent Structures within the Salt. As measured in any direction, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet. For solution-mining caverns permitted prior to the effective date of these regulations and which are already within 200 feet of any other cavern or manmade structure within the salt stock, the commissioner of conservation may approve continued operation upon a proper showing by the owner or operator that the cavern is capable of continued safe operations.

3. - 3.b....

c. Without exception or variance to these rules and regulations, an existing solution-mining cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from service immediately and

permanently. An enhanced monitoring plan in conformance with §3315.B.3.b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For solution-mining caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point between the cavern walls and the periphery of the salt stock, continued or additional solution-mining may be allowed upon submittal of an enhanced monitoring plan in conformance with §3315.B.3.b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. Cavern Coalescence. The Office of Conservation may permit the use of coalesced caverns for solution-mining. It shall be the duty of the applicant, owner or operator to demonstrate that operation of coalesced caverns under the proposed cavern operating conditions can be accomplished in a physically and environmentally safe manner. The intentional subsurface coalescing of adjacent caverns must be requested by the applicant, owner or operator in writing and be approved by the Office of Conservation before beginning or resumption of solution-mining operations. Approval for cavern coalescence shall only be considered upon a showing by the applicant, owner or operator that the stability and integrity of the cavern and salt stock shall not be compromised and that solution-mining operations can be conducted in a physically and environmentally safe manner. If the design of adjacent caverns should include approval for the subsurface coalescing of adjacent caverns, the minimum spacing requirement of §3315.B.2 above shall not apply to the coalesced caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:332 (February 2014), amended LR 42:417 (March 2016), LR 48:2309 (September 2022).

### **§3317. Well Construction and Completion**

A. - A.2.d.vi. ...

#### **B. Open Borehole Surveys**

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be done on wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall include, at a minimum, density, neutron, sonic, and caliper logs and shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of 1 inch to 100 feet and a scale of 5 inches to 100 feet and all logs must include the depth datum. A descriptive report interpreting the results of such logs and tests shall be prepared and submitted to the commissioner.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole. The commissioner may require additional gyroscopic surveys as necessary.

3. Caliper logging to determine borehole size for cement volume calculations shall be done before running casings.

4. The owner or operator shall submit all wireline surveys as one paper copy and an electronic version in a format approved by the commissioner.

C. Casing and Cementing. Except as specified below, the wellbore of the solution-mining well shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good industry engineering practices for wells of comparable depth that are applicable to the same locality of the cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. - 2.g. ...

3. Surface casing shall be set to a depth below the base of the lowermost underground source of drinking water and shall be cemented to ground surface.

4. All solution-mining wells shall be cased with a minimum of two casings cemented into the salt. One casing string shall be an intermediate string, the other being the final cemented string. The surface casing shall not be considered one of the two casings.

5. The intermediate casing string shall be set a minimum of 50 feet into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

6. The following applies to wells existing in caverns before the effective date of these rules and regulations and that are being used for solution-mining. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be set no more than 50 feet above the deepest casing shoe and shall be cemented from its base to surface. Alternatively, a packer and tubing completion may be substituted for the inner casing string. The packer shall be considered the effective casing seat and must be set a minimum distance of 300 feet into the salt and within 50 feet of the deepest cemented casing seat.

7. The intermediate and final casings shall be cemented from their respective casing seats to the surface when practicable.

8. An owner or operator may propose for approval by the Commissioner of Conservation an alternative casing program for a new solution-mining well pursuant to an exception or variance request in accordance with the requirements of §3303.F.

D. Casing and Casing Seat Tests. When performing tests under this paragraph, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings will be hydrostatically pressure tested to verify casing integrity and the absence of leaks. The stabilized test pressure applied at the well surface will be calculated such that the pressure

gradient at the depth of the respective casing shoe will not be less than 0.7 PSI/FT of vertical depth or greater than 0.9 PSI/FT of vertical depth. All casing test pressures will be maintained for 1 hour after stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements

2. Casing Seat. The casing seat and cement of the intermediate and production casings will each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes will be drilled before the test.

a. For all casings below the surface casing, excluding the casing strings set within the salt, the stabilized test pressure applied at the well surface will be calculated such that the pressure at the casing shoe will not be less than the 85 percent of the predicted formation fracture pressure at that depth. The test pressures will be maintained for 1 hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

b. For casing strings set within the salt, the test pressure applied at the surface will be the greater of the maximum predicted salt cavern operating pressure or a pressure gradient of 0.85 PSI/FT of vertical depth calculated with respect to the depth of the casing shoe. The test pressures will be maintained for 1 hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.90 PSI/FT of vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed the rated burst or collapse pressures of the respective casings.

E. - E.1 ...

2. A casing inspection log (or similar approved log or method of casing evaluation) shall be run on the final cemented casing.

3. When submitting wireline surveys, the owner or operator shall submit one paper copy and an electronic copy in a format approved by the commissioner.

F. Hanging Strings. Without exception or variance to these rules and regulations, all active solution-mining wells shall be completed with at least two hanging strings except as provided for dual-bore mining. One hanging string shall be for injection; the second hanging string shall be for displacing fluid out of the cavern from below the blanket material. The commissioner may approve a request for a single hanging string in active solution-mining wells only in the case of dual-bore mining. All inactive solution-mining wells shall be completed with at least one hanging string unless excepted by the commissioner. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side of the wellhead (if applicable) shall be rated for the same pressure as the water injection side. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:333 (February 2014), amended LR 42:417 (March 2016), LR 48:2310 (September 2022).

### §3319. Operating Requirements

A. Cavern Roof. Without exception or variance to these rules and regulations, no cavern shall be used for solution-mining if the cavern roof has grown above the top of the salt stock. The operation of an already permitted cavern shall cease and shall not be allowed to continue if information becomes available that shows this condition exists. The Office of Conservation may order the solution-mining well and cavern closed according to an approved closure and post-closure plan.

B. Blanket Material. Before beginning solution-mining operations, a blanket material shall be placed into the cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, insoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the cavern and shall be of sufficient volume to coat the entire cavern roof. In all caverns which have not been plugged and abandoned, the cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation. A blanket meeting the requirements of this section shall remain in place for active caverns and shall be removed from inactive caverns only upon the approval of the Office of Conservation.

C. Remedial Work. No remedial work or repair work of any kind shall be performed on the solution-mining well or cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests, sonar caliper surveys, and all logs, including casing inspection logs and through tubing logs; however, a work permit is not required in order to conduct routine interface surveys. The owner or operator or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the cavern shall be relieved, as practicable.

D. Well Recompletion—Casing Repair. The following applies to solution-mining wells where remedial work results from well upgrade, casing wear, or similar condition. For



each paragraph below, a casing inspection log shall be performed on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A solution-mining well that cannot be repaired or upgraded shall be properly closed according to an approved closure and post-closure plan.

1.-2. ...

E. Multiple Well Caverns. No newly permitted well shall be drilled into an existing cavern until the cavern pressure has been relieved, as practicable, to 0 PSI measured at the surface.

F. Cavern Allowable Operating Pressure

1. The maximum allowable cavern injection pressure shall be calculated at a depth referenced to the well's deepest cemented casing seat. The injection pressure at the wellhead shall be calculated to ensure that the pressure induced within the salt cavern during injection does not initiate new fractures or propagate existing fractures in the salt. In no case shall injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids out of the salt stock or into an underground source of drinking water.

2. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable cavern injection pressure shall never exceed a pressure gradient of 0.90 PSI/FT of vertical depth.

3. The solution-mining well shall never be operated at pressures over the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014), amended LR 42:417 (March 2016), LR 48:2311 (September 2022).

### §3321. Safety

A. Emergency Action Plan. An Emergency Action Plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. Controlled Site Access. Access to solution-mining facilities shall be controlled by fencing or other means around the facility property. All points of entry into the facility shall be through a lockable gate system.

C. Personnel. While solution-mining, testing, or performing any work requiring a UIC-17 (Work Permit), trained and competent personnel shall be on duty and stationed as appropriate at the solution-mining well, facility's onsite local control room, or other facility control

location at the storage site, during all hours and phases of facility operation. If the solution-mining facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24 hours a day staffing of the facility may not be required.

D. - E.2. ...

3. All flowlines for injection and withdrawal connected to the wellhead of the solution-mining well shall be equipped with remotely operated shut-off valves and shall have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §3321.H.

F. Alarm Systems. Manual and automatically activated alarms shall be installed at all cavern facilities. All alarms shall be audible and visible from any normal work location within the facility. The alarms shall always be maintained in proper working order. Automatic alarms designed to activate an audible and a visible signal shall be integrated with all pressure, flow, heat, fire, cavern overflow, leak sensors and detectors, emergency shutdown systems, or any other safety system. The circuitry shall be designed such that failure of a detector or sensor shall activate a warning.

G. Emergency Shutdown Valves. Manual and automatically activated emergency shutdown valves shall be installed on all systems of cavern injection and withdrawal and any other flowline going into or out from each solution-mining wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §3321.H.

1. Manual controls for emergency shutdown valves shall be designed for operation from a local control room, at the solution-mining well, any remote monitoring and control location, and at a location that is likely to be accessible to emergency response personnel.

2. Automatic emergency shutdown valves shall be designed to actuate on detection of abnormal pressures of the injection system, abnormal increases in flow rates, responses to any heat, fire, cavern overflow, leak sensors and detectors, loss of pressure or power to the well, cavern, or valves, or any abnormal operating condition.

H. - I.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014), amended LR 42:417 (March 2016), LR 48:2312 (September 2022).

### §3323. Monitoring Requirements

A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges or pressure sensors/transmitters that show pressure on the fluid injection string, fluid withdrawal string, and any annulus of the well, including the blanket material annulus, shall be installed at each wellhead. Gauges or pressure sensors/transmitters shall be designed to read gauge pressure in 10 PSIG increments. All gauges or pressure sensors/transmitters shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have 1/2 inch female fittings.

2. Pressure sensors designed to actuate the automatic closure of all emergency shutdown valves in response to a preset pressure (high) shall be installed and properly maintained for all fluid injection and fluid withdrawal strings, and blanket material annulus.

3. Flow sensors designed to actuate the automatic closure of all emergency shutdown valves in response to abnormal increases in cavern injection and withdrawal flow rates shall be installed and properly maintained on each solution-mining well.

B. - B.4. ...

C. Casing Inspection.

1. For all Class III Brine Wells, a casing inspection or similar log shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years. Casing inspection logs shall be submitted to the Office of Conservation and shall include an interpretive report.

2. Equivalent alternate monitoring programs to ensure the integrity of the innermost, cemented casing may be approved by the Office of Conservation in place of §3323.C.1.

D. Subsidence Monitoring.

1. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor subsidence at and in the vicinity of the solution-mining cavern(s). The monitoring plan should include at a minimum all wells/caverns belonging to the owner or operator regardless of the status of the cavern. Subsidence monitoring shall be scheduled to occur annually during the same period each year. A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:336 (February 2014), amended LR 42:418 (March 2016), LR 48:2312 (September 2022).

### **§3325. Pre-Operating Requirements—Completion Report**

A. The operator shall submit a report describing, in detail, the work performed resulting from the approved permitted activity. The report shall be submitted in paper and electronic form and shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, installation and completion of the surface portion of the facility and information on the construction, conversion, or workover of the solution-mining well or cavern. Injection into a solution-mining well shall not begin until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation stating operations may begin. Preauthorization pursuant to this Subsection is not required for workovers.

B. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;

2. revisions to any operation or construction plans since approval of the permit application;

3. as-built schematics of the layout of the surface portion of the facility;

4. as-built piping and instrumentation diagram(s);

5. copies of applicable records associated with drilling, completing, working over, or converting the solution-mining well and/or cavern including a daily chronology of such activities;

6. a certified, as-drilled location plat of the solution-mining well, accompanied by proof of filing of the plat in the parish conveyance and mortgage records;

7. as-built subsurface diagram of the solution-mining well and cavern labeled with appropriate construction, completion, or conversion information, i.e., depth datum, depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;

8. as-built diagram of the surface wellhead labeled with appropriate construction, completion, or conversion information, i.e., valves, gauges, and flowlines;

9. results of any core sampling and testing;

10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;

11. paper and electronic copies of any wireline logging such as open hole and/or cased hole logs, the most recent cavern sonar survey, and mechanical integrity test;

12. the status of corrective action on defective wells in the area of review;

13. the proposed operating data;

14. the proposed injection procedures; and

15. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:337 (February 2014), amended LR 48:2313 (September 2022).

### **§3327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. The operator of the solution-mining well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel but must be witnessed by a qualified third party. Generally accepted industry methods and standards shall apply when conducting and evaluating the tests required in this Rule.

B. Frequency of Tests

1. Without exception or variance to these rules and regulations, all solution-mining wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning injection activities.

2. All subsequent demonstrations of mechanical integrity shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

a. after physical alteration to any cemented casing or cemented liner;

b. after performing any remedial work to reestablish well or cavern integrity;

- c. before well closure, except when the cavern has experienced mechanical failure;
- d. whenever leakage into or out of the cavern system is suspected;is suspected;
- e. whenever the commissioner determines a test is warranted.

C. - C.6. ...

7. Inactive caverns. The commissioner may approve hydrostatic brine pressure monitoring for inactive wells and caverns that are in pre-closure monitoring and will not be returned to service. For any cavern removed from pre-closure monitoring that has been subject to hydrostatic brine pressure testing, a MIT must be performed in accordance with §3327.C.1-6 above prior to resuming any injection activities.

D. Submission of Pressure and Leak Test Results. One complete electronic copy of the mechanical integrity pressure and leak test results, certified by a Louisiana licensed P.E. (See §3303.G.3), shall be submitted to the Office of Conservation within 60 days of test completion. The report shall include the following minimum information:

1. - 4. ...

5. interpreted test results showing all calculations including error analysis and calculated leak rates; and

D.6. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:337 (February 2014), amended LR 42:418 (March 2016), LR 48:2313 (September 2022).

### §3329. Cavern Configuration and Capacity Measurements

A. Sonar caliper surveys shall be performed on all caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Surveys. A sonar caliper survey of the entire cavern shall be performed at least once every five years and must include horizontal shots beginning just below the deepest cemented casing shoe. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern using uptilted survey measurements. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

- 1. before commencing cavern closure operations;
- 2. whenever leakage into or out of the cavern system is suspected is suspected;
- 3. after performing any remedial work to reestablish solution-mining well or cavern integrity or raise the deepest casing seat;
- 4. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase the storage cavern size or capacity;
- 5. after completion of any additional solution-mining or washing for caverns engaged in simultaneous storage and salt solution-mining; or
- 6. whenever the Office of Conservation believes a survey is warranted.

C. Submission of Survey Results. A complete electronic version of each survey shall be submitted to the Office of Conservation within 60 days of survey completion.

1. - 1.c. ...

- d. graphical plot of cavern depth versus volume;
- e. graphical plot of the maximum cavern radii;
- f. vertical cross-sections of the cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. vertical cross-section overlays comparing results of current survey and up to 3previous surveys;
- h. isometric or 3-D shade profile of the cavern at various azimuths and rotations.
- i. Any data collected from prior surveys shall be clearly identified if included in the submitted report. §

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014), amended LR 42:418 (March 2016), LR 48:2314 (September 2022).

### §3331. Inactive Caverns and Caverns in which Mining Activities are to be Concluded

A. The operator shall comply with the following minimum requirements when there has been no injection into a solution-mining cavern for one year or the operator is prepared to conclude mining activities, regardless of the reason:

- 1. notify the Office of Conservation in writing within seven days of the well or cavern becoming inactive (out-of-service). The notification shall include the date the cavern was removed from service, the reason for taking the cavern out of service, and the expected date when the cavern may be returned to service (if known);
- 2. disconnect all flowlines for injection to the solution-mining well. If the operator anticipates that the cavern will be put back into service within the following year, they may submit a request to the commissioner to allow the cavern to remain inactive without disconnecting the flowlines;
- 3. maintain continuous monitoring of cavern pressure, fluid withdrawal, and other parameters required by the permit;
- 4. submit quarterly reports on the appropriate Form (Form UIC-50 or successor) in accordance with §3333.
- 5. maintain and demonstrate well and cavern mechanical integrity if mining operations were suspended for reasons other than a lack of mechanical integrity;
- 7. maintain compliance with financial responsibility requirements of these rules and regulations; and
- 8. any additional requirements of the Office of Conservation to document the solution-mining well and cavern shall not endanger the environment, or the health, safety and welfare of the public during the period of cavern inactivity.
- 9. No inactive solution-mining cavern may be returned to service without first submitting a written request and work permit application to the Office of Conservation and obtaining approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014), amended LR 42:418 (March 2016), LR 48:2314 (September 2022).

### §3333. Operating Reports

A. The operator shall submit quarterly operation reports to the Office of Conservation. Reports are due no later than 15 days following the end of the reporting period.

B. Quarterly reports shall be submitted electronically on the appropriate form (Form UIC-50 or successor) and reference the operator name, well name, well number, well state serial number, salt dome name, and contain the following minimum information acquired weekly during the reporting quarter:

1. maximum wellhead pressures (PSIG) on the injection string;
2. maximum wellhead pressure (PSIG) on the blanket material annulus;
3. volume in barrels of injected material;
4. results of any monitoring program required by permit or compliance action;
5. summary of any test of the solution-mining well or cavern;
6. summary of any workover performed during the month including minor well maintenance;
7. pressure releases from inactive caverns;
8. description of any event resulting in non-compliance with these rules which triggers an alarm or shutdown device and the response taken;
9. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014), and LR 48:2315 (September 2022).

### §3335. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, workovers, tests, and operation of the solution-mining well, cavern, and related surface facility. Records shall be retained throughout the operating life of the solution-mining well and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern mechanical integrity tests, cavern capacity and configuration surveys, surface construction, closure, post-closure activities, corrective action, sampling data, etc. Unless otherwise specified by the commissioner, monitoring records obtained pursuant to §3323.B shall be retained by the owner or operator for a minimum of five years from the date of collection. All documents shall be available for inspection by agents of the Office of Conservation at any time.

B. When there is a change in the owner or operator of the solution-mining well, copies of all records shall be transferred to the new owner or operator. The new owner or

operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:340 (February 2014), LR 48:2315 (September 2022).

### §3337. Closure and Post-Closure

A. Closure. The owner or operator shall close the solution-mining well, cavern, surface facility or parts thereof as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

#### 1. Notice of Intent to Close

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the solution-mining well, cavern, or surface facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted as shown in the subparagraph below.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of a solution-mining well, cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

2. Closure Plan. Plans for closure of the solution-mining well, cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of mining operations or related activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

3. Closure Plan Requirements. The owner or operator shall review the closure plan annually to determine if the conditions for closure are still applicable to the actual conditions of the solution-mining well, cavern, or surface facility. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §3309.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process:

i. a detailed cost estimate for adequate closure (plugging and abandonment) of the well and related appurtenances entire solution-mining well facility (solution-mining well, cavern, surface appurtenances, etc.) shall be prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable

and submitted to the Office of Conservation by the date specified in the permit;

ii. the closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

iii. after reviewing the required closure cost estimate, the Office of Conservation may amend the required financial surety to reflect the estimated costs to the Office of Conservation to complete the approved closure of the facility increase, decrease or allow the amount to remain the same;

iv. documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the cavern following closure;

c. an analysis of potential pathways for leakage from the cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, salt cavern geometry and depth, cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the solution-mining well and cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration) if such equipment and structures will not be used for another purpose at the same solution-mining facility;

g. the type, number, and placement of each wellbore or cavern plug including the elevation of the top and bottom of each plug;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the solution-mining well;

j. any proposed test or measurement to be made before or during closure.

4. Standards for Closure. The following are minimum standards for closing the solution-mining well or cavern. The Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding mining operations into the cavern but before closing the solution-mining well or cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and cavern fluid volume for no less than five years or a time period specified by the Office of Conservation to provide information regarding the cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the solution-mining well or cavern as described in the closure plan will not result in any pressure buildup within the cavern that could adversely affect the integrity of the solution-mining well, cavern, or any seal of the system.

b. Unless the well is being plugged and abandoned due to a failed mechanical integrity test and the condition of the casing and cavern are known, before closure, the owner or operator shall do mechanical integrity pressure and leak tests to ensure the integrity of both the solution-mining well and cavern.

c. Before closure, the owner or operator shall remove and properly dispose of any free oil or blanket material remaining in the solution-mining well or cavern.

d. Upon permanent closure, the owner or operator shall plug the solution-mining well with cement in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock.

5. Plugging and Abandonment. The well/cavern to be abandoned shall be in a state of static equilibrium prior to plugging.

a. A continuous column of cement shall fill the deepest cemented casing from shoe to surface via a series of cement plugs and shall be accomplished as follows:

i. a balanced cement plug shall be placed across the shoe of the deepest cemented casing, tagged to verify the top of cement, and pressure tested to at least 300 PSI for 30 minutes before setting the next cement plug; and

ii. subsequent cement plugs shall be spotted immediately on top of the previously-placed cement plug. Each plug shall be tagged to verify the top of cement before the next plug is placed.

b. After placing the top plug, the operator shall be required on all land locations to cut and pull the casings a minimum of 5 feet below ground level. A 1/2 inch thick steel plate shall be welded across the top of all casings. The plate shall be inscribed with the plug and abandonment date and the well serial number on top. On all water locations, the casings shall be cut and pulled a minimum of 15 feet below the mud line.

c. The plan of abandonment may be altered if new or unforeseen conditions arise during the well work, but only after approval by the Office of Conservation.

6. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 60 days after closure of the solution-mining well, cavern, surface facility, or part thereof. The report shall be submitted electronically and shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. the appropriate Office of Conservation plug and abandon report form (Form UIC-P&A or successor); and

A.6.c. - B. ...

1. The owner or operator shall review the post-closure plan at least every five years to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. - a.ii. ...

iii. after reviewing the closure cost estimate, the Office of Conservation may amend the amount to reflect the costs to the Office of Conservation to complete the approved closure of the facility;

1.a.iv. - 2.b. ...

c. conduct any groundwater monitoring by the permit or approved corrective action plan;

2.d. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:340 (February 2014), amended LR 48:2315 (September 2022).

Richard P. Ieyoub  
Commissioner

2209#070

**RULE**

**Department of Natural Resources  
Office of Conservation**

**Class V Storage Wells in Solution-Mined Salt  
Dome Cavities (LAC 43:XVII.Chapter 37)**

The Department of Natural Resources, Office of Conservation has promulgated LAC 43:XVII.Chapter 37 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The action adopts Statewide Order No. 29-M-5, which provides comprehensive regulations for storage wells containing hydrogen, nitrogen, ammonia, compressed air, or noble (inert and nonreactive) gases whether liquid, liquefied, or gaseous in salt dome cavities. This Rule is hereby adopted on the day of promulgation.

**Title 43**

**NATURAL RESOURCES**

**Part XVII. Office of Conservation—Injection and  
Mining**

**Subpart 7. Statewide Order No. 29-M-5**

**Chapter 37. Storage Wells in Solution-Mined Salt  
Dome Cavities**

**§3701. Definitions**

*Act*—part I, chapter 1 of title 30 of the *Louisiana Revised Statutes*.

*Active Cavern Well*—a storage well or cavern that is actively being used or capable of being used to store liquid, liquefied, or gaseous substances, including standby wells. The term does not include an inactive cavern well.

*Application*—the filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a storage well or parts thereof.

*Aquifer*—a geologic formation, groups of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Blanket Material*—sometimes referred to as a "pad." The blanket material is a fluid or gas placed within a cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid or gas possessing similar noncorrosive, non-solvent, low-density properties. The blanket material is placed against the cavern roof, within the cavern neck, and between the cavern's outermost hanging string and innermost cemented casing.

*Brine*—water within a salt cavern that is saturated partially or completely with salt.

*Cap Rock*—the porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, and occasionally sulfur.

*Casing*—metallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

*Catastrophic Collapse*—the sudden failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

*Cavern Neck*—the uncased wellbore between the deepest casing shoe and the cavern roof, if present.

*Cavern Roof*—the uppermost part of a cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

*Cavern Well*—a well extending into the salt stock to facilitate the injection and withdrawal of fluids into and from a salt cavern.

*Cementing*—the operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

*Circulate to the Surface*—the observing of actual cement returns to the surface during the primary cementing operation.

*Commissioner*—the *commissioner* of conservation for the state of Louisiana.

*Contamination*—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

*Effective Date*—the date of final promulgation of these rules and regulations.

*Emergency Shutdown Valve*—for the purposes of these rules, a valve that automatically closes to isolate a salt cavern well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

*Exempted Aquifer*—an aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §3703.E.2.

*Existing Cavern Well or Storage Project*—a well, salt cavern, or project permitted to store liquid, liquefied, or gaseous substances before the effective date of these regulations.

*Facility or Activity*—any facility or activity, including land or appurtenances thereto, that is subject to these regulations

*Fluid*—any material or substance that flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

*Groundwater Aquifer*—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

*Groundwater Contamination*—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

*Hanging String*—casing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

*Improved Sinkhole*—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Inactive Cavern Well*—a storage well or cavern that is capable of being used to store liquid, liquefied, or gaseous substances but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §3709.I.3 and §3731.

*Incidental Constituents*—secondary substances collected as an unavoidable consequence of the separation or production processes yielding the primary substance.

*Injection and Mining Division*—the Injection and Mining Division of the Louisiana Office of Conservation within the Louisiana Department of Natural Resources.

*Injection Well*—a well into which fluids are injected, excepting fluids associated with active drilling operations.

*Injection Zone*—a geological formation, group of formations or part of a formation receiving fluids through an injection well.

*Leaching*—See solution-mining.

*Mechanical Integrity*—an injection well has mechanical integrity if there is no significant leak in the casing, tubing, or packer and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

*Mechanical Integrity Pressure and Leak Test* (also called Mechanical Integrity Test)—a test performed to determine whether a cavern or well has mechanical integrity.

*Migrating*—any movement of fluids by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

*New Cavern Well*—a storage well or cavern permitted by the Office of Conservation after the effective date of these regulations.

*Office of Conservation*—the Louisiana Office of Conservation within the Department of Natural Resources.

*Open Borehole*—the portion of the drilled well bore that is uncased at any point in time.

*Operator*—the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

*Owner*—the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

*Permit*—an authorization, license, or equivalent control document issued by the commissioner to implement the requirements of these regulations. Permit includes, but is not limited to, area permits and emergency permits. Permit does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a draft permit.

*Person*—an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

*Post-Closure Care*—the appropriate monitoring and other actions (including corrective action) needed following cessation of a storage project to ensure that USDWs are not endangered.

*Previously Closed Cavern Well*—a storage well or cavern that is no longer used or capable of being used to store liquid, liquefied, or gaseous hydrocarbons and was closed prior to the effective date of these regulations.

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution-mining for brine.

*Project*—a group of wells or salt caverns used in a single operation.

*Public Water System*—a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

*Release*—the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

*Salt Dome*—a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

*Salt Stock*—a typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

*Schedule of Compliance*—a schedule or remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the act and these regulations.

*Site*—the land or water area where any facility or activity is physically located or conducted including adjacent land used in connection with the facility or activity.

*Solution-Mining*—the process of dissolving salt by means of circulating water from the surface, through a well to the subsurface where the salt is dissolved, and returning the fluid to the surface as brine.

*Solution-Mined Cavern*—a cavity or cavern created within the salt stock by dissolution with water.

*Solution-Mining Well*—a well which injects for extraction of minerals including:

1. mining of sulfur by the Frasch process;
2. in situ production of uranium or other metals;
3. solution mining of salts or potash.

*Solution-Mining under Gas (SMUG)*—a technique allowing the storage of product while simultaneously solution-mining the cavern for the purpose of cavern enlargement.

*State*—the state of Louisiana.

*Storage Cavern*—a salt cavern created within the salt stock by solution-mining and used to store liquid, liquefied, or gaseous substances.

*Subsidence*—the downward settling of the earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

*Surface Casing*—steel pipe placed inside the conductor casing in the borehole which extends below, and is protective of, the USDW and other shallow geologic formations.

*UIC*—the Louisiana State Underground Injection Control Program.

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the commissioner of conservation.

*Underground Source of Drinking Water (USDW)*—an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
  - a. currently supplies drinking water for human consumption; or
  - b. contains fewer than 10,000 mg/l total dissolved solids; and which is not an exempted aquifer.

*Waters of the State*—both surface and underground waters within the state of Louisiana including all rivers, streams,

lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

*Well*—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

*Well Plug*—a fluid-tight seal installed in a borehole or well to prevent the movement of fluids.

*Workover*—to perform one or more of a variety of remedial operations on an injection well, such as cleaning, perforation, changing tubing, deepening, squeezing, plugging back, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2317 (September 2022).

### §3703. General Provisions

#### A. Applicability

1. These rules and regulations shall apply to applicants, owners, or operators of any solution-mined salt cavern to store hydrogen, carbon dioxide, nitrogen, ammonia, compressed air, or noble (inert and nonreactive) gases whether liquid, liquefied, or gaseous.

2. No project to develop or use a salt dome in the state of Louisiana for the injection, storage and withdrawal of liquid, liquefied, or gaseous substances shall be allowed until the commissioner has issued an order following a public hearing after 30-day notice, under the rules covering such matters, which order shall include the following findings of fact:

a. that the area of the salt dome sought to be used for the injection, storage, and withdrawal of liquid, liquefied, or gaseous substances is suitable and feasible for such use as to area, salt volume, depth and other physical characteristics;

b. that the use of the salt dome cavern for the storage of liquid, liquefied, or gaseous substances will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits, except salt;

c. that the proposed storage, including all surface pits and surface storage facilities incidental thereto which are used in connection with the salt dome cavern storage operation, will not endanger lives or property and is environmentally compatible with existing uses of the salt dome area, and which order shall provide that:

i. liquid, liquefied, or gaseous substances, which are injected and stored in a solution-mined salt dome cavern, shall at all times be deemed the property of the injector, his successors or assigns, subject to the provisions of any contract with the affected land or mineral owners; and

ii. in no event shall the owner of the surface of the lands or water bottoms or of any mineral interest under or adjacent to which the storage cavern may lie, or any other person, be entitled to any right of claim in or to such liquid, liquefied, or gaseous substances stored unless permitted by the injector;

d. that temporary loss of jobs caused by the storage of liquid, liquefied, or gaseous substances will be corrected by compensation, finding of new employment, or other provisions made for displaced labor.



3. That in presenting evidence to the commissioner to enable him to make the findings described above, the applicant shall demonstrate that the proposed storage of liquid, liquefied, or gaseous substances enumerated in §3703.A.1 will be conducted in a manner consistent with established practices to preserve the integrity of the salt stock and the overlying sediments. This shall include an assessment of the stability of the proposed cavern design, particularly with regard to the size, shape and depth of the cavern, the amount of separation among caverns, the amount of separation between the outermost cavern wall and the periphery of the salt stock, and any other requirements of this Rule.

4. That these regulations shall apply to all liquid, liquefied, or gaseous solution-mined salt cavern storage projects begun before October 1, 1976, as specified in §3703.A.2, except for the requirements under §3707 and §3711.A-H. Any liquid, liquefied, or gaseous substance storage projects begun before October 1, 1976 shall fulfill the requirements of §3709.K within one year of the effective date of these regulations.

#### B. Prohibition of Unauthorized Injection

1. The construction, conversion, or operation of a storage well or salt cavern without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the state of Louisiana.

#### C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected or stored fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the storage well shall have the burden of showing that this requirement is met.

2. The Office of Conservation may take emergency action upon receiving information that injected or stored fluid is present in or likely to enter an underground source of drinking water or may present an imminent and substantial endangerment to the environment, or the health, safety and welfare of the public.

D. Prohibition of Surface Discharges. The intentional, accidental, or otherwise unauthorized discharge of fluids, wastes, or process materials into manmade or natural drainage systems or directly into waters of the state is prohibited.

#### E. Identification of Underground Sources of Drinking Water and Exempted Aquifers

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §3703.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if an aquifer has not been specifically identified by the Office of Conservation it is an underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation

proposes to denote as exempted aquifers if they meet the following criteria:

a. the aquifer does not currently serve as a source of drinking water; and

b. the aquifer cannot now and shall not in the future serve as a source of drinking water because:

i. it is mineral, hydrocarbon, or geothermal energy producing or can be demonstrated to contain minerals or hydrocarbons that when considering their quantity and location are expected to be commercially producible;

ii. it is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

iii. it is so contaminated that it would be economically or technologically impractical to render said water fit for human consumption; or

iv. it is located in an area subject to severe subsidence or catastrophic collapse; or

c. the total dissolved solids (TDS) content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

#### F. Exceptions/Variations/Alternative Means of Compliance

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions, variances, or alternative means of compliance to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception, variance, or alternative means of compliance and any associated mitigating measures shall not result in an unacceptable increase of endangerment to the environment, or the health, safety, and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception, variance, or alternative means of compliance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

a. When injection does not occur into, through, or above an underground source of drinking water, the commissioner may authorize a storage well or project with less stringent requirements for area-of-review, construction, mechanical integrity, operation, monitoring, and reporting than required herein to the extent that the reduction in requirements will not result in an increased risk of movements of fluids into an underground source of drinking water or endanger the public.

b. When reducing requirements under this Section, the commissioner shall issue a fact sheet in accordance with §3711.F explaining the reasons for the action.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The commissioner may require public notice and a public hearing prior to granting any exception or variance if he

determines it to be in the public interest or otherwise appropriate. The requester of the exception or variance shall be responsible for all costs associated with any public notice or public hearing.

3. Operators of Class V Storage wells and/or caverns may request to operate in accordance with alternative means of compliance previously approved by the commissioner of conservation. Alternative means of compliance shall mean operations that are capable of demonstrating a level of performance, which meets or exceeds the standards contemplated by these regulations. Owners or operators of caverns existing at the time of these rules may submit alternative means of compliance to be approved by the commissioner of conservation. The commissioner may review and approve upon finding that the alternative means of compliance meet, ensure, and comply with the purpose of the rules and regulations set forth herein provided the proposed alternative means of compliance ensures comparable or greater safety of personnel and property, protection of the environment and public, quality of operations and maintenance, and protection of the USDW.

G. Additional Requirements.

1. All tests, reports, logs, surveys, plans, applications, or other submittals whether required by these rules and regulations or submitted for informational purposes are required to bear the Louisiana Office of Conservation serial number of any solution-mining or storage well associated with the submittal.

2. All applications, reports, plans, requests, maps, cross-sections, drawings, opinions, recommendations, calculations, evaluations, or other submittals including or comprising geoscientific work as defined by La. R.S. 37.711.1. et seq. and required by the Office of Conservation must be prepared, sealed, signed, and dated by a licensed Professional Geoscientist (P.G.) authorized to practice by and in good standing with the Louisiana Board of Professional Geoscientists.

3. All applications, reports, plans, requests, designs, specifications, details, calculations, drawings, opinions, recommendations, evaluations or other submittals including or comprising the practice of engineering as defined by La. R.S. 37.681. et seq. and required by the Office of Conservation must be prepared, sealed, signed, and dated by a licensed Professional Engineer (P.E.) authorized to practice by and in good standing with the Louisiana Professional Engineering and Land Surveying Board.

4. The commissioner may prescribe additional requirements for storage wells or projects in order to protect USDWs and the health, safety, and welfare of the public.

5. Class V storage caverns may encompass a broad range of storage substances and the commissioner may prescribe additional requirements as necessary to protect the USDW and health, safety, and welfare of the public.

6. For additional requirements specific to the stored media identified in §3703.A.1, see §3739 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2319 (September 2022).

### §3705. Permit Requirements

A. Applicability. No person shall construct, convert, or operate a storage well or cavern without first obtaining written authorization (permit) from the Office of Conservation.

B. Application Required. Applicants for a storage well or cavern, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit one original application form and one electronic copy with all required attachments and documentation to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information necessary to show compliance with applicable state laws and these regulations.

C. Who Applies. It is the duty of the owner or proposed owner of a facility or activity to submit a permit application and obtain a permit. When a facility or activity is owned by one person and operated by another, it is the duty of the operator to file and obtain a permit.

D. Signature Requirements. All permit applications shall be signed as follows.

1. Corporations. By a principal executive officer of at least the level of vice-president, or duly authorized representative of that person if the representative performs similar policy making functions for the corporation. A person is a duly authorized representative only if:

a. the authorization is made in writing by a principal executive officer of at least the level of vice-president;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a storage facility, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

2. Limited Liability Company (LLC). By a member if the LLC is member-managed, by a manager if the LLC is manager-managed, or by a duly authorized representative only if:

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in this Paragraph;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a storage well, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

3. Partnership or Sole Proprietorship. By a general partner or proprietor, respectively; or

4. Public Agency. By either a principal executive officer or a ranking elected official of a municipality, state, federal, or other public agency.

E. Signature Reauthorization. If an authorization under §3705.D is no longer accurate because a different individual or position has responsibility for the overall operation of a storage facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing an application under §3705.D shall make the following certification on the application.

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine, and/or imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2321 (September 2022).

### §3707. Application Content

A. The following minimum information shall be required for each permit application. The applicant shall also refer to the appropriate application form for any additional information that may be required.

1. For Class V storage wells being dually permitted for Class III solution-mining, a single consolidated submittal containing both applications may be accepted.

B. Administrative information:

1. all required state application form(s);
2. nonrefundable application fee(s) as per LAC 43:XIX.Chapter 7 or successor document;
3. name and mailing address of the applicant and the physical address of the storage facility;
4. operator's name, address, telephone number, and e-mail address;
5. ownership status as federal, state, private, public, or other entity;
6. brief description of the nature of the business associated with the activity;
7. activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations;
8. up to four SIC codes which best reflect the principal products or services provided by the facility;
9. a listing of all permits or construction approvals that the applicant has received or applied for under any of the following programs and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted by the applicant under the permit being sought:
  - a. the Louisiana Hazardous Waste Management;
  - b. this or any other Underground Injection Control Program;
  - c. National Pollutant Discharge Elimination System (NPDES) Program under the Clean Water Act;
  - d. Prevention of Significant Deterioration (PSD) Program under the Clean Air Act;
  - e. Nonattainment Program under the Clean Air Act;

f. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

g. ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

h. dredge or fill permits under Section 404 of the Clean Water Act; and

i. other relevant environmental permits including, but not limited to any state permits issued under the Louisiana Office of Coastal Management, the Louisiana Surface Mining Program, or the Louisiana Natural and Scenic Streams System;

10. acknowledgment as to whether the facility is located on Native American or tribal lands or other lands under the jurisdiction or protection of the federal government, or whether the facility is located on state water bottoms or other lands owned by or under the jurisdiction or protection of the state of Louisiana;

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility for closure and post-closure shall be provided as required in §3709.B. Before making a final permit decision, the official instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

12. a map with accompanying tabulation identifying names and addresses of all property owners within the area-of-review of the solution-mined storage cavern.

C. Maps and related information:

1. certified location plat of the storage well and/or area permit boundary prepared and certified by a registered land surveyor licensed and in good standing with the Louisiana Professional Engineering and Land Surveying Board. The location plat shall be prepared according to standards of the Office of Conservation;

2. topographic or other map(s) extending at least one mile beyond the property boundaries of the storage facility depicting the facility and each well where fluids are injected underground, and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township, and range of the area in which the storage well is located and any parish, city or municipality boundary lines within one mile of the facility boundary;

4. map(s) showing the storage well for which the permit is sought, the project area or property boundaries of the facility in which the storage well is located, and the applicable area of review. Within the area of review, the map(s) shall show the well name, well number, well state serial number, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems, and water wells. The map(s) shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads. Only information of public record and pertinent information known to the applicant is required to be included on the map(s);

5. maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection

formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

6. generalized maps and cross-sections illustrating the regional geologic setting;

7. structure contour mapping of the salt stock on a scale no smaller than 1 inch to 500 feet;

8. maps and vertical cross-sections detailing the geologic structure of the local area. The cross-sections shall be structural (as opposed to stratigraphic cross-sections), be referenced to sea level, show the storage well and the cavern being permitted, all adjacent salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other boreholes and wells that penetrate the salt stock. Cross-sections should be oriented to indicate the closest approach to adjacent caverns, boreholes, wells, the edge of the salt stock, etc., and shall extend at least one mile beyond the edge of the salt stock unless the edge of the salt stock and any existing oil and gas production can be demonstrated in a shorter distance and is administratively approved by the Office of Conservation. Salt caverns shall be depicted on the cross-sections using data from the most recent sonar caliper survey. Known faulting in the area shall be illustrated on the cross-sections such that the displacement of subsurface formations is accurately depicted;

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome which may affect the proposed well; and

10. any other information required by the Office of Conservation to evaluate the storage well, salt cavern, storage project, and related surface facility.

D. Area of Review Information. Refer to §3713.E for area of review boundaries and exceptions. Only information of public record or otherwise known to the applicant need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures that penetrate or are within the salt stock in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review:

1. a discussion of the protocol used by the applicant to identify wells and manmade structures that penetrate or are within the salt stock in the defined area of review;

2. a tabular listing of all known water wells in the area of review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc.), and current well status (active, abandoned, etc.);

3. a tabular listing of all known wells (excluding water wells) in the area of review with penetrations into the cap rock or salt stock to include at a minimum:

a. operator name, well name and number, state serial number (if assigned), and well location;

b. well type and current well status (producing, disposal, storage, solution-mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

c. well depth, construction, completion (including completion depths), plug and abandonment data; and

d. any additional information the commissioner may require;

4. the following information shall be provided on manmade structures within the salt stock regardless of use, depth of penetration, or distance to the storage well or cavern being the subject of the application:

a. a tabular listing of all salt caverns to include:

i. operator name, well name and number, state serial number, and well location;

ii. current or previous use of the cavern (waste disposal, storage cavern, solution-mining), current status of the cavern (active, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

iii. cavern depth, construction, completion (including completion depths), plug and abandonment data;

b. a tabular listing of all conventional (dry or room and pillar) mining activities, whether active or abandoned. The listing shall include the following minimum items:

i. owner or operator name and address;

ii. current mine status (active, abandoned);

iii. depth and boundaries of mined levels;

iv. the closest distance of the mine in any direction to the storage well and cavern.

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information in technical report format:

1. for existing caverns, the results of the latest cavern sonar caliper survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §3713.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed, or plugged and abandoned;

3. plans for performing the geological, geomechanical, geochemical, engineering, and other site assessment studies of §3713 to assess the stability of the salt stock and overlying and surrounding sediments based on past, current, and planned well and cavern operations. If such studies are complete, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the storage well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the storage well and cavern to include borehole diameters; all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; the depth datum; and any other pertinent details;

6. surface site diagram(s) of the facility in which the storage well is located, including but not limited to surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, field offices, monitoring and safety equipment, required curbed or other retaining wall heights, etc.;

7. unless already obtained, a proposed formation testing program to obtain the geomechanical properties of the salt stock;

8. proposed injection and withdrawal procedures;

9. plans and procedures for operating the storage well, cavern, and related surface facility to include at a minimum:

- a. average and maximum daily rate and volume of fluid to be injected;
- b. average and maximum injection pressure; and
- c. the cavern design requirements of §3715, including, but not limited to cavern spacing requirements;
- d. enhanced monitoring plan implementation for any existing cavern within the mandatory setback distance location of §3715.B.3;
- e. the well construction and completion requirements of §3717, including, but not limited to open borehole surveys, casing and cementing, casing and casing seat tests, cased borehole surveys, hanging strings, and wellhead components and related connections;
- f. the operating requirements of §3719, including, but not limited to cavern roof restrictions, blanket material, remedial work, well recompletion, multiple well caverns, cavern allowable operating pressure and rates, and disposition of extracted cavern fluid for pressure management;
- g. the safety requirements of §3721, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, systems test and inspections, and surface facility retaining walls and spill containment, contingency plans to cope with all shut-ins as a result of noncompliance with these regulations or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;
- h. the monitoring requirements of §3723, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, and subsidence monitoring, as well as a description of methods that will be undertaken to monitor cavern growth;
- i. the pre-operating requirements of §3725, specifically the submission of a completion report, and the information required therein;
- j. the mechanical integrity pressure and leak test requirements of §3727, including, but not limited to frequency of tests, test methods, submission of pressure and leak test results, and notification of test failures;
- k. the cavern configuration and capacity measurement procedures of §3729, including, but not limited to sonar caliper surveys, frequency of surveys, and submission of survey results;
- l. the requirements for inactive caverns in §3731;
- m. the reporting requirements of §3733, including, but not limited to the information required in quarterly operation reports;
- n. the record retention requirements of §3735;
- o. the closure and post-closure requirements of §3737, including, but not limited to closure plan requirements, notice of intent to close, standards for closure, and post-closure requirements;
- p. any other information pertinent to the operation of the storage well, including, but not limited to any waiver for surface siting, monitoring equipment and safety procedures.

F. If an alternative means of compliance has previously been approved by the commissioner of conservation within an area permit, applicants may submit means of compliance for new applications for wells and/or storage caverns within the same area permit in order to meet the requirements of E.9.f, g, and h of this Section.

G. Confidentiality of Information. In accordance with R.S. 44.1 et seq., any information submitted to the Office of Conservation pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application for, or instructions or, in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, the Office of Conservation may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in R.S. 44.1 et seq. (Public Information).

1. Claims of confidentiality for the following information will be denied:

- a. the name and address of any permit applicant or permittee; and
- b. information which deals with the existence, absence, or level of contaminants in drinking water or zones other than the approved injection zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2322 (September 2022).

### §3709. Legal Permit Conditions

A. Signatories. All reports required by permit or regulation and other information requested by the Office of Conservation shall be signed as in applications by a person described in §3705.D or §3705.E.

#### B. Financial Responsibility

1. Closure and Post-Closure. The owner or operator of a Class V storage well shall maintain financial responsibility and the resources to close, plug and abandon and where necessary, conduct post-closure care of the storage well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the storage cavern including but not limited to Class II Saltwater Disposal Wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3737.A and post-closure plan of §3737.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant

to LAC 43: XVII.309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. **Renewal of Financial Responsibility.** Any approved instrument of financial responsibility coverage shall be renewable yearly. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well approved by the commissioner.

3. **Assistance to Residents.** The operator shall provide assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that leads to issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq. if the potential risk or evacuation is associated with the operation of a storage well or cavern.

a. Unless an operator of a Class V storage well or cavern submits a plan to provide evacuation assistance, acceptable to the commissioner, within 5 days of the issuance of a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq. associated with the operation of a storage well or cavern, the commissioner of conservation shall:

i. call a public hearing as soon as practicable to take testimony from any interested party including the authority which issued the evacuation order and local governmental officials for the affected area to establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance, if any. As soon as practicable following the public hearing the commissioner shall issue an order identifying any responsible operator(s) and establishing evacuation assistance amounts. The assistance amounts shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Clause ii of this Subparagraph below;

ii. upon request of an interested party, call for a public hearing to take testimony from any interested party in order to consider establishing or modifying evacuation assistance amounts and/or consider a challenge to the finding of a responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

b. Assistance to residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. **Reimbursement.** The operator shall provide the following:

a. reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the

permittee or operator for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster:

i. the commissioner shall have authority to ensure collection of reimbursement(s) due pursuant to R.S. 30:4.M.6.b and this Subparagraph;

ii. upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs;

iii. failure to make the required payment(s) shall be a violation of the permit and these rules;

iv. should any interested party dispute the amount of reimbursement, they may call for a public hearing to take testimony from all interested parties. The public hearing shall be noticed and held in accordance with R.S. 30:6;

b. reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq. for a period of more than 180 days, without interruption due to a violation of this Chapter, the Permit or any Order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. **Duty to Comply.** The operator must comply with all conditions of a permit. Any permit noncompliance is a violation of the act, the permit and these rules and regulations and is grounds for enforcement action, permit termination, revocation and possible reissuance, modification, or denial of any future permit renewal applications if the commissioner determines that such noncompliance endangers underground sources of drinking water. If the commissioner determines that such noncompliance is likely to endanger underground sources of drinking water, it shall be the duty of the operator to prove that continued operation of the storage well shall not endanger the environment, or the health, safety, and welfare of the public.

D. **Duty to Halt or Reduce Activity.** It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this Rule or permit.

E. **Duty to Mitigate.** The owner or operator shall take all reasonable steps to minimize or correct any adverse impact on the environment such as the contamination of

underground sources of drinking water resulting from a noncompliance with the permit or these rules and regulations.

F. Proper Operation and Maintenance

1. The operator shall always properly operate and maintain all facilities and systems of injection, withdrawal, and control (and related appurtenances) installed or used to achieve compliance with the permit or these rules and regulations. Proper operation and maintenance include effective performance (including well and cavern mechanical integrity), adequate funding, adequate operation, staffing and training, and adequate process controls. This provision requires the operation of back-up, auxiliary facilities, or similar systems when necessary to achieve compliance with the conditions of the permit or these rules and regulations.

2. The operator shall address any unauthorized escape, discharge, or release of any material from the storage well, or part thereof that is in violation of any state or federal permit or which is not incidental to normal operations, with a corrective action plan. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge, or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged, or released material if the material is believed to have entered or has the possibility of entering an underground source of drinking water.

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a storage well, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety, and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the storage well, or part thereof, shall not endanger the environment, or the health, safety, and welfare of the public.

G. Inspection and Entry. Inspection and entry at a storage well facility by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

H. Property Rights. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege or servitude.

I. Notification Requirements. The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated in this Subsection.

1. Any change in the principal officers, management, owner or operator of the storage well shall be reported to the Office of Conservation in writing within 10 days of the change.

2. Planned physical alterations or additions to the storage well, cavern, surface facility or parts thereof that may constitute a modification or amendment of the permit. No mechanical integrity tests, sonar caliper surveys, remedial work, well or cavern abandonment, or any test or work on a cavern well (excluding an interface survey not

associated with a mechanical integrity test) shall be performed without prior authorization from the Office of Conservation. The operator must submit the appropriate work permit request form (Form UIC-17 or subsequent document) for approval.

3. Whenever a storage cavern is removed from service and the cavern is expected to remain out of service for one year or more, the operator shall notify the Office of Conservation in writing within seven days of the cavern becoming inactive (out-of-service). The notification shall include the date the cavern was removed from service, the reason for taking the cavern out of service, and the expected date, if known, when the cavern may be returned to service. See §3731 for additional requirements for inactive caverns.

4. The operator of a new or converted storage well shall not begin storage operations until the Office of Conservation has been notified of the following:

a. well construction or conversion is complete, including submission of a notice of completion, a completion report, and all supporting information (e.g., as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §3725;

b. a representative of the commissioner has inspected the well and/or facility and finds it is in compliance with the conditions of the permit; and

c. the operator has received written approval from the Office of Conservation indicating storage operations may begin.

5. Noncompliance or anticipated noncompliance with the permit or applicable regulations (which may result from any planned changes in the permitted facility or activity) including a failed mechanical integrity pressure and leak test of §3727.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation clearly stating that the permit has been transferred. This action may require modification or revocation and re-issuance (see §3711.K) of the permit to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

7. Compliance Schedules. Report of compliance or noncompliance with interim and final requirements contained in any compliance schedule in these regulations, or any progress reports, shall be submitted to the commissioner no later than 14 days following each schedule date.

8. Twenty-Four Hour Reporting

a. The operator shall report any noncompliance that may endanger the environment, or the health, safety, and welfare of the public. Any information pertinent to the noncompliance shall be reported to the Office of Conservation by telephone at (225) 342-5515 within 24 hours from when the operator became aware of the circumstances. In addition, a written submission shall be provided within five days from when the operator became aware of the circumstances. The written notification shall contain a description of the noncompliance and its cause, the

periods of noncompliance including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

b. The following additional information must also be reported within the 24-hour period:

i. monitoring or other information (including a failed mechanical integrity test) that suggests the storage operations may cause an endangerment to underground sources of drinking waters, oil, gas, other commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the injection/withdrawal system (including a failed mechanical integrity test) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or cavern.

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of storage operations. Notification shall be given within seven days after concluding storage operations. The notification shall include the date on which storage activities were concluded, the reason for concluding the storage activities, and a plan to meet the minimum requirements as per §3731. See §3737 for additional requirements to be conducted after concluding storage activities but before closing the storage well or cavern. Storage caverns that are not in an inactive status as of the date written notification of permanent conclusion of storage operations is submitted to the Office of Conservation will be immediately placed in an inactive status.

10. The operator shall give written notification before abandonment (closure) of the storage well, related surface facility, or in the case of area permits before closure of the project. Abandonment (closure) shall not begin before receiving written authorization from the Office of Conservation.

11. When the operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Office of Conservation, the operator shall promptly submit such facts and information.

#### J. Duration of Permits

1. Authorization to Operate. Authorization by permit to operate a Class V storage well and salt cavern shall be valid for a fixed term not to exceed ten years. Any Class V storage permit may be suspended, modified, revoked and reissued, or terminated for cause as described in §3711.K. The commissioner may issue for cause any permit for a duration that is less than the full allowable term under this Section. Conversion of a Class III solution-mining well and cavern to storage does not nullify or void the existing Class III solution-mining permit unless expressly ordered by the commissioner.

2. Authorization to Drill, Construct, or Convert. Authorization by permit to drill, construct, or convert a storage well shall be valid for one year from the effective date of the permit. If drilling or conversion is not completed in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the time of Paragraph 2 above; however, the Office of Conservation shall approve the request only for just cause and only if the permitting conditions have not changed. The operator shall have the burden of proving claims of just cause.

4. Duty to Reapply. If the permittee wishes to continue an activity regulated by a permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

i. The conditions of an expired permit may continue in force until the effective date of a new permit if the permittee has submitted a timely and a complete application for a new permit no less than 6 months prior to permit expiration, and the commissioner, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (e.g., when issuance is impracticable due to time or resource constraints).

K. Compliance Review. The commissioner shall review each Class V storage well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether minor modifications are needed, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year compliance review, pursuant to R.S. 30:4.M.2, the operator shall submit the following minimum information to the Office of Conservation, based upon the best available information.

a. Structural Map. A structural map of the top of salt including an aerial view of the maximum extent outline(s) of the operator's caverns and any other adjacent solution-mining caverns, disposal caverns, storage caverns, or room and pillar mines. The maximum cavern outlines shall be based upon the latest sonar survey for each cavern.

#### b. Cross-Sections

i. Cross-sections illustrating the closest approach between an operator's caverns, between an operator's caverns and any adjacent solution-mining caverns, disposal caverns, storage caverns, or room and pillar mines if indicated to be proximal to adjacent caverns or mines.

ii. Cross-sections illustrating the closest approach between the operator's caverns and the edge of salt stock, if the edge of the cavern, based upon the best available information, is indicated to be less than 500 feet from the edge of salt stock.

iii. All cross-sections shall be based upon the latest sonar survey for each cavern and the latest structural map of the top of salt based upon the best available information.

c. A tabulation of each of the operator's caverns with minimum offset distances listed to adjacent caverns, the edge of salt, and adjacent property boundaries.

2. As a part of the five year compliance review process, the well operator shall review the closure and post-closure plan and associated cost estimates of §3737 to determine if the conditions for closure are still applicable to the actual conditions.



3. As a part of the five year compliance review process, the operator shall submit any other information required by the commissioner.

L. Schedules of Compliance. The permit may specify a schedule of compliance leading to compliance with the act and these regulations.

1. Time for Compliance. Any schedules of compliance under this Section shall require compliance as soon as possible but not later than three years after the effective date of the permit.

2. Interim Dates. Except as provided in Subparagraph b below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year.

b. If the time necessary for completion of any interim requirements (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

M. Area or Project Permit Authorization

1. A newly permitted Class V storage well and associated cavern may be constructed within the footprint of an existing Class II HSW or Class III BR area-wide permit boundary, but the operator must conform to all requirements set forth in this Chapter.

N. Recordation of Notice of Existing Storage Caverns. The owner or operator of an existing Class V storage cavern shall record a certified as-drilled survey plat of the well location for the cavern in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six months after the construction of the storage well and the owner or operator shall furnish a date/file -stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. Additional Conditions. The Office of Conservation shall, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2324 (September 2022).

### §3711. Permitting Process

A. Applicability. This Section has procedures for issuing and transferring permits to operate a Class V storage well and cavern. Any person required to have a permit shall apply to the Office of Conservation as stipulated in §3705. The Office of Conservation shall not issue a permit before receiving an application form and any required supplemental information showing compliance with these rules and regulations, and that is administratively and technically complete to the satisfaction of the Office of Conservation.

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application for a storage cavern or caverns or an area permit, is proposed for filing with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. Without exception, the applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period. If the applicant is dually permitting a well for both Class III solution-mining and Class V storage the public notice of intent for both applications may be combined.

2. The notice shall be published once in the legal advertisement sections in the official state journal and in the official journal of the parish of the proposed project location. The cost for publishing the notices is the responsibility of the applicant and shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility to be regulated by the permit;

b. the geographic location of the proposed project;

c. name and address of the regulatory agency to process the permit action where interested persons may obtain information concerning the application or permit action; and

d. a brief description of the business conducted at the facility or activity described in the permit application.

3. The applicant shall submit the proof of publication of the notice of intent when submitting the application.

C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original paper application form, with required attachments and documentation, and one copy of the same to the Office of Conservation. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. In addition to submitting the application on paper, the applicant shall submit an exact duplicate of the paper application in an electronic format approved by the commissioner. The commissioner may request additional paper copies of the application, either in its entirety or in part, as needed. The electronic version of the application shall contain the following certification statement.

This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) to the Louisiana Office of Conservation.

2. The applicant shall be notified if a representative of the Office of Conservation decides that a site visit is necessary for any reason in conjunction with the processing of the application. Notification may be either oral or written and shall state the reason for the visit.

3. If the Office of Conservation deems an application to be incomplete, deficient of information, or requires additional data, a notice of application deficiency indicating the information necessary to make the application complete shall be transmitted to the applicant.

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely.

a. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

b. The applicant may appeal the decision to deny the application in a letter to the commissioner who may call a public hearing through §3711.D.

D. Public Hearing Requirements. A public hearing for new well applications shall not be scheduled until administrative and technical review of an application has been completed to the satisfaction of the Office of Conservation.

#### 1. Public Notice of Permit Actions

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the commissioner shall require the applicant to give public notice that the following actions have occurred:

- i. an application has been received;
- ii. a draft permit has been prepared under §3711.E; and
- iii. a public hearing has been scheduled under §3711.D.

b. No public notice or public hearing is required for additional wells drilled or for conversion under an approved area permit or when a request for permit modification, revocation and reissuance, or termination is denied under §3711.K.

#### 2. Public Notice by Applicant

a. Public notice shall be published by the applicant in the legal advertisement section of the official state journal and the official journal of the parish of the proposed project location not less than 30 days before the scheduled hearing. If the applicant is dually permitting a well for both Class III solution-mining and Class V storage the public notice of a hearing for both applications may be combined.

b. The applicant shall provide notice of the scheduled public hearing by forwarding a copy of the notice by mail or e-mail to:

- i. the Office of Conservation, Injection and Mining Division;
- ii. all property owners within 1320 feet of the storage facility's property boundary;
- iii. operators of existing projects located on or within the salt stock of the proposed project;

iv. United States Environmental Protection Agency;

v. Louisiana Department of Wildlife and Fisheries;

vi. Louisiana Department of Environmental Quality;

vii. Louisiana Office of Coastal Management;

viii. Louisiana Office of Conservation, Pipeline Division;

ix. Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;

x. the governing authority for the parish of the proposed project; and

xi. any other interested parties.

3. Public Notice Contents. Public notices shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;

b. name and address of the regulatory agency processing the permit action;

c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application;

e. a statement that a draft permit has been prepared under §3711.E;

f. a brief description of the public comment procedures;

g. a brief statement of procedures whereby the public may participate in the final permit decision;

h. the time, place, and a brief description of the nature and purpose of the public hearing;

i. a reference to the date of any previous public notices relating to the permit;

j. any additional information considered necessary or proper by the commissioner.

#### 4. Application Availability for Public Review

a. The applicant shall file at least one copy of the complete permit application with:

i. the local governing authority of the parish of the proposed project location; and

ii. in a public library in the parish of the proposed project location.

b. The applicant shall deliver copies of the application to the aforementioned locations before the public notices are published in the respective journals.

c. A duplicate of the complete permit application in electronic format shall be submitted to the Office of Conservation.

E. Draft Permit. The Office of Conservation shall prepare a draft permit after an application is determined to be complete. Draft permits shall be publicly noticed and made available for public comment.

#### F. Fact Sheet

1. The Office of Conservation shall prepare a fact sheet for every draft permit. It shall briefly set forth principal facts and significant factual, legal, and policy questions considered in preparing the draft permit.

2. The fact sheet shall include, when applicable:
  - a. a brief description of the type of facility or activity that is the subject of the draft permit or application;
  - b. the type and proposed quantity of material to be injected;
  - c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provision;
  - d. a description of the procedures for reaching a final decision on the draft permit or application including the beginning and ending date of the public comment period, the address where comments shall be received, and any other procedures whereby the public may participate in the final decision;
  - e. reasons why any requested variances or alternative to required standards do or do not appear justified;
  - f. procedures for requesting a hearing and the nature of that hearing; and
  - g. the name and telephone number of a person within the permitting agency to contact for additional information;
  - h. that due consideration has been given to alternative sources of water for the leaching of cavities.
3. The fact sheet shall be distributed to the permit applicant and to any interested person on request.

#### G. Public Hearing

1. The Office of Conservation shall fix a time, date, and location for a public hearing. The cost of the public hearing is set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant. If the applicant is dually permitting a well for both Class III solution-mining and Class V storage, both applications may be considered at the same public hearing.
2. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.
3. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend the public comment period by so stating before the close of the hearing.
4. A transcript shall be made of the hearing and such transcript shall be available for public review.

#### H. Public Comments, Response to Comments, and Permit Issuance

1. Any interested person may submit written comments concerning the permitting activity during the public comment period. All comments pertinent and significant to the permitting activity shall be considered in making the final permit decision.
2. The Office of Conservation shall issue a response to all pertinent and significant comments as an attachment to and at the time of final permit decision. The final permit

with response to comments shall be made available to the public. The response shall:

- a. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
- b. briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period or hearing.
3. The Office of Conservation may issue a final permit decision within 30 days following the close of the public comment period; however, this time may be extended due to the nature, complexity, and volume of public comments received.
4. A final permit decision shall be effective on the date of issuance.
5. The owner or operator of a solution-mined storage cavern permit shall record a certified survey plat and final permit, which shall include any orders, permits to construct, and permits to store, in the mortgage and conveyance records of the parish in which the property is located. A date/file stamped copy of the plat and final permit is to be furnished to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.
6. Approval or the granting of a permit to operate a Class V storage well shall be valid for a term specified by the commissioner not to exceed ten years from its effective date and if not completed in that time, the permit shall be null and void.

#### I. Permit Application Denial

1. The Office of Conservation may refuse to issue, reissue, or reinstate a permit or authorization if an applicant or operator has delinquent, finally determined violations of the Office of Conservation or unpaid penalties or fees, or if a history of past violations demonstrates the applicant's or operator's unwillingness to comply with permit or regulatory requirements.
2. If an application is denied, the applicant may request a review of the Office of Conservation's decision to deny the permit application. Such request shall be made in writing and shall contain facts or reasons supporting the request for review.
3. Grounds for application denial review shall be limited to the following reasons:
  - a. the decision is contrary to the laws of the state, applicable regulations, or evidence presented in or as a supplement to the permit application;
  - b. the applicant has discovered since the permit application public hearing or permit denial, evidence important to the issues that the applicant could not with due diligence have obtained before or during the initial permit application review;
  - c. there is a showing that issues not previously considered should be examined so as to dispose of the matter; or

d. there is other good ground for further consideration of the issues and evidence in the public interest.

#### J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly show that the permit has been transferred. It is a violation of these rules and regulations to operate a storage well without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the storage well before receiving written approval from the Office of Conservation.

##### 2. Procedures

a. The proposed new owner or operator must apply for and receive an operator code by submitting a completed organization report (Form OR-1), or subsequent form, to the Office of Conservation.

b. The current operator shall submit an application for permit transfer at least 30 days before the proposed permit transfer date. The application shall contain the following:

- i. name and address of the proposed new owner or operator;
- ii. date of proposed permit transfer; and
- iii. a written agreement between the existing and new owner or operator containing a specific date for transfer of permit responsibility, financial responsibility, and liability between them.

c. If no agreement described in §3711.J.2.b.iii. above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. The new operator shall submit an application for a change of operator using Form MD-10-R-A, or subsequent form, to the Office of Conservation containing the signatories of §3705.D and E, along with the appropriate filing fee.

e. The new operator shall submit evidence of financial responsibility under §3709.B.

f. If a person attempting to acquire a permit causes or allows operation of the facility before approval by the commissioner, it shall be considered a violation of these rules for operating without a permit or other authorization.

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §3711.K.3.b, the transfer is effective on the date specified in the agreement mentioned in §3711.J.2.b.iii. above.

h. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. Permit Suspension, Modification, Revocation and Reissuance, Termination. This subsection sets forth the standards and requirements for applications and actions concerning suspension, modification, revocation and reissuance, termination, and renewal of permits. A draft permit must be prepared and other applicable procedures must be followed if a permit modification satisfies the criteria of this subsection. A draft permit, public notice, or

public participation is not required for minor permit modifications defined in §3711.K.6.

#### 1. Permit Actions

a. The permit may be suspended, modified, revoked and reissued, or terminated for cause.

b. The operator shall furnish the Office of Conservation within 30 days, any information that the Office of Conservation may request to determine whether cause exists for suspending, modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. Upon request, the operator shall furnish the Office of Conservation with copies of records required to be kept by the permit.

c. The Office of Conservation may, upon its own initiative or at the request of any interested person, review any permit to determine if cause exists to suspend, modify, revoke and reissue, or terminate the permit for the reasons specified in §3711.K.2, 3, 4, 5, and 6. All requests by interested persons shall be in writing and shall contain only factual information supporting the request.

d. If the Office of Conservation decides the request is not justified, the person making the request shall be sent a brief written response giving a reason for the decision. Denials of requests for suspension, modification, revocation and reissuance, or termination are not subject to public notice, public comment, or public hearing.

e. If the Office of Conservation decides to suspend, modify, or revoke and reissue a permit under §3711.K.2, 3, 4, 5, and 6, additional information may be requested and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Office of Conservation shall require the submission of a new application.

f. The suitability of an existing well or salt cavern location shall not be considered at the time of permit modification or revocation and reissuance unless new information or standards suggest continued operation at the site endangers the USDW, environment, or the health, safety, and welfare of the public that was unknown at the time of permit issuance. If the storage well location is no longer suitable for its intended purpose, it may be ordered closed according to applicable sections of these rules and regulations.

2. Suspension of Permit. The Office of Conservation may suspend the operator's right to store until violations are corrected. If violations are corrected, the Office of Conservation may lift the suspension. Suspension of a permit or subsequent corrections of the causes for the suspension by the operator shall not preclude the Office of Conservation from terminating the permit, if necessary. The Office of Conservation shall issue a notice of violation (NOV) to the operator that lists the specific violations of the permit or these regulations. If the operator fails to comply with the NOV by correcting the cited violations within the date specified in the NOV, the Office of Conservation shall issue a compliance order requiring the violations be corrected within a specified time and may include an assessment of civil penalties. If the operator fails to take corrective action within the time specified in the compliance order, the Office of Conservation shall assess a civil penalty, and shall suspend, revoke, or terminate the permit.

3. Modification or Revocation and Reissuance of Permits. The following are causes for modification and may be causes for revocation and reissuance of permits.

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information. The Office of Conservation has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. Cause shall include any information indicating that cumulative effects on the environment, or the health, safety, and welfare of the public are unacceptable.

c. New Regulations

i. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the USDW, environment, or the health, safety, and welfare of the public. Permits may be modified during their terms when:

(a). the permit condition to be modified was based on a promulgated regulation or guideline;

(b). there has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based; or

(c). an operator requests modification within 90 days after *Louisiana Register* notice of the action on which the request is based.

ii. The permit may be modified as a minor modification without providing for public comment when standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the operator requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit.

iii. For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the operator to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

d. Compliance Schedules. The Office of Conservation determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the operator has little or no control and for which there is no reasonable available remedy.

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §3711.K.7, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date as per §3711.J.2.b.ii but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. Facility Siting. Suitability of an existing facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that continued operations at the site pose a threat to the health or safety of persons or the environment that was unknown at the time of the permit issuance. A change of injection site or facility location may require modification or revocation and issuance as determined to be appropriate by the commissioner.

6. Minor Modifications of Permits. The Office of Conservation may modify a permit to make corrections or allowances for changes in the permitted activity listed in this subsection without issuing a draft permit and providing for public participation. Minor modifications may only:

a. correct administrative or make informational changes;

b. correct typographical errors;

c. amend the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities;

d. change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;

e. allow for a change in ownership or operational control of a storage well where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation;

f. change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the commissioner, would not interfere with the operation of the facility or its ability to meet conditions prescribed in the permit, and would not change its classification;

g. change construction requirements or plans approved by the Office of Conservation provided that any such alteration is in compliance with these rules and regulations. No such changes may be physically incorporated into construction or conversion of the storage well or cavern without written approval from the Office of Conservation; or

h. amend a closure or post-closure plan.

7. Termination of Permits

a. The Office of Conservation may terminate a permit during its term for the following causes:

i. noncompliance by the operator with any condition of the permit;

ii. the operator's failure in the application or during the permit issuance process to fully disclose all

relevant facts, or the operator's misrepresentation of any relevant facts at any time; or

iii. a determination that continued operation of the permitted activity cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public.

b. If the Office of Conservation decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under §3711.E. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §3711.K.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2328 (September 2022).

### §3713. Site Assessment

A. Applicability. This Section applies to all applicants, owners, or operators of Class V storage wells and caverns. The applicant, owner, or operator shall be responsible for showing that the storage operation shall be accomplished using good engineering and geologic practices for storage operations to preserve the integrity of the salt stock and overlying sediments. In addition to all applicants showing this in their application, as part of the compliance review found in §3709.K, the commissioner may require any owner or operator of a storage well to provide the same or similar information required in this Section. This shall include, but not be limited to:

1. an assessment of the engineering, geological, geomechanical, geochemical, geophysical properties of the salt stock;

2. stability of salt stock and overlying and surrounding sediments;

3. stability of the cavern design (particularly regarding its size, shape, depth, and operating parameters);

4. the amount of separation between the cavern of interest and adjacent caverns and structures within the salt stock; and

5. the amount of separation between the outermost cavern wall and the periphery of the salt stock;

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome which may affect the storage cavern.

B. Geological Studies and Evaluations. The applicant, owner, or operator shall do a thorough geological, geophysical, geomechanical, and geochemical evaluation of the salt stock to determine its suitability for Class V storage, stability of the cavern under the proposed set of operating conditions, and where applicable, the structural integrity of the salt stock between an adjacent cavern and salt periphery under the proposed set of operating conditions. A listing of data or information used to characterize the structure and geometry of the salt stock shall be included.

1. Where applicable, the evaluation shall include, but should not be limited to:

a. geologic mapping of the structure of the salt stock and any cap rock;

b. geologic history of salt movement;

c. an assessment of the impact of possible anomalous zones (salt spines, shear planes, etc.) on the storage well or cavern;

d. deformation of the cap rock and strata overlying the salt stock;

e. investigation of the upper salt surface and adjacent areas involved with salt dissolution;

f. cap rock formation and any non-vertical salt movement.

2. The applicant shall perform a thorough hydrogeologic study on strata overlying the salt stock to determine the occurrence of the lowermost underground source of drinking water immediately above and near the salt stock.

3. The applicant shall investigate regional and local tectonic activity and the potential impact (including ground subsidence) of the project on surface and subsurface resources.

4. The proximity of all existing and proposed storage caverns to the periphery of the salt stock and to manmade structures within the salt stock shall be demonstrated to the Office of Conservation at least once every five years (see §3709.K) by providing the following:

a. an updated structure contour map of the salt stock. The updated map should make use of all available data. The horizontal configuration of the salt cavern should be shown on the structure map and reflect the caverns' maximum lateral extent as determined by the most recent sonar caliper survey; and

b. vertical cross-sections of the salt caverns showing their outline and position within the salt stock.

#### C. Core Sampling

1. Each newly permitted well shall be cored at intervals approved by the commissioner, but at a minimum, coring shall include the shoe of the deepest casing set into the salt, the proposed cavern roof, and the midpoint of the proposed cavern, unless exempted by the commissioner. The cavern shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects that meet modern analytical industry standards may be used instead of actual core sampling provided the data is specific to the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data are applicable to the salt dome and cavern location(s) of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, x-ray diffraction analysis, microstructure, and where necessary, potential for adjacent cavern connectivity, with emphasis on cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling

shall be conducted using methods that simulate the proposed operating conditions of the cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under cavern operating conditions. Test results, analyses, and operating recommendations shall be summarized in an interpretive report.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual storage well or project area (area permit) that may influence the integrity of the salt stock, storage well, and cavern, or contribute to the movement of injected fluids outside the cavern, wellbore, or salt stock.

1. Surface Delineation

a. The area of review for individual storage wells shall be a fixed radius around the wellbore of not less than 1320 feet.

b. The area of review for wells in a storage project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new storage wells within an existing area permit shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. Only information outlined in §3713.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent storage well located within the approved area permit, shall be considered.

c. Exception shall be noted as in §3713.E.2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area of review:

a. all known active, inactive, and abandoned wells within the area of review with known depth of penetration into the cap rock or salt stock;

b. all known water wells within the area of review;

c. all salt caverns within the salt stock regardless of use, depth of penetration, or distance to the proposed storage well or cavern;

d. all conventional (dry or room and pillar) mining activity either active or abandoned occurring anywhere within the salt stock regardless of distance to the proposed Class V storage well or cavern;

e. all producing formations either active or depleted.

3. Water Samples. A representative number of water wells identified under §3713.E.2.b shall be sampled and analyzed by an accredited laboratory for chloride and total dissolved solids.

F. Corrective Action

1. For manmade structures identified in the area of review that penetrate the salt stock and are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the cavern or into underground sources of drinking water.

a. Where the plan is adequate, the provisions of the corrective action plan shall be incorporated into the permit as a condition.

b. Where the plan is inadequate, the Office of Conservation shall require the applicant to revise the plan, or prescribe a plan for corrective action as a condition of the permit, or the application shall be denied.

2. Any permit issued for an existing storage well for which corrective action is required shall include a schedule of compliance for complete fulfillment of the approved corrective action procedures. If the required corrective action is not completed as prescribed in the schedule of compliance, the permit shall be suspended, modified, revoked and reissued, or terminated according to these rules and regulations.

3. No permit to inject shall be issued for a new storage well or repemitted storage well until all required corrective action obligations have been fulfilled.

4. The commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a underground source of drinking water through any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other corrective action has been taken.

5. When setting corrective action requirements for storage wells, the commissioner shall consider the overall effect of the project on the hydraulic gradient in potentially affected underground sources of drinking water, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made the corrective action is not necessary, the monitoring program required in §3723 shall be designed to verify the validity of such determination.

6. In determining the adequacy of proposed corrective action and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the commissioner:

a. nature and volume of injection fluid;

b. nature of native fluids or by-products of injection;

c. potentially affected population;

d. geology;

e. hydrology;

f. history of the injection operation;

g. completion and plugging records;

h. abandonment procedures in effect at the time the well was abandoned; and

i. hydraulic connections with underground sources of drinking water.

7. The Office of Conservation may prescribe additional requirements for corrective action beyond those submitted by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2333 (September 2022).

**§3715. Cavern Design and Spacing Requirements**

A. This Section provides general standards for design of caverns to ensure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall

stress physical and environmental safety. The owner or operator shall continually review the design throughout the construction and operation phases taking into consideration pertinent additional detailed subsurface information and shall include provisions for protection from damage caused by hydraulic shock. If necessary, the original development and operational plans shall be modified to conform to good engineering practices.

#### B. Cavern Spacing Requirements

##### 1. Property Boundary

a. Existing Storage Caverns. No part of a storage cavern permitted as of the date these regulations are promulgated shall extend closer than 100 feet to the property of others without consent of the owner(s). Continued operation without this consent of an existing storage cavern within 100 feet of the property of others may be allowed as follows.

i. The operator of the cavern shall make a good faith effort to provide notice in a form and manner approved by the commissioner to the adjacent property owner(s) of the location of its cavern.

ii. The commissioner shall hold a public hearing at Baton Rouge if a non-consenting adjacent owner whose property line is within 100 feet objects to the cavern's continued operation. Following the public hearing the commissioner may approve the cavern's continued operation upon a determination that the continued operation of the cavern has no adverse effects to the rights of the adjacent property owner(s).

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with §3715.B.1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

b. New Class V Storage Caverns. No part of a newly permitted storage cavern shall extend closer than 100 feet to the property of others without the consent of the owner(s).

2. Adjacent Structures within the Salt. As measured in any direction, and excepting that which is provided in §3739, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet.

##### 3. Salt Periphery

a. Without exception or variance to these rules and regulations, at no time shall the minimum separation between the cavern walls at any point and the periphery of the salt stock for a Class V storage cavern be less than 300 feet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2334 (September 2022).

### §3717. Well Construction and Completion

#### A. General Requirements

1. All materials and equipment used in the construction of the Class V storage well and related appurtenances shall be designed and manufactured for

compatibility with the stored material and shall meet or exceed the operating requirements of the specific project. Consideration shall be given to depth and lithology of all subsurface geologic zones, corrosiveness of formation fluids, corrosiveness of the stored material, compatibility of downhole construction materials, compatibility of wellhead components, hole size, anticipated ranges and extremes of operating conditions, subsurface temperatures and pressures, type and grade of cement, and the projected life of the storage well, etc.

2. All storage wells and caverns shall be designed, constructed, completed, and operated to prevent the escape of injected materials out of the salt stock, into or between underground sources of drinking water, or otherwise create or cause pollution or endanger the environment or public safety. All phases of design, construction, completion, and testing shall be prepared and supervised by qualified personnel.

3. Where the storage well penetrates an underground source of drinking water in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

a. The following criteria shall be considered in determining the number, location, construction, and frequency of monitoring of any monitor wells:

i. the population relying on the USDW affected or potentially affected by the injection operation;

ii. the proximity of the storage operation to points of withdrawal of drinking water;

iii. the local geology and hydrology;

iv. the operating pressures and whether a negative pressure gradient is being maintained;

v. the nature and volume of the injected fluid, the formation water, and the process by-products; and

vi. the injected fluid density.

#### B. Open Borehole Surveys

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be performed on all new wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall include, at a minimum, density, neutron, sonic, and caliper logs and shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of 1 inch to 100 feet and a scale of 5 inches to 100 feet and all logs must include the depth datum. A descriptive report interpreting the results of such logs and tests shall be prepared and submitted to the commissioner.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole.

3. Caliper logging to determine borehole size for cement volume calculations shall be performed before running casings.

4. The owner or operator shall submit all wireline surveys as one paper copy and an electronic version in a format approved by the commissioner.



C. Casing and Cementing. Except as specified below, and inclusive of the additional requirements which may be found in §3739, the wellbore of the storage well shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good industry engineering practices for wells of comparable depth that are applicable to the same locality of the cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. Cementing shall be by the pump-and-plug method or another method approved by the Office of Conservation and shall be circulated to the surface. Circulation of cement may be done by staging.

a. For purposes of these rules and regulations, circulated (cemented) to the surface shall mean that actual cement returns to the surface were observed during the primary cementing operation. A copy of the cementing company's job summary or cementing ticket indicating returns to the surface shall be submitted as part of the pre-operating requirements of §3725.

b. If returns are lost during cementing, the owner or operator shall have the burden of showing that sufficient cement isolation is present to prevent the upward movement of injected material into zones of porosity or transmissive permeability in the overburden along the wellbore and to protect underground sources of drinking water.

2. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- a. depth of the storage zone;
- b. injection pressure, external pressure, internal pressure, axial loading, etc.;
- c. borehole size;
- d. size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, construction material, etc.);
- e. corrosiveness of injected fluids and formation fluids;
- f. lithology of subsurface formations penetrated;
- g. type and grade of cement.

3. Surface casing shall be set to a depth into a confining bed below the base of the lowermost underground source of drinking water and shall be cemented to ground surface.

4. At a minimum, all Class V storage wells shall be cased with a minimum of two casings cemented into the salt. One casing string shall be an intermediate string, the other being the final cemented string. The surface casing will not be considered one of the two casings extending into the salt.

a. All cemented casings in contact with the injected substances shall be constructed of compatible materials with sufficient strength and collapse resistance.

5. The intermediate cemented casing shall be set at a minimum of 100 feet into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

6. The following applies to wells existing in caverns before the effective date of these rules and regulations. If the

design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface. Alternatively, a packer and tubing completion may be substituted for the inner casing string. The packer shall be considered the effective casing seat and must be set a minimum distance of 300 feet into the salt and within 50 feet of the deepest cemented casing seat.

7. All cemented casings shall be cemented from their respective casing seats to the surface when practicable; however, in every case, casings shall be cemented a sufficient distance to prevent migration of the stored products into zones of porosity or permeability in the overburden.

D. Casing and Casing Seat Tests. When performing tests under this subsection, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings will be hydrostatically pressure tested to verify casing integrity and the absence of leaks. The stabilized test pressure applied at the well surface will be calculated such that the pressure gradient at the depth of the respective casing shoe will not be less than 0.7 PSI/FT of vertical depth or greater than 0.9 PSI/FT of vertical depth. All casing test pressures will be maintained for one-hour after stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

2. Casing Seat. The casing seat and cement of the intermediate and production casings will each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes will be drilled before the test.

a. For all casings below the surface casing, excluding the casing string(s) set into the salt, the stabilized test pressure applied at the well surface will be calculated such that the pressure at the casing shoe will not be less than the 85 percent of the predicted formation fracture pressure at that depth. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

b. For casing strings set within the salt, the test pressure applied at the surface will be the greater of the maximum predicted salt cavern operating pressure or a pressure gradient of 0.85 PSI/FT of vertical depth calculated with respect to the depth of the casing shoe. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.90 PSI/FT of

vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed the rated burst or collapse pressures of the respective casings.

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) shall be run on all casing strings. When practicable, a temperature log shall be run on all casing strings. The Office of Conservation may consider requests for alternative means of compliance for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. It shall be the duty of the well applicant, owner or operator to prove adequate cement isolation on all cemented casings. Remedial cementing shall be done before proceeding with further well construction, completion, or conversion if adequate cement isolation between the storage well and subsurface formations cannot be demonstrated.

2. A casing inspection log (or similar approved log or method of casing evaluation) shall be run on the final cemented casing.

3. When submitting wireline surveys, the owner or operator shall submit one paper copy and an electronic copy in a format approved by the commissioner.

F. Hanging Strings. All Class V storage wells shall be completed with at least one hanging string unless specifically exempted by the Commissioner. Hanging strings shall be designed with collapse, burst, and tensile strength ratings conforming to all expected operating conditions. The design shall also consider the compatibility of the material used with the physical and chemical characteristics of fluids placed into and withdrawn from the cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of material compatible with the stored products and any incidental substances. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and withdrawn from the cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side of the wellhead shall be rated for the same pressure as the fluid injection side. All components and related connections shall be periodically inspected by the well operator and maintained in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2335 (September 2022).

### **§3719. Operating Requirements**

A. Cavern Roof. Without exception or variance to these rules and regulations, no cavern shall be used for storage if the cavern roof has grown above the top of the salt stock. The operation of an already permitted storage cavern shall

cease and shall not be allowed to continue if information becomes available that shows this condition exists. The Office of Conservation may order the storage well and cavern removed from storage service according to an approved closure and post-closure plan.

B. Remedial Work. No remedial work or repair work of any kind shall be performed on the storage well or cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests, sonar caliper surveys, and all logs, and all logs, including casing inspection logs and through tubing logs; however, a work permit is not required in order to conduct routine interface surveys. The owner, operator, or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the cavern shall be relieved, as practicable.

C. Well Recompletion—Casing Repair. The following applies to storage wells where remedial work results from well upgrade, casing wear, or similar conditions. For each paragraph below, a casing inspection log shall be performed on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A storage well that cannot be repaired or upgraded shall remain out-of-service and be closed according to an approved closure and post-closure plan.

1. Liner. A liner may be used to recomplete or repair a well with severe casing damage. The liner shall be run from the well surface to the base of the innermost cemented casing. The liner shall be cemented over its entire length and shall be successfully pressure tested.

2. Casing Patch. Internal casing patches shall not be used to repair severely corroded or damaged casing. Casing patches shall only be used for repairing or covering isolated pitting, corrosion, or similar localized damage. The casing patch shall extend a minimum of 10 feet above and below the area being repaired. The entire casing shall be successfully pressure tested.

D. Multiple Well Caverns. No newly permitted well shall be drilled into an existing cavern until the cavern pressure has been relieved, as practicable, to 0 PSI measured at the surface.

E. Cavern Allowable Operating Pressure

1. The maximum and minimum allowable surface injection pressures shall be calculated at a depth referenced to the well's deepest effective cemented casing seat. The injection pressure at the wellhead shall be calculated to ensure that the pressure induced within the salt cavern during injection does not initiate fractures or propagate existing fractures in the salt. In no case shall the injection pressure initiate fractures in the confining zone or cause the migration of injected fluids out of the salt stock or into an underground source of drinking water.

2. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable cavern injection pressure shall not exceed a pressure gradient of 0.90 PSI/FT of vertical depth.

3. The storage well shall not be operated at pressures above the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests, etc.

5. No storage cavern shall be converted to store a material described in §3703.A.1 without prior approval by the Office of Conservation. Conversion to alternate material storage may require additional geomechanical modeling to establish allowable operating pressures.

F. Solution Mining Under Gas (Smuggling)

1. Within 30 days of a planned cavern enlargement while storing product, the operator shall submit written notice to the Injection and Mining Division with a description and timeline of the planned event.

2. Unless specifically exempted by the commissioner, after the completion of the smuggling period, a sonar survey shall be conducted of the cavern and submitted to the Injection and Mining Division in accordance with §3729.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2337 (September 2022).

**§3721. Safety**

A. Emergency Action Plan. An Emergency Action Plan containing emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency shall be kept at the facility and shall be reviewed and updated as needed. An outline of the plan, including emergency contact telephone numbers, shall be prepared and submitted as part of the permit application or compliance review.

B. Controlled Site Access. Access to storage facilities shall be controlled by fencing or other means around the facility property. All points of entry into the facility shall be through by a lockable gate system.

C. Personnel. Personnel shall be on duty at the storage facility 24 hours a day. During periods of stored product injection or withdrawal, trained personnel shall be stationed at the storage well, facility's onsite local control room, or other facility control location at the storage site. If the storage facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24-hours-a-day staffing of the facility may not be required.

D. Wellhead Protection and Identification

1. A barrier shall be installed and maintained around the storage wellhead as protection from physical or accidental damage by mobile equipment or trespassers.

2. An identifying sign shall be placed at the wellhead of each storage well and, at a minimum, shall include the operator's name, well/cavern name and number, well's state serial number, section-township-range, and any other information required by the Office of Conservation. The sign shall be of durable construction with all lettering kept in a legible condition.

E. Valves and Flowlines

1. All valves, flowlines, flanges, fittings, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

2. All valves, flowlines for injection and withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the storage well and cavern and prevent backflow or escape of injected material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the injection side.

3. All flowlines for injection and withdrawal connected to the wellhead shall be equipped with remotely operated shut-off valves and shall have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §3721.I.

F. Alarm Systems. Manual and automatically activated alarms shall be installed at all cavern facilities. All alarms shall be audible and visible from any normal work location within the facility. The alarms shall be maintained in proper working order. Automatic alarms designed to activate an audible and a visible signal shall be integrated with all pressure, flow, heat, fire, cavern overfill, leak sensors and detectors, emergency shutdown systems, or any other safety system. The circuitry shall be designed such that failure of a detector or sensor shall activate a warning.

G. Emergency Shutdown Valves. Manual and automatically actuated emergency shutdown valves shall be installed on all systems of cavern injection and withdrawal and any other flowlines going into or out from each storage wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §3721.I.

1. Manual controls for emergency shutdown valves shall be designed to isolate a single well and to operate from a local control room, at each storage wellhead, any remote monitoring and control location, and at a location that is accessible to emergency response personnel.

2. Automatic emergency shutdown valves shall be designed to actuate on detection of abnormal pressures of the injection system, abnormal increases in flow rates, responses to any heat, fire, cavern overfill, leak sensors and detectors, loss of pressure or power to the well, cavern, or valves, or any abnormal operating condition.

H. Vapor Detection. The operator shall develop and implement a plan as required in §3723.D to detect the presence of combustible gases or any potentially ignitable substances in the atmosphere resulting from the storage operation.

1. Installation of a safety system at or near each brine pit or any other location where the uncontrollable release of liquefied gases may occur may be required by the commissioner.

I. Safety Systems Test. The operator shall function-test all critical systems of control and safety at least once every six months. This includes testing of alarms, test tripping of emergency shutdown valves ensuring their closure times are

within design specifications, and ensuring the integrity of all electrical, pneumatic, or hydraulic circuits. Tests results shall be documented and kept onsite for inspection by an agent of the Office of Conservation.

#### J. Safety Inspections

1. The operator shall conduct twice-yearly safety inspections and file with the commissioner a written report consisting of the inspection procedures and results within 30 days following the inspection. Such inspections shall be conducted during the winter and summer months of each year. The operator shall notify the commissioner at least five days prior to such inspections so that his representative may be present to witness the inspections. Inspections shall include, but not be limited to, the following:

- a. operations of all manual wellhead valves;
- b. operation of all automatic shut-in safety valves, including sounding or alarm devices;
- c. safety system;
- d. brine pits, tanks, firewalls, and related equipment;
- e. flowlines, manifolds, and related equipment;
- f. warning signs, safety fences, etc.

2. Visual inspections of the cavern facility shall be conducted each day the facility is operating. At a minimum, this shall include inspections of the wellhead, flowlines, valves, signs, perimeter fencing, and all other areas of the facility. Problems discovered during the inspections shall be corrected timely.

3. Representatives of the Office of Conservation may inspect the storage well and facility at any time during the storage facility regular working hours.

K. Spill Containment. Levees, booms, or other containment devices suitable to retain liquids released by accidental spillage shall surround the wellheads of caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2338 (September 2022).

### §3723. Monitoring Requirements

#### A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges or pressure sensors/transmitters that show pressure on the fluid injection string, fluid withdrawal string, and any other string in the well shall be installed at each wellhead. Gauges or pressure sensors/transmitters shall be designed to read gauge pressure in 25 PSIG increments. All gauges or pressure sensors/transmitters shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have 1/2 inch female fittings.

2. Pressure sensors designed to actuate the automatic closure of all emergency shutdown valves in response to a preset pressure (high/low) shall be installed and properly maintained for all fluid injection, withdrawal, and any other appropriate string in the well.

3. Flow sensors designed to actuate the automatic closure of all emergency shutdown valves in response to abnormal changes in cavern injection and withdrawal flow rates shall be installed and properly maintained on each storage well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each storage well. Continuous recordings may consist of circular charts, digital recordings, or similar type. Unless otherwise specified by the commissioner, digital instruments shall record the required information at no greater than one minute intervals. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1. wellhead pressures on the fluid injection, fluid withdrawal, and any other string in the well;
2. volume and flow rate of fluid injected;
3. volume of fluid withdrawn.

#### C. Casing Inspection

1. A casing inspection log or approved alternative method of evaluation shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years, with the exception of that which is provided in §3739 for Class V storage caverns. Casing inspection logs shall be submitted to the Office of Conservation and shall include an interpretive report.

2. Equivalent alternate monitoring programs to ensure the integrity of the innermost, cemented casing may be approved by the Office of Conservation in place of §3723.C.1.

D. Vapor Detection. Unless specifically exempted by the commissioner, the operator shall develop a robust monitoring plan designed to detect the presence of a buildup of combustible gases or any potentially ignitable substances in the atmosphere resulting from the Class V storage operation. Variations in surface topography, atmospheric conditions typical to the area, characteristics of the stored product, proximity of the facility to homes, schools, commercial establishments, other wells or injection wells, etc., should be considered in developing the monitoring plan. The plan shall be submitted as part of the permit application and updated as needed but no less than every five years, and may be included within the submittal required in §3709.K. The monitoring plan should include provisions for strategic placement of stationary detection devices at various areas of the facility, portable monitoring devices, downhole monitoring devices, or any other appropriate system acceptable to the commissioner.

1. Any stationary detection devices or systems identified in the monitoring plan shall include their integration into the facility's automatic alarm system.

2. Detection of a buildup of combustible gases or any potentially ignitable substances in the atmosphere or system alarm shall cause an immediate investigation by the operator for reason of and correction of the detection.

E. Subsidence Monitoring and Frequency. The owner or operator shall prepare and carry out a plan approved by the

commissioner to monitor ground subsidence at and in the vicinity of the storage cavern(s). A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

1. The frequency of conducting subsidence-monitoring surveys for storage caverns shall be scheduled to occur annually during the same period each year. If there are multiple operators on the same salt dome, a collaborative effort to conduct a joint subsidence survey is required.

F. Wind Sock. At least one windsock shall be installed at all storage cavern facilities. The windsock shall be visible from any normal work location within the facility.

G. Monitor Wells. Quarterly monitoring of any monitor wells required by §3717.A.2.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2339 (September 2022).

### **§3725. Pre-Operating Requirements—Completion Report**

A. The operator shall submit a report describing, in detail, the work performed resulting from the approved permitted activity. The report shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, conversion, completion, or workover of the storage well or cavern. Product storage shall not commence until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation stating storage operations may begin. Preauthorization pursuant to this Subsection is not required for workovers.

B. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;
2. revisions to any operation or construction plans since approval of the permit application;
3. as-built schematics of the layout of the surface portion of the facility;
4. as-built piping and instrumentation diagram(s);
5. copies of applicable records associated with drilling, completing, working over, or converting the well and cavern including a daily chronology of such activities;
6. if not already submitted, a certified, as-drilled location plat of the storage well, accompanied by proof of filing of the plat in the parish conveyance and mortgage records;
7. as-built subsurface diagram of the storage well and cavern labeled with the appropriate depth datum, construction, completion, or conversion information, i.e., depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;
8. as-built diagram of the wellhead labeled with the appropriate depth datum, construction, completion, or conversion information, i.e., valves, gauges, and flowlines;
9. results of any core sampling and testing;
10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;

11. copies of any wireline logging such as open hole logs, cased hole logs, the most recent cavern sonar survey, and mechanical integrity test;

12. the status of corrective action on wells in the area of review;

13. the proposed operating data, if different from proposed in the application;

14. the proposed injection procedures, if different from proposed in the application;

15. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2340 (September 2022).

### **§3727. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. The operator of the storage well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel, but must be witnessed by a qualified third party. Generally accepted industry methods and standards shall apply when conducting and evaluating the tests required in this Rule.

#### **B. Frequency of Tests**

1. Without exception or variance to these rules and regulations, all Class V storage wells and caverns shall be tested for and demonstrate mechanical integrity before beginning storage activities.

2. All subsequent mechanical integrity pressure tests shall occur at least once every five years. Additionally, mechanical integrity testing shall be performed for the following reasons regardless of test frequency:

- a. after physical alteration to any cemented casing or cemented liner;
- b. after performing any remedial work to reestablish well or cavern integrity;
- c. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;
- d. before well closure, except when the cavern has experienced mechanical failure;
- e. whenever leakage into or out of the cavern system is suspected;
- f. whenever the commissioner determines a test is warranted.

#### **C. Test Method**

1. All mechanical integrity pressure and leak tests shall demonstrate no significant leak in the cavern, wellbore, casing seat, and wellhead and the absence of significant fluid movement. Test schedules and methods shall consider neighboring activities occurring at the salt dome to reduce any influences those neighboring activities may have on the cavern being tested.

2. When practicable, tests shall be conducted using an approved interface method with density interface and temperature logging using test materials having the same or comparable leak off qualities as the stored product. An

alternative test method may be used if the alternative test can reliably demonstrate well/cavern mechanical integrity and with prior written approval from the Office of Conservation.

3. The cavern pressure shall be stabilized before beginning the test. Pressure stabilization shall be when the rate of cavern pressure change is no more than 10 PSIG during 24 hours.

4. The stabilized test pressure to apply at the surface shall be calculated with respect to the depth of the shallowest occurrence of either the cavern roof or deepest cemented casing seat and shall not exceed a pressure gradient of 0.90 PSI per foot of vertical depth. However, the well or cavern shall never be subjected to pressures that exceed the storage well's maximum allowable operating pressure or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods during testing.

5. A mechanical integrity pressure and leak test shall be run for at least 24 hours after cavern pressure stabilization and must be of sufficient time duration to ensure a sensitive test. All pressures shall be monitored and recorded continuously throughout the test. Continuous pressure recordings may be achieved through mechanical charts or recorded digitally. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be scaled such that the test pressure is 30 percent to 70 percent of full scale. All charts shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure, temperature, or any other monitored parameter.

6. The commissioner may require that a separate casing pressure test be included as part of the routine MIT.

7. Inactive caverns. The commissioner may approve hydrostatic brine pressure monitoring for inactive wells and caverns that are in pre-closure monitoring and will not be returned to service. For any cavern removed from pre-closure monitoring that has been subject to hydrostatic brine pressure testing, a MIT must be performed in accordance with §3727.C.1-6 above prior to resuming any injection activities.

D. Submission of Pressure and Leak Test Results. Submit one complete copy of the mechanical integrity pressure and leak test results to the Office of Conservation within 60 days after test completion. The report shall include the following minimum information:

1. current well and cavern completion data;
2. description of the test procedure including pretest preparation and the test method used;
3. one paper copy and an electronic version of all wireline logs performed during testing;
4. tabulation of measurements for pressure, volume, temperature, etc.;
5. interpreted test results showing all calculations including error analysis and calculated leak rates; and
6. any information the owner or operator of the cavern determines is relevant to explain the test procedure or results.

#### E. Mechanical Integrity Test Failure

1. Without exception or variance to these rules and regulations, a storage well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of

§3709.I.8. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the storage well or cavern to a full state of mechanical integrity. A storage well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

- a. failure to maintain a change in test pressure of no more than 10 PSIG over a 24-hour period;
- b. not maintaining interface levels according to standards applied in the cavern storage industry; or
- c. stored or test materials are determined to have escaped from the storage well or cavern during storage operations.

2. Written procedures to rehabilitate the storage well or cavern, extended cavern monitoring, or abandonment (closure and post-closure) of the storage well or cavern shall be submitted to the Office of Conservation within 60 days of mechanical integrity test failure.

3. If a storage well or cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern according to an approved closure and post-closure plan.

a. The Office of Conservation may waive implementation of closure requirements if the owner or operator is engaged in a cavern remediation study and implements an interim cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety, and welfare of the public. The Office of Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim cavern monitoring, and eventual cavern closure and post-closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2340 (September 2022).

### §3729. Cavern Configuration and Capacity Measurements

A. Sonar caliper surveys shall be performed on all storage caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Sonar Caliper Surveys. For Class V storage caverns, a sonar caliper survey shall be performed at least once every five years. The survey must include horizontal shots beginning just below the shoe of the deepest cemented casing within the salt as well as downward angled shots imaging the floor of the cavern unless accepted by the commissioner. At least once every 10 years a sonar caliper survey, or other similar and approved survey, shall be performed on the roof of the cavern using angled tilt shots. For Class V storage caverns engaging in simultaneous storage and salt solution-mining or washing, a sonar caliper survey, or other approved survey, shall be performed in accordance with this article or in accordance with LAC 43:XVII.3329, whichever requires the more frequent survey. Additional surveys as specified by the Office of

Conservation shall be performed for any of the following reasons regardless of frequency:

1. before commencing cavern closure operations;
2. whenever leakage into or out of the cavern system is suspected;
3. after performing any remedial work to re-establish cavern integrity or raise the deepest casing seat;
4. before returning the cavern to storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;
5. after the completion of any additional solution-mining while simultaneously engaging in storage;
6. whenever the Office of Conservation determines a survey is warranted.

C. Submission of Survey Results. One complete paper copy and an electronic version of each survey shall be submitted to the Office of Conservation within 60 days of survey completion.

1. Survey readings shall be taken a minimum of every 10 feet of vertical depth. Sonar reports of the surveyed data shall contain the following minimum information and presentations:

- a. tabulation of incremental and total cavern volume for every survey reading;
- b. tabulation of the cavern radii at various azimuths for every survey reading;
- c. tabulation of the maximum cavern radii at various azimuths;
- d. graphical plot of cavern depth versus volume;
- e. graphical plot of the maximum cavern radii;
- f. vertical cross-sections of the cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. cross-section overlays comparing results of current survey and at least two previous surveys, if available;
- h. isometric or 3-D shade profile of the cavern at various azimuths and rotations;
- i. any data collected from prior surveys shall be clearly identified if included in the submitted report.

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2341 (September 2022).

### §3731. Inactive Caverns

A. The following minimum requirements apply when a storage cavern is removed from storage service and is expected to remain out of service for one year or more:

1. notify the Office of Conservation in writing within seven days of the well or cavern becoming inactive (out-of-service). The notification shall include the date the cavern was removed from service, the reason for taking the cavern out of service, and the expected date when the cavern may be returned to service (if known);
2. disconnect all flowlines for injection to the well;
3. maintain continuous monitoring of cavern pressures, fluid withdrawal, and other parameters required by the permit;

4. maintain and demonstrate well and cavern mechanical integrity if storage operations were suspended for reasons other than a lack of mechanical integrity;

5. maintain compliance with financial responsibility requirements of these rules and regulations;

6. any additional requirements of the Office of Conservation to document the storage well and cavern shall not endanger the environment, or the health, safety, and welfare of the public during the period of cavern inactivity.

7. No inactive storage cavern may be returned to service without first submitting a written request with Form UIC-17 to the Office of Conservation to obtain approval from the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2342 (September 2022).

### §3733. Operating Reports

A. Operating reports shall be submitted quarterly to the Office of Conservation no later than 15 days following the end of the reporting period.

B. Reports shall be submitted electronically on the appropriate Form (Form UIC-50 or successor document) and reference the operator name, well name, well number, well state serial number, salt dome name, and contain the following minimum information acquired weekly during the reporting quarter:

1. maximum wellhead pressures (PSIG) on the hanging string;
2. maximum wellhead pressure (PSIG) on the hanging string/casing annulus;
3. description of any event resulting in non-compliance with these rules that triggered an alarm or shutdown device and the response taken;
4. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit;
5. volume, density and type of fluids released from inactive caverns due to pressure build-up.

C. Upon emergency declaration by the commissioner pursuant to R.S. 30:6 the inventory of stored production the cavern shall be reported. Report volumes in:

1. barrels (42-gallon barrels) at standard temperature and pressure for liquid or liquefied storage; or
2. thousand cubic feet (MCF) at standard temperature and pressure for gas storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2342 (September 2022).

### §3735. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, workovers, tests, and operation of the well and cavern. Records shall be retained throughout the operating life of the well and cavern and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern

mechanical integrity tests, cavern capacity and configuration surveys, surface construction, closure, post-closure activities, corrective action, sampling data, etc. Unless otherwise specified by the commissioner, monitoring records obtained pursuant to §3723.B shall be retained by the owner or operator for a minimum of five years from the date of collection. All documents shall be available for inspection by agents of the Office of Conservation.

B. When there is a change in the owner or operator of the well and cavern, copies of all records shall be transferred to the new owner or operator. The new owner or operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2342 (September 2022).

### §3737. Closure and Post-Closure

A. Closure. The owner or operator shall close the storage well, cavern, and associated parts as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

#### 1. Notice of Intent to Close

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the storage well, cavern, or facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of the storage well, cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

2. Closure Plan. Plans to close the storage well, cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations, shall use accepted industry practices, and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of storage operations or related activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

3. Closure Plan Requirements. The owner or operator shall review the closure plan at least every five years to determine if the conditions for closure are still applicable to the actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §3709.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i. a detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

ii. after reviewing the required closure cost estimate, the Office of Conservation may amend the required financial surety to reflect the estimated costs to the Office of Conservation to complete the approved closure of the facility;

iii. documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the cavern following closure;

c. an analysis of potential pathways for leakage from the cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, salt cavern geometry and depth, cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the well and cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration);

g. the type, number, and placement of each wellbore or cavern plug including the elevation of the top and bottom of each plug;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the well;

j. any proposed test or measurement to be made before or during closure.

4. Standards for Closure. The following are minimum standards for closing the storage well or cavern. The Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding storage operations with the cavern but before closing the well or cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and cavern fluid volume for no less than five years or a time period specified by the Office of Conservation to provide information regarding the cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the well or cavern as described in the closure plan will not result in any pressure



buildup within the cavern that could adversely affect the integrity of the well, cavern, or any seal of the system.

b. Unless the well is being plugged and abandoned due to a failed mechanical integrity test and the condition of the casing and cavern are known, before closure, the owner or operator shall confirm the mechanical integrity of both the well and cavern by well/cavern test methods or analysis of the data collected during the period between the end of storage operations and well/cavern closure.

c. Before closure, the owner or operator shall remove and properly manage any stored product remaining in the well or cavern, with the exception of the materials included in the approved closure plan.

d. Upon permanent closure, the owner or operator shall plug the well with cement, resin, or other approved mechanical plugs in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock.

#### 5. Plugging and Abandonment

a. The well and cavern shall be in a state of static equilibrium before plugging and abandoning.

b. A continuous column of cement or other approved material shall fill the deepest cemented casing from its shoe to the surface via a series of balanced cement plugs:

i. each plug shall be tagged to verify the top of cement and pressure tested to at least 300 PSI for 30 minutes before setting the next plug;

ii. an attempt shall be made to place a plug in the open borehole below the deepest cemented casing;

iii. unless specifically exempted by the commissioner, a balanced cement plug, or other approved plug, shall be placed across the shoe of the deepest cemented casing; and

iv. subsequent balanced cement plugs, or other approved plugs, shall be spotted immediately on top of the previously placed plug.

c. After placing the top plug, the operator shall:

i. on land locations cut and pull the casings a minimum of 5 feet below ground level. A 1/2 inch thick steel plate shall be welded across the top of all casings. The well's plug and abandonment date and well serial number shall be inscribed on top of the steel plate; and

ii. on water locations cut and pulled the casings a minimum of 15 feet below the mud line.

d. The operator may alter the plan of abandonment if new or unforeseen conditions arise during the well work, but only after approval by the Office of Conservation.

6. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 60 days after closing the storage well, cavern, facility, or part thereof. The report shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. one original of the appropriate Office of Conservation plug and abandon report form (Form UIC- P and A or successor); and

c. any information pertinent to the closure activity including test or monitoring data.

B. Post-Closure. Plans for post-closure care of the storage well, cavern, and related facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of storage operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

1. The owner or operator shall review the post-closure plan at least every five years to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. assurance of financial responsibility as required in §3709.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i. detailed cost estimate for adequate post-closure care of the well and cavern shall be prepared by a qualified, independent third party. The post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation;

ii. after reviewing the closure cost estimate, the Office of Conservation may amend the amount to reflect the costs to the Office of Conservation to complete the approved closure of the facility;

iii. documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation.

b. any plans for monitoring, corrective action, site remediation, site restoration, etc., as may be necessary.

2. Where necessary and as an ongoing part of post-closure care, the owner or operator shall continue the following activities:

a. conduct subsidence monitoring for a period of no less than 10 years after closure of the facility;

b. complete any corrective action or site remediation resulting from the operation of a storage well;

c. conduct any groundwater monitoring if required by the permit or approved corrective action plan;

d. complete any site restoration.

3. The owner or operator shall retain all records as required in §3737 for five years following conclusion of post-closure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2343 (September 2022).

### **§3739. Additional Criteria Specific to Stored Media**

#### **A. Hydrogen**

##### **1. Spacing.**

a. **Adjacent Structures within the Salt.** The minimum pillar spacing between a hydrogen storage cavern and any other adjacent structures within the salt shall be determined on a case-by-case basis, and based upon the depth and configuration of cavern, any geomechanical analyses, monitoring plan, etc. However, without exception or variance to these rules and regulations, as measured in any direction, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Hydrogen storage caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet.

b. **Salt Periphery.** The minimum separation between the outermost extent of the cavern and the periphery of the salt stock shall be determined on a case-by-case basis based upon the substances to be stored, the depth and configuration of the cavern, any geomechanical analyses, monitoring plan, etc. However, without exception or variance to these rules and regulations, at no time shall the minimum separation between the cavern walls at any point and the periphery of the salt stock for a Class V storage cavern be less than 300 feet.

##### **3. Casing and Cementing**

a. The first casing string cemented into the salt stock shall have connections with seals approved by the commissioner.

b. Any cemented casing in contact with the hydrogen stream must have welded connections with integrity verified by a method approved by the commissioner.

4. **Casing Inspection Logs.** Unless specifically exempted by the commissioner, a casing inspection log or approved alternative method of evaluation shall be run on the entire length of the innermost cemented casing in each well at least once every five years for Class V hydrogen storage caverns. Casing inspection logs shall be submitted to the Office of Conservation and shall include an interpretive report.

5. Any storage of hydrogen into a solution-mined salt cavern shall require a Class V Hydrogen Storage permit pursuant to this Chapter unless:

a. the hydrogen is an incidental part of another permitted constituent stream; and

b. the hydrogen is compatible with the cavern, wellbore, and wellhead materials.

6. Any monitoring plan approved by the commissioner shall include the specific method(s) for detecting and controlling any hydrogen emissions.

#### **B. Nitrogen**

1. Nothing in this chapter shall require Class V permitting for the use of nitrogen as a blanket material or a test medium in a Class III solution-mined cavern or Class II hydrocarbon storage cavern.

#### **C. Helium**

##### **1. Spacing**

a. **Adjacent Structures.** Within the Salt. The minimum pillar spacing between a helium storage cavern and any other adjacent structures within the salt shall be determined on a case-by-case basis, and based upon the depth and configuration of cavern, any geomechanical analyses, monitoring plan, etc. However, without exception or variance to these rules and regulations, as measured in any direction, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Helium storage caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet.

b. **Salt Periphery.** The minimum separation between the outermost extent of the cavern and the periphery of the salt stock shall be determined on a case-by-case basis based upon the substances to be stored, the depth and configuration of the cavern, any geomechanical analyses, monitoring plan, etc. However, without exception or variance to these rules and regulations, at no time shall the minimum separation between the cavern walls at any point and the periphery of the salt stock for a Class V storage cavern be less than 300 feet.

##### **2. Casing and Cementing**

a. The first casing string cemented into the salt stock shall have connections with seals approved by the commissioner.

b. Any cemented casing in contact with the helium stream must have welded connections with integrity verified by a method approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq. and R.S. 30:23 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 48:2345 (September 2022).

Richard P. Ieyoub  
Commissioner

2209#071

### **RULE**

#### **Department of Natural Resources Office of Conservation**

#### **Hydrocarbon Storage Wells in Salt Dome Cavities (LAC 43:XVII.Chapter 3)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the power delegated under the laws of the state of Louisiana, the Department of Natural Resources, Office of Conservation has amended Statewide Order No. 29-M (LAC 43:XVII. Subpart 3. Chapter 3) to facilitate the permitting, siting, construction, operation, monitoring, and site closure of Class II Hydrocarbon Storage Wells in Solution-Mined Salt Dome Caverns.

The Department of Natural Resources, Office of Conservation has amended provisions governing the oversight of the Class II Hydrocarbon Storage program

within the Underground Injection Control (UIC) Program located within the Office of Conservation. A Hydrocarbon Storage Cavern is a salt cavity created within the salt stock by solution mining and used to store liquid, liquefied, or gaseous hydrocarbons. Oversight for the Class II Hydrocarbon Storage program is held by the Underground Injection Control Program (UIC Program), located within the Louisiana Office of Conservation. Class II wells are a federally-designated well class that allow for the injection of water to create cavities within geologic salt bodies. The UIC Program has held Primary Enforcement Authority from the United States Environmental Protection Agency (US EPA) for Class II wells since 1982. This Rule is hereby adopted on the day of promulgation.

#### Title 43

### NATURAL RESOURCES

#### Part XVII. Injection and Mining

#### Subpart 3. Statewide Order No. 29-M

#### Chapter 3. Hydrocarbon Storage Wells in Salt Dome Cavities

#### §301. Definitions

*Act*—part I, chapter 1 of title 30 of the *Louisiana Revised Statutes*.

*Active Cavern Well*—a storage well or cavern that is actively being used or capable of being used to store liquid, liquefied, or gaseous hydrocarbons, including standby wells. The term does not include an inactive cavern well.

*Application*—the filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a hydrocarbon storage well or parts thereof.

*Aquifer*—a geologic formation, groups of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Blanket Material*—sometimes referred to as a "pad." The blanket material is a fluid or gas placed within a cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid or gas possessing similar noncorrosive, non-solvent, low-density properties. The blanket material is placed against the cavern roof, within the cavern neck, and between the cavern's outermost hanging string and innermost cemented casing.

*Brine*—water within a salt cavern that is saturated partially or completely with salt.

*Cap Rock*—the porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, and occasionally sulfur.

*Casing*—metallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

*Catastrophic Collapse*—the sudden failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

*Cavern Neck*—the uncased wellbore between the deepest casing shoe and the cavern roof, if present.

*Cavern Roof*—the uppermost part of a cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

*Cavern Well*—a well extending into the salt stock to facilitate the injection and withdrawal of fluids into and from a salt cavern.

*Cementing*—the operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

*Circulate to the Surface*—the observing of actual cement returns to the surface during the primary cementing operation.

*Commissioner*—the commissioner of conservation for the state of Louisiana.

*Contamination*—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

*Effective Date*—the date of final promulgation of these rules and regulations.

*Emergency Shutdown Valve*—for the purposes of these rules, a valve that automatically closes to isolate a salt cavern well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

*Exempted Aquifer*—an aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §303.E.2.

*Existing Cavern Well or Storage Project*—a well, salt cavern, or project permitted to store liquid, liquefied, or gaseous hydrocarbons before the effective date of these regulations.

*Facility or Activity*—any facility or activity, including land or appurtenances thereto, that is subject to these regulations.

*Fluid*—any material or substance that flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

*Ground Subsidence*—the downward settling of the earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

*Groundwater Aquifer*—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

*Groundwater Contamination*—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

*Hanging String*—casing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

*Hydrocarbon Storage Cavern*—a salt cavern created within the salt stock by solution-mining and used to store liquid, liquefied, or gaseous hydrocarbons.

*Improved Sinkhole*—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Inactive Cavern Well*—a storage well or cavern that is capable of being used to store liquid, liquefied, or gaseous hydrocarbons but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §309.I.3 and §331.

*Injection and Mining Division*—the Injection and Mining Division of the Louisiana Office of Conservation within the Louisiana Department of Natural Resources.

*Injection Well*—a well into which fluids are injected, excepting fluids associated with active drilling operations.

*Injection Zone*—a geological formation, group of formations or part of a formation receiving fluids through an injection well.

*Leaching*—the process of introducing an under-saturated fluid into a salt cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

*Mechanical Integrity*—an injection well has mechanical integrity if there is no significant leak in the casing, tubing, or packer and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

*Mechanical Integrity Pressure and Leak Test* (also called *Mechanical Integrity Test*)—a test performed to determine whether a cavern or well has mechanical integrity.

*Migrating*—any movement of fluids by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

*New Cavern Well*—a storage well or cavern permitted by the Office of Conservation after the effective date of these regulations.

*Office of Conservation*—the Louisiana Office of Conservation within the Department of Natural Resources.

*Open Borehole*—the portion of the drilled well bore that is uncased at any point in time.

*Operator*—the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

*Owner*—the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

*Permit*—an authorization, license, or equivalent control document issued by the commissioner to implement the requirements of these regulations. Permit includes, but is not limited to, area permits and emergency permits. Permit does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a draft permit.

*Person*—an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

*Post-Closure Care*—the appropriate monitoring and other actions (including corrective action) needed following cessation of a storage project to ensure that USDWs are not endangered.

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

*Project*—a group of wells or salt caverns used in a single operation.

*Public Water System*—a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and

2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

*Qualified Professional Appraiser*—for the purposes of these rules, any licensed real estate appraiser holding current certification from the Louisiana Real Estate Appraisers Board and functioning within the rules and regulations of their licensure.

*Release*—the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

*Salt Dome*—a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

*Salt Stock*—a typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

*Schedule of Compliance*—a schedule or remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the act and these regulations.

*Site*—the land or water area where any facility or activity is physically located or conducted including adjacent land used in connection with the facility or activity.

*Solution-Mined Salt Cavern*—a cavity or cavern created within the salt stock by dissolution with water.

*Solution Mining Under Gas (SMUG)*—a technique allowing the storage of product while simultaneously solution mining the cavern for the purpose of cavern enlargement.

*Solution-Mining Well*—a well which injects for extraction of minerals including:

1. mining of sulfur by the Frasch process;
2. in situ production of uranium or other metals;
3. solution mining of salts or potash.

*State*—the state of Louisiana.

*Subsidence*—see ground subsidence.

*Surface Casing*—steel pipe placed inside the conductor casing in the borehole which extends below, and is

protective of, the USDW and other shallow geologic formations.

*UIC*—the Louisiana State Underground Injection Control Program.

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the commissioner of conservation.

*Underground Source of Drinking Water*—an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
  - a. currently supplies drinking water for human consumption; or
  - b. contains fewer than 10,000 mg/1 total dissolved solids; and which is not an exempted aquifer.

*USDW*—see underground source of drinking water.

*Waters of the State*—both surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

*Well*—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, a subsurface fluid distribution system.

*Well Plug*—a fluid-tight seal installed in a borehole or well to prevent the movement of fluids.

*Workover*—to perform one or more of a variety of remedial operations on an injection well, such as cleaning, perforation, changing tubing, deepening, squeezing, plugging back, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:342 (February 2014), amended LR 42:419 (March 2016), LR 48:2346 (September 2022).

### §303. General Provisions

A. - A.4. ...

#### B. Prohibition of Unauthorized Injection

1. The construction, conversion, or operation of a hydrocarbon storage well or salt cavern without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the state of Louisiana.

2. - 3. Repealed.

#### C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

C.1. - E. ...

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §303.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if an aquifer has not been specifically identified by the Office of Conservation, it is an

underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation proposes to denote as exempted aquifers if they meet the following criteria:

E.2.a. - F. ...

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions, variances, or alternative means of compliance to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception, variance, or alternative means of compliance and any associated mitigating measures shall not result in an unacceptable increase of endangerment to the environment, or the health, safety, and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception, variance, or alternative means of compliance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

a. ...

b. When reducing requirements under this Section, the commissioner shall issue a fact sheet in accordance with §311.F explaining the reasons for the action.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The commissioner may require public notice and a public hearing prior to granting any exception or variance if he determines it to be in the public interest or otherwise appropriate. The requester of the exception or variance shall be responsible for all costs associated with any public notice or public hearing.

3. Operators of hydrocarbon storage wells and/or caverns may operate in accordance with alternative means of compliance previously approved by the commissioner of conservation. Alternative means of compliance shall mean operations that are capable of demonstrating a level of performance, which meets or exceeds the standards contemplated by these regulations. Owners or operators of caverns existing at the time of these rules may submit alternative means of compliance to be approved by the commissioner of conservation. The commissioner may review and approve upon finding that the alternative means of compliance meet, ensure, and comply with the purpose of the rules and regulations set forth herein provided the proposed alternative means of compliance ensures comparable or greater safety of personnel and property, protection of the environment and public, quality of operations and maintenance, and protection of the USDW.

G. - G.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:344 (February 2014), amended LR 42:419 (March 2016), LR 48:2348 (September 2022).

### §305. Permit Requirements

A. ...

B. Application Required. Applicants for a hydrocarbon storage well or cavern, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit one original application form with required attachments and documentation and an electronic copy of the same to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information necessary to show compliance with applicable state laws and these regulations.

C. - F. ...

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:346 (February 2014), amended LR 42:419 (March 2016), LR 48:2349 (September 2022).

### §307. Application Content

A. The following minimum information shall be required for each permit application. The applicant shall also refer to the appropriate application form for any additional information that may be required.

1. For Class II hydrocarbon storage wells being dually permitted for Class III solution mining, a single consolidated submittal containing both applications may be accepted.

B. Administrative Information:

1. - 9. ...

a. the Louisiana Hazardous Waste Management;

b. this or any other Underground Injection Control

Program;

9.c - 10. ...

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility will be provided as required in §309.B. Before making a final permit decision, the official instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

12. a map with accompanying tabulation identifying names and addresses of all property owners within the area of review of the hydrocarbon storage cavern.

C. Maps and related information:

1. certified location plat of the hydrocarbon storage well and/or area permit boundary prepared and certified by a registered land surveyor licensed and in good standing with the Louisiana Professional Engineering and Land Surveying Board. The location plat shall be prepared according to standards of the Office of Conservation;

2. - 3. ...

4. map(s) showing the hydrocarbon storage well for which the permit is sought, the project area or property boundaries of the facility in which the hydrocarbon storage

well is located, and the applicable area of review. Within the area of review, the map(s) shall show the well name, well number, well state serial number, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map(s) shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads. Only information known to the applicant is required to be included on the map(s);

5. maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

6. generalized maps and cross-sections illustrating the regional geologic setting;

7. ...

8. maps and vertical cross-sections detailing the geologic structure of the local area. The cross-sections shall be structural (as opposed to stratigraphic cross-sections), be referenced to sea level, show the hydrocarbon storage well and the cavern being permitted, all adjacent salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other boreholes and wells that penetrate the salt stock. Cross-sections should be oriented to indicate the closest approach to adjacent caverns, boreholes, wells, the edge of the salt stock, etc. and shall extend at least one mile beyond the edge of the salt stock unless the edge of the salt stock and any existing oil and gas production can be demonstrated in a shorter distance and is administratively approved by the Office of Conservation. Salt caverns shall be depicted on the cross-sections using data from the most recent salt cavern sonar. Known faulting in the area shall be illustrated on the cross-sections such that the displacement of subsurface formations is accurately depicted;

9. - 10. ...

D. Area of Review Information. Refer to §313.E for area of review boundaries and exceptions. Only information of public record or otherwise known to the applicant need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures that penetrate or are within the salt stock in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review:

1. a discussion of the protocol used by the applicant to identify wells and manmade structures that penetrate or are within the salt stock in the defined area of review;

2. a tabular listing of all known water wells in the area of review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc.), and current well status (active, abandoned, etc.);

3. a tabular listing of all known wells (excluding water wells) in the area of review with penetrations into the cap rock or salt stock to include at a minimum:

3.a - 4.b.iv. ...

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information in technical report format:

1. for existing caverns, the results of the latest cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §313.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed, or plugged and abandoned;

3. plans for performing the geological, geomechanical, geochemical, engineering, and other site assessment studies of §313 to assess the stability of the salt stock and overlying and surrounding sediments based on past, current, and planned well and cavern operations. If such studies are complete, submit the results obtained along with an interpretation of the results;

4. ...

5. properly labeled schematic of the subsurface construction and completion details of the hydrocarbon storage well and cavern to include borehole diameters; all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; the depth datum; and any other pertinent details;

6. surface site diagram(s) of the facility in which the hydrocarbon storage well is located, including but not limited to surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, field offices, monitoring and safety equipment, required curbed or other retaining wall heights, etc.;

7. - 9.f. ...

g. the safety requirements of §321, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, systems test and inspections, and surface facility retaining walls and spill containment, contingency plans to cope with all shut-ins or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

E.9.h. - F. ...

G. Confidentiality of Information. In accordance with R.S. 44.1 et seq., any information submitted to the Office of Conservation pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application for, or instructions, or in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, the Office of Conservation may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in R.S. 44.1 et seq. (Public Information).

1. - 1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:347 (February 2014), amended LR 42:420 (March 2016), LR 48:2349 (September 2022).

## §309. Legal Permit Conditions

A. - B. ...

1. Closure and Post-Closure. The owner or operator of a hydrocarbon storage well shall maintain financial responsibility and the resources to close, plug and abandon and where necessary, conduct post-closure care of the hydrocarbon storage well, cavern, and related facilities as prescribed by the Office of Conservation. The related facilities shall include all surface and subsurface constructions and equipment exclusively associated with the operation of the hydrocarbon storage cavern including but not limited to class II saltwater disposal wells and any associated equipment or pipelines whether located inside or outside of the permitted facility boundary. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §337.A and post-closure plan of §337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43: XVII.309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. - 3.a.ii. ...

b. Assistance to residents payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. - 4.a.i. ...

ii. Upon petition by the state or any political subdivision of the state that is eligible for reimbursement under this Subparagraph, the commissioner shall issue an order to the permittee or operator to make payment within 30 days for the itemized costs.

iii. - iv. ...

b. Reimbursement to any person who owns noncommercial residential immovable property located within an area under a mandatory or forced evacuation order pursuant to R.S. 29:721 et seq. for a period of more than 180 days, without interruption due to a violation of this Chapter, the permit or any order issued pursuant to this Chapter. The offer for reimbursement shall be calculated for the replacement value of the property based upon an appraisal by a qualified professional appraiser. The replacement value of the property shall be calculated based upon the estimated value of the property prior to the time of the incident resulting in the declaration of the disaster or emergency. The reimbursement shall be made to the property owner within 30 days after notice by the property owner to the permittee or operator indicating acceptance of the offer and showing proof of continuous ownership prior to and during the evacuation lasting more than 180 days, provided that the offer for reimbursement is accepted within 30 days of receipt, and the property owner promptly transfers the

immovable property free and clear of any liens, mortgages, or other encumbrances to the permittee or operator. Such payments shall not be construed as an admission of responsibility or liability.

C. - F.2. ...

3. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a hydrocarbon storage well cavern, and related facility, or parts thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety, and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the hydrocarbon storage well, or part thereof, shall not endanger the environment, or the health, safety, and welfare of the public.

3.a. - 4. Repealed.

G. - H. ...

I. Notification Requirements. The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated in this Subsection.

1. - 4.a. ...

b. a representative of the commissioner has inspected the well and/or facility and finds it is in compliance with the conditions of the permit; and

c. ...

5. Noncompliance or anticipated noncompliance with the permit or applicable regulations (which may result from any planned changes in the permitted facility or activity) including a failed mechanical integrity pressure and leak test of §327.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation indicating that the permit has been transferred. This action may require modification or revocation and re-issuance of the permit (see §311.K) to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

I.7. - J. ...

1. Authorization to Operate. Authorization by permit to operate a hydrocarbon storage well and salt cavern shall be valid for the life of the well and salt cavern, unless suspended, modified, revoked and reissued, or terminated for cause as described in §311.K. The commissioner may issue for cause any permit for a duration that is less than the full allowable term under this Section. Conversion of a Class III solution-mining well and cavern for Class II hydrocarbon storage does not nullify or void the existing Class III solution-mining permit unless expressly ordered by the commissioner.

2. - 3. ...

K. Compliance Review. The commissioner shall review each hydrocarbon storage well permit, area permit, and cavern at least once every five years to determine whether any permit should be modified, revoked and reissued, terminated, whether minor modifications are needed, or if remedial action or additional monitoring is required for any cavern. Commencement of the compliance review process

for each facility shall proceed as authorized by the Commissioner of Conservation.

1. As a part of the five-year permit review, pursuant to RS 30:4.M.2, the operator shall submit the following minimum information to the Office of Conservation, based upon the best available information.

a. Structural Map. A structural map of the top of salt including an aerial view of the maximum outline(s) of the operator's caverns and any other adjacent solution-mining caverns, disposal caverns, storage caverns or room and pillar mines. The maximum cavern outlines shall be based upon the latest sonar survey for each cavern.

b. Cross-Sections

i. Cross-sections illustrating the closest approach between an operator's caverns, between an operator's caverns and any adjacent solution-mining caverns, disposal caverns, storage caverns, or room and pillar mines if indicated to be proximal to adjacent caverns or mines.

ii. Cross-sections illustrating the closest approach between the operator's caverns and the edge of the salt stock, if the edge of the cavern, based upon the best available information, is indicated to be less than 500 feet from the edge of the salt stock.

iii. All cross-sections shall be based upon the latest sonar survey for each cavern and the latest structural map of the top of salt based upon the best available information.

c. a tabulation of each of the operator's caverns with minimum offset distances listed to adjacent caverns, the edge of salt, and adjacent property boundaries.

2. As a part of the five year compliance review, the well operator shall review the closure and post-closure plan and associated cost estimates of §337 to determine if the conditions for closure are still applicable to the actual conditions.

3. As a part of the five year compliance review, the operator shall submit any other information required by the commissioner.

L. - M.4. ...

5. Any approved area permit for hydrocarbon storage in solution-mined salt caverns shall encompass and be valid for future Class III solution-mining wells and resulting caverns constructed for the purpose of future hydrocarbon storage.

N. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:349 (February 2014), amended LR 42:420 (March 2016), LR 48:2350 (September 2022).

### §311. Permitting Process

A. - B. ...

1. The applicant shall make public notice that a permit application for a hydrocarbon storage cavern or caverns, or an area permit, is proposed for filing with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. Without exception, the applicant shall publish a new notice of intent if the application is not received by the Office of



Conservation within the filing period. If the applicant is dually permitting a well for both Class III solution mining and Class II hydrocarbon storage the public notice of intent for both applications may be combined.

B.2. - C. ...

1. The applicant shall complete, sign, and submit one original paper application form, with required attachments and documentation, and one copy of the same to the Office of Conservation. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. In addition to submitting the application on paper, the applicant shall submit an exact duplicate of the paper application in an electronic format approved by the commissioner. The commissioner may request additional paper copies of the application, either in its entirety or in part, as needed. The electronic version of the application shall contain the following certification statement.

This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) to the Louisiana Office of Conservation.

C.2. - D.1. ...

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the commissioner shall require the applicant to give public notice that the following actions have occurred:

a.i. - c. ...

2. Public Notice by Applicant

a. Public notice shall be published by the applicant in the legal advertisement section of the official state journal and the official journal of the parish of the proposed project location not less than 30 days before the scheduled hearing. If the applicant is dually permitting a well for both class III solution mining and class II hydrocarbon storage the public notice of a hearing for both applications may be combined.

b. The applicant shall provide notice of the scheduled public hearing by forwarding a copy of the notice by mail or e-mail to:

i. the Office of Conservation Injection and Mining Division;

ii. - xi. ...

3. Public Notice Contents. Public notices shall contain the following minimum information:

3.a. - 4.b. ...

c. A duplicate of the complete permit application in electronic format shall be submitted to the Office of Conservation.

E. - G. ...

1. The Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing is set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant. If the applicant is dually permitting a well for both Class III solution mining and Class II hydrocarbon storage, both applications may be considered at the same public hearing.

G.2. - H.4. ...

5. The owner or operator of a solution-mined storage cavern permit shall record the final permit, which shall include any orders, permits to construct, permits to store,

and a certified as-drilled survey plat if an as-drilled plat has not been previously filed, in the mortgage and conveyance records of the parish in which the property is located. A date/file stamped copy of the plat and final permit is to be furnished to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

H.6. - J.2.b.iii. ...

c. If no agreement described in §311.J.2.b.iii. above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. - f. ...

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §311.K.3.b, the transfer is effective on the date specified in the agreement mentioned in §311.J.2.b.iii above.

J.2.h. - K.7.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:352 (February 2014), amended LR 42:422 (March 2016), LR 48:2351 (September 2022).

**§313. Site Assessment**

A. Applicability. This Section applies to all applicants, owners, or operators of hydrocarbon storage wells and caverns. The applicant, owner, or operator shall be responsible for showing that the hydrocarbon storage operation shall be accomplished using good engineering and geologic practices for hydrocarbon storage operations to preserve the integrity of the salt stock and overlying sediments. In addition to all applicants showing this in their application, as part of the compliance review found in subsection §309.K, the commissioner shall require any owner or operator of a hydrocarbon storage well to provide the same or similar information required in this Section. This shall include, but not be limited to:

1. ...

2. stability of the salt stock and overlying and surrounding sediments;

A.3. - B.1. ...

a. geologic mapping of the structure of the salt stock and any cap rock;

b. - c. ...

d. deformation of the cap rock and strata overlying the salt stock;

e. ...

f. cap rock formation and any non-vertical salt movement.

2. - 4. ...

a. an updated structure contour map of the salt stock. The updated map should make use of all available data. The horizontal configuration of the salt cavern should be shown on the structure map and reflect the caverns' maximum lateral extent as determined by the most recent sonar caliper survey; and

b. vertical cross-sections of the salt caverns showing their outline and position within the salt stock. Cross-sections should be oriented to indicate the closest approach of the salt cavern wall to the periphery of the salt stock. The outline of the salt cavern should be based on the most recent sonar caliper survey.

C. ...

1. At least one well at the site of the hydrocarbon storage well (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects may be used instead of actual core sampling provided the data is specific to the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data are applicable to the salt dome and cavern location(s) of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, x-ray diffraction analysis, microstructure, and where necessary, potential for adjacent cavern connectivity, with emphasis on cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under cavern operating conditions. Test results, analyses, and operating recommendations shall be summarized in an interpretive report.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual hydrocarbon storage well or project area (area permit) that may influence the integrity of the salt stock, hydrocarbon storage well, and cavern, or contribute to the movement of injected fluids outside the cavern, wellbore, or salt stock.

1. ...

a. The area of review for individual hydrocarbon storage wells shall be a fixed radius around the wellbore of not less than 1320 feet.

b. The area of review for wells in a hydrocarbon storage project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. The area of review for new hydrocarbon storage wells within an existing area permit shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. Only information outlined in §313.E.2, not previously assessed as part of the area permit application review or as part of the review of an application for a subsequent hydrocarbon storage well located within the approved area permit, shall be considered.

c. Exception shall be noted as in §313.E.2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area of review:

a. all known active, inactive, and abandoned wells within the area of review with known depth of penetration into the cap rock or salt stock;

b. all known water wells within the area of review;  
c. - e. ...

3. Water Samples. A representative number of water wells identified under §313.E.2.b shall be sampled and analyzed by an accredited laboratory for chloride and total dissolved solids.

F. ...

1. For manmade structures identified in the area of review that penetrate the salt stock and are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the cavern or into underground sources of drinking water.

1.a. - 3....

4. The commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a underground source of drinking water through any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other corrective action has been taken.

5. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:357 (February 2014), amended LR 42:422 (March 2016), LR 48:2352 (September 2022).

### **§315. Cavern Design and Spacing Requirements**

A. - B.1.a.i. ...

ii. The commissioner shall hold a public hearing at Baton Rouge if a non-consenting adjacent owner whose property line is within 100 feet objects to the cavern's continued operation. Following the public hearing the commissioner may approve the cavern's continued operation upon a determination that the continued operation of the cavern has no adverse effects to the rights of the adjacent property owner(s).

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with §315.B.1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

1.b. - 3.b. ...

c. Without exception or variance to these rules and regulations, an existing hydrocarbon storage cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from hydrocarbon storage service immediately and permanently. An enhanced monitoring plan in conformance with §315.B.3.b above for long term monitoring shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

d. For hydrocarbon storage caverns in existence as of the effective date of these regulations with less than 300 feet but more than 100 feet of salt separation at any point between the cavern walls and the periphery of the salt stock, continued hydrocarbon storage may be allowed upon submittal of an enhanced monitoring plan in conformance with §315.B.3.b above in addition to any additional maps, studies, tests, assessments, or surveys required by the commissioner to show that the cavern is capable of continued safe operations.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:358 (February 2014), amended LR 42:422 (March 2016), LR 48:2353 (September 2022).

### §317. Well Construction and Completion

A. - B. ...

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be performed on all new wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall include, at a minimum, density, neutron, sonic, and caliper logs and shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of 1 inch to 100 feet and a scale of 5 inches to 100 feet and all logs must include the depth datum. A descriptive report interpreting the results of such logs and tests shall be prepared and submitted to the commissioner.

2. ...

3. Caliper logging to determine borehole size for cement volume calculations shall be performed before running casings.

B.4. - C.2.g. ...

3. Surface casing shall be set to a depth below the base of the lowermost underground source of drinking water and shall be cemented to ground surface.

4. All hydrocarbon storage wells shall be cased with a minimum of two casings cemented into the salt. One casing string shall be an intermediate string, the other being the final cemented string. The surface casing shall not be considered one of the two casings.

5. The intermediate casing shall be set a minimum distance of 100 feet into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

6. The following applies to wells existing in caverns before the effective date of these rules and regulations. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface. Alternatively, a packer and tubing completion may be substituted for the inner casing string. The packer shall be considered the effective casing seat and must be set a minimum distance of 300 feet into the salt and within 50 feet of the deepest cemented casing seat.

C.7. - D.2. ...

a. For all casings below the surface casing, excluding the casing string(s) set into the salt, the stabilized test pressure applied at the well surface will be calculated such that the pressure at the casing shoe will not be less than the 85 percent of the predicted formation fracture pressure at that depth. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

b. For the casing strings set within the salt, the test pressure applied at the surface will be the greater of the maximum predicted salt cavern operating pressure or a pressure gradient of 0.85 PSI/FT of vertical depth calculated with respect to the depth of the casing shoe. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

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

2. A casing inspection log (or similar approved log or method of casing evaluation) shall be run on the final cemented casing.

E.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:359 (February 2014), amended LR 42:423 (March 2016), LR 48:2354 (September 2022).

### §319. Operating Requirements

A. ...

B. Remedial Work. No remedial work or repair work of any kind shall be performed on the hydrocarbon storage well or cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests, sonar caliper surveys, and all logs, including casing inspection logs and through tubing logs; however, a work permit is not required in order to conduct routine interface surveys. The owner, operator, or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the cavern shall be relieved, as practicable.

C. Well Recompletion—Casing Repair. The following applies to hydrocarbon storage wells where remedial work results from well upgrade, casing wear, or similar condition. For each paragraph below, a casing inspection log shall be performed on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A hydrocarbon storage well that cannot be repaired or upgraded shall remain out-of-service and be closed according to an approved closure and post-closure plan.

C.1. - E.1. ...

2. The maximum and minimum allowable surface injection pressures shall be calculated at a depth referenced to the well's deepest effective cemented casing seat. The

injection pressure at the wellhead shall be calculated to ensure that the pressure induced within the salt cavern during injection does not initiate fractures or propagate existing fractures in the salt. In no case shall the injection pressure initiate fractures in the confining zone or cause the migration of injected fluids out of the salt stock or into an underground source of drinking water.

3. - 4. ...

5. No liquid hydrocarbon storage cavern shall be converted to gas storage without prior approval by the Office of Conservation. Conversion to gas storage may require additional geomechanical modeling to establish allowable operating pressures.

#### F. Solution Mining Under Gas

1. Within 30 days of a planned cavern enlargement while storing product, the operator shall submit written notice to the Injection and Mining Division with a description and timeline of the planned event.

2. Unless specifically exempted by the commissioner, after the completion of the smuggling period, a sonar survey shall be conducted of the cavern and submitted to the Injection and Mining Division in accordance with §329.B.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:361 (February 2014), amended LR 48:2354 (September 2022).

### §321. Safety

A. ...

B. Controlled Site Access. Access to hydrocarbon storage facilities shall be controlled by fencing or other means around the facility property. All points of entry into the facility shall be through a lockable gate system.

C. Personnel. Personnel shall be on duty at the storage facility 24 hours a day. During periods of stored product injection or withdrawal, trained personnel shall be stationed at the storage well, facility's onsite local control room, or other facility control location at the storage site. If the storage facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24 hours a day staffing of the facility may not be required.

D. - E.1. ...

2. All valves, flowlines for injection and withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the hydrocarbon storage well and cavern and prevent backflow or escape of injected material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the injection side.

E.3. - F. ...

G. Emergency Shutdown Valves. Manual and automatically actuated emergency shutdown valves shall be installed on all systems of cavern injection and withdrawal and any other flowline going into or out from each hydrocarbon storage wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §321.I.

G.1. - J.1.f. ...

2. Visual inspections of the cavern facility shall be conducted each day the facility is operating. At a minimum, this shall include inspections of the wellhead, flowlines,

valves, signs, perimeter fencing, and all other areas of the facility. Problems discovered during the inspections shall be corrected timely.

3. Representatives of the Office of Conservation may inspect the storage well and facility at any time during the storage facility regular working hours.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:362 (February 2014), amended LR 42:423 (March 2016), LR 48:2355 (September 2022).

### §323. Monitoring Requirements

A. ...

1. Pressure gauges or pressure sensors/transmitters that show pressure on the fluid injection string, fluid withdrawal string, and any other string in the well shall be installed at each wellhead. Gauges or pressure sensors/transmitters shall be designed to read gauge pressure in 25 PSIG increments. All gauges or pressure sensors/transmitters shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have 1/2 inch female fittings.

2. ...

3. Flow sensors designed to actuate the automatic closure of all emergency shutdown valves in response to abnormal changes in cavern injection and withdrawal flow rates shall be installed and properly maintained on each hydrocarbon storage well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each hydrocarbon storage well. Continuous recordings may consist of circular charts, digital recordings, or similar type. Unless otherwise specified by the commissioner, digital instruments shall record the required information at no greater than one minute intervals. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1 - 3. ...

#### C. Casing Inspection

1. A casing inspection or similar log shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years for liquid hydrocarbon storage caverns and every 15 years for natural gas storage caverns. Casing inspection logs shall be submitted to the Office of Conservation and shall include an interpretive report.

2. Equivalent alternate monitoring programs to ensure the integrity of the innermost, cemented casing may be approved by the Office of Conservation in place of §323.C.1.

3. - 4. Repealed.

D. Vapor Detection. The operator shall develop a monitoring plan designed to detect the presence of a buildup of combustible gases or any potentially ignitable substances in the atmosphere resulting from the hydrocarbon storage operation. Variations in surface topography, atmospheric conditions typical to the area, characteristics of the stored product, proximity of the facility to homes, schools, commercial establishments, etc., should be considered in developing the monitoring plan. The plan shall be submitted as part of the permit application and should be updated as needed but no less than every five years, and may be included within the submittal required in §309.K. The monitoring plan should include provisions for strategic placement of stationary detection devices at various areas of the facility, portable monitoring devices, or any other appropriate system acceptable to the commissioner.

1. - 2. ...

E. Subsidence Monitoring and Frequency. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor subsidence at and in the vicinity of the hydrocarbon storage cavern(s). A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring even.

1. Subsidence monitoring surveys for caverns in gas or liquid storage shall be scheduled to occur annually during the same period each year. If there are multiple operators on the same salt dome, a collaborative effort to conduct a joint subsidence survey is recommended.

2. When multiple cavern owners or operators participate in dome-wide subsidence monitoring, a single dome-wide subsidence monitoring report shall be submitted to the Office of Conservation on behalf of all participating owners or operators. The report must clearly identify all owners or operators participating in the monitoring and all wells/caverns.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:363 (February 2014), amended LR 42:423 (March 2016), LR 48:2355 (September 2022).

### **§325. Pre-Operating Requirements—Completion Report**

A. The operator shall submit a report describing, in detail, the work performed resulting from the approved permitted activity. The report shall be submitted in paper and electronic form and shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, conversion, completion, or workover of the storage well or cavern. Product storage shall not commence until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation stating storage operations may begin. Preauthorization pursuant to this Subsection is not required for workovers.

B. - B.5. ...

6. if not already submitted, a certified, as-drilled location plat of the hydrocarbon storage well, accompanied by proof of filing of the plat in the parish conveyance and mortgage records;

7. as-built subsurface diagram of the hydrocarbon storage well and cavern labeled with appropriate construction, completion, or conversion information, i.e., depth datum, depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;

8. - 10. ...

11. paper and electronic copies of any wireline logging such as open hole logs, cased hole logs, the most recent cavern sonar survey, and mechanical integrity test;

12. the status of corrective action on wells in the area of review;

13. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:364 (February 2014), amended LR 48:2356 (September 2022).

### **§327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. - B. ...

1. Without exception or variance to these rules and regulations, all hydrocarbon storage wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning storage activities.

2. All subsequent demonstrations of mechanical integrity shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

a. after physical alteration to any cemented casing or cemented liner;

b. after performing any remedial work to reestablish well or cavern integrity;

c. before returning the cavern to hydrocarbon storage service after a period of salt solution-mining or washing to purposely increase storage cavern size or capacity;

d. before well closure, except when the cavern has experienced mechanical failure;

e. whenever leakage into or out of the cavern system is suspected;

f. whenever the commissioner determines a test is warranted.

g. Repealed.

C. - C.6. ...

7. Inactive Caverns. The commissioner may approve hydrostatic brine pressure monitoring for inactive wells and caverns that are in pre-closure monitoring and will not be returned to service. For any cavern removed from pre-closure monitoring that has been subject to hydrostatic brine pressure testing, a MIT must be performed in accordance with §327.C.1-6 above prior to resuming any injection activities.

D. Submission of Pressure and Leak Test Results. Submit one complete electronic copy of the mechanical integrity pressure and leak test results, certified by a Louisiana licensed P.E. (see §303.G.3) to the Office of

Conservation within 60 days after test completion. The report shall include the following minimum information:

D.1. - E. ...

1. Without exception or variance to these rules and regulations, a hydrocarbon storage well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §309.I.8. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the storage well or cavern to a full state of mechanical integrity. A storage well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

a. - b. ...

c. fluids are determined to have escaped from the hydrocarbon storage well or cavern during storage operations.

2. Written procedures to rehabilitate the hydrocarbon storage well or cavern, extended cavern monitoring, or abandonment (closure and post-closure) of the storage well or cavern shall be submitted to the Office of Conservation within 60 days of mechanical integrity test failure.

3. Upon reestablishment of mechanical integrity of the hydrocarbon storage well or cavern and before returning either to service, a new mechanical integrity pressure and leak test shall be performed that demonstrates mechanical integrity of the storage well or cavern. The owner or operator shall submit the new test results to the Office of Conservation for written approval before resuming injection operations.

4. If a hydrocarbon storage well or cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern according to an approved closure and post-closure plan.

a. The Office of Conservation may waive implementation of closure requirement if the owner or operator is engaged in a cavern remediation study and implements an interim cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety and welfare of the public. The Office of Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim cavern monitoring, and eventual cavern closure and post-closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:364 (February 2014), amended LR 42:423 (March 2016), LR 48:2356 (September 2022).

### §329. Cavern Configuration and Capacity Measurements

A. ...

B. Frequency of Surveys. For liquid hydrocarbon storage caverns, a sonar caliper survey of the entire cavern, or other approved survey, shall be performed at least once every 5 years and must include horizontal shots beginning just below the deepest cemented casing shoe. At least once every 10

years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern using uptilted shots. For natural gas storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years and must include horizontal shots beginning just below the deepest cemented casing shoe. At least once every 15 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern using uptilted shots. For natural gas storage caverns engaging in simultaneous storage and salt solution mining or washing, a sonar caliper survey, or other approved survey, shall be performed in accordance with this article or in accordance with LAC 43:XVII.3329, whichever requires the more frequent survey. For storage caverns of a small size, stable configuration, and favorable positioning within the salt stock, the commissioner may approve partial sonar caliper surveys in fulfillment of the required surveys excepting the required survey at least once every 15 years to log the roof of the cavern. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

1. ...

2. whenever leakage into or out of the cavern system is suspected;

3. - 6. ...

C. Submission of Survey Results. A complete electronic version of each survey shall be submitted to the Office of Conservation within 60 days of survey completion.

1. - 1.e. ...

f. vertical cross-sections of the cavern at various azimuths drawn to an appropriate horizontal and vertical scale;

g. cross-section overlays comparing results of current survey and at least two previous surveys, if available;

h. isometric or 3-D shade profile of the cavern at various azimuths and rotations;

i. any data collected from prior surveys shall be clearly identified if included in the submitted report.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), amended LR 42:423 (March 2016), LR 48:2357 (September 2022).

### §331. Inactive Caverns

A. The following minimum requirements apply when a hydrocarbon storage cavern is removed from storage service and is expected to remain out of service for one year or more:

1. ...

2. disconnect all flowlines for injection to the well;

3. ...

4. submit quarterly reports on the appropriate Form (Form UIC-50 or successor) in accordance with §333;

5. maintain and demonstrate well and cavern mechanical integrity if storage operations were suspended for reasons other than a lack of mechanical integrity;

6. maintain compliance with financial responsibility requirements of these rules and regulations; and

7. any additional requirements of the Office of Conservation to document the hydrocarbon storage well and

cavern shall not endanger the environment, or the health, safety, and welfare of the public during the period of cavern inactivity;

8. no inactive hydrocarbon storage cavern may be returned to service without first submitting a written request with Form UIC-17 to the Office of Conservation and obtaining approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), amended LR 42:424 (March 2016), LR 48:2357 (September 2022).

### §333. Operating Reports

A. The operator shall submit quarterly operation reports to the Office of Conservation. Reports are due no later than 15 days following the end of the reporting period.

B. Reports shall be submitted electronically on the appropriate Form (Form UIC-50 or successor) and reference the operator name, well name, well number, well state serial number, salt dome name, and contain the following minimum information acquired weekly during the reporting quarter:

1. - 2. ...
3. pressure releases from inactive caverns;
4. description of any event resulting in non-compliance with these rules that triggered an alarm or shutdown device and the response taken;
5. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

C. ...

1. barrels (42-gallon barrels) at standard temperature and pressure for liquid or liquefied storage; or
2. thousand cubic feet (MCF) at standard temperature and pressure for gas storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014), LR 48:2358 (September 2022).

### §335. Record Retention

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014), repromulgated LR 48:2358 (September 2022).

### §337. Closure and Post-Closure

A. Closure. The owner or operator shall close the hydrocarbon storage well, cavern, and associated parts as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

1. - 3.a....

i. a detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

3.a.ii. - 5.a. ...

b. A continuous column of cement shall fill the deepest cemented casing from its shoe to the surface via a series of cement plugs;

i. each cement plug shall be tagged to verify the top of cement before setting the next cement plug;

ii. ...

iii. unless specifically exempted by the commissioner, a balanced cement plug shall be placed across the shoe of the deepest cemented casing, tagged to verify the top of cement, and pressure tested to at least 300 PSI for 30 minutes before setting the next cement plug; and

iv. subsequent cement plugs shall be spotted immediately on top of the previously placed cement plug.

c. - c.i. ...

ii. on water locations cut and pull the casings a minimum of 15 feet below the mud line.

d. ...

6. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 60 days after closing the storage well, cavern, facility, or part thereof. The report shall be submitted electronically and shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. ...

b. the appropriate Office of Conservation plug and abandon report form (Form UIC—P&A or successor); and

c. ...

B. Post-Closure. Plans for post-closure care of the hydrocarbon storage well, cavern, and related facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of storage operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

1. - 1.a....

i. a detailed cost estimate for adequate post-closure care of the well and cavern shall be prepared by a qualified, independent third party. The post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation;

ii. ...

iii. documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation.

b. Repealed.

2. - 2.a. ...

b. complete any corrective action or site remediation resulting from the operation of a hydrocarbon storage well;

c. conduct any groundwater monitoring if required by the permit or approved corrective action plan;

2.d. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014), amended LR 42:424 (March 2016), LR 48:2358 (September 2022).

Richard P. Ieyoub  
Commissioner

2209#069

## RULE

### Department of Public Safety and Corrections Gaming Control Board

Service of Notices  
(LAC 42:III.103, 108, and 109)

The Department of Public Safety and Corrections, Gaming Control Board, in accordance with R.S. 27:15, R.S. 27:24, and the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., has amended LAC 42:III.103, Hearings on Rule 102 Disputes, LAC 42:III.108, Board Hearings, and has adopted LAC 42:III.109, Duties of Licensees, Permittees, and Applicants; Service. This rule change clarifies practices already required to take place in the industry and creates uniformity. The rule change modifies the requirements for service of notices and correspondence from the board, board hearing office, and division and the duties of licensees, permittees, and applicants for service and correspondence. This Rule is hereby adopted on the day of promulgation.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 1. General Provisions

#### §103. Hearings on Rule 102 Disputes

A. Any person required to be licensed or permitted by the department by authority of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and whose license or permit, or the renewal thereof, has been denied by the department, may request a hearing by the board by filing a written request with the board. The request must be filed within 10 days from service of the notice.

B.1. - 2. ...

C. The board may reverse or modify an action if it finds that the action of the department, under facts determined by the board, was contrary to any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., or was contrary to the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 27:41 et seq., the Video Draw Poker Devices Control Law, R.S. 27:401 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 27:201 et seq., the Louisiana Fantasy Sports Contests Act, R.S. 27:301 et seq., the Louisiana Pari-Mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act, R.S. 27:351 et seq., or the Louisiana Sports Wagering Act, R.S. 27:601 et seq., and any rules promulgated in accordance therewith, when such laws and

rules are not in conflict with the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:1140 (November 1996), amended LR 48:2359 (September 2022).

#### §108. Board Hearings

A.1. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of service of the notice of proposed action, or within 10 days of the date the enforcement action is taken. All hearings requested, and any matter the board determines should be heard in a public hearing, shall be conducted in accordance with this Section.

2. If service of the notice of proposed action cannot be made in accordance with, or service can be presumed to have been given in accordance with §109 of this Chapter, the hearing officer may conduct an ex-parte hearing on the merits upon petition by the division.

B.1. - C.1. ...

2. The requesting party shall be notified of the time, date and location of the hearing by certified mail or personal service. If notice of the hearing cannot be made by certified mail or personal service, the requesting party may be notified of the time, date and location of the hearing by United States Postal Service First Class mail or electronic means to the party's last provided physical or mailing or electronic mailing address.

D.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:77 (January 1997), amended LR 24:2129 (November 1998), LR 48:2359 (September 2022).

#### §109. Duties of Licensees, Permittees, and Applicants; Service

A. Licensees, permittees, and applicants shall accept all correspondence from the board or division or hearing office.

B. Licensees, permittees, and applicants shall notify the division in writing of all changes of address, phone number, or electronic mail address within 10 days of the change.

C. Except as provided in Subsection D of this Section, notice of proposed administrative actions shall be served on licensees, permittees, and applicants by certified mail, registered mail, or certificate of mailing to the mailing address provided in the application, or latest amendment thereto, on file with the division.

1. If service cannot be made at the last provided mailing address by certified mail, one additional service attempt shall be made by:

a. First Class mail at either the licensee, permittee, or applicant's last provided physical address, if different than the last provided mailing address, or upon the registered agent if any exists; or

b. If service cannot be made in accordance with Subparagraph a of this Paragraph, electronic mail to the most recent electronic mail address provided to the division by the licensee, permittee, or applicant.



D. Notices containing an order of immediate emergency suspension

1. Applicable address is located in Louisiana

a. For permittees, notices containing an order of immediate emergency suspension shall be served by personal service at:

i. the last provided physical address of the permittee on record with the division; or

ii. the last known place of gaming employment if the casino permittee is still employed by a licensee or the casino operator.

b. For licensees, notices containing an order of immediate emergency suspension shall be served by personal service at the physical address of the licensed establishment.

2. Applicable address is located outside Louisiana

a. For permittees, notices containing an order of immediate emergency suspension shall be served by personal service at the last known place of gaming employment if the casino permittee is still employed by the a licensee or the casino operator.

b. For casino permittees no longer employed by a licensee or the casino operator in Louisiana and for all notices containing an order of immediate emergency suspension where the physical address is located outside of the state of Louisiana, service shall be made in accordance with Subsection C of this Section.

E. If the licensee, permittee, or applicant has supplied any incorrect or incomplete address to the division, or an updated address is not timely provided, such that service cannot be successfully completed or the licensee, permittee, or applicant fails or refuses to accept mail from the division or board, notice shall be presumed to have been given.

F. For service other than by certified or registered mail, service shall be evidenced by a certificate of the manner in which service was made by the party making service and the date of service and shall be considered proof of service and sufficient notice. If service is by electronic mail, a copy of the delivery receipt is also required and service is made on the date shown on the delivery receipt. Service by regular mail shall be considered made on the date the item was mailed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and R.S. 27:24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 48:2359 (September 2022).

Ronnie S. Johns  
Chairman

2209#008

## RULE

### Department of Revenue Sales and Use Tax Commission for Remote Sellers

#### Voluntary Disclosure Agreements (LAC 61:III.2905)

Under the authority of and in accordance with R.S. 47:340(G)(11) and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Sales and Use Tax Commission for Remote Sellers, (“the

Commission”) has amended this Rule to provide general guidance and procedures for the administration of voluntary disclosure agreements.

## Title 61

### REVENUE AND TAXATION

#### Part III. Administrative and Miscellaneous Provisions Chapter 29. Louisiana Sales and Use Tax Commission for Remote Sellers

##### §2905. Voluntary Disclosure Agreements

A. Definitions. For the purposes of this Section, the following terms are defined. Any terms not specifically defined shall be defined as provided in R.S. 47:339.

*Applicant*—any association, corporation, estate, firm, individual, joint venture, limited liability company, partnership, receiver, syndicate, trust, or any other entity, combination or group that has a state or local sales or use tax liability to the commission and submits or arranges through a representative for the submission of an application to request a voluntary disclosure agreement for said undisclosed sales or use tax. Applicants may be registered or unregistered with the commission. If the application is submitted through a representative, anonymity of the applicant can be maintained until the commission accepts the application to request a voluntary disclosure agreement.

*Application*—a completed application to request voluntary disclosure agreement or an application for multistate voluntary disclosure filed with the Multistate Tax Commission’s National Nexus Program and all supplemental information including, but not limited to, cover letters, schedules, reports, and any other documents that provide evidence of the applicant’s qualification for a voluntary disclosure agreement. Supplemental information requested by the commission and timely provided by the applicant shall be considered part of the application.

*Application Date*—the date a fully completed application requesting a voluntary disclosure agreement is received by the commission. Supplemental information requested by the commission timely provided by the applicant shall not extend or delay the application date.

*Commission*—the Louisiana Sales and Use Tax Commission for Remote Sellers.

*Delinquent Penalty*—any specific penalty imposed pursuant to R.S. 47:1602,1604.1, 337.70 or 337.73 as a result of the failure of the taxpayer to timely make any required return or payment.

*Look-Back Period*—a period for which an applicant agrees to disclose and pay the tax and interest due.

*Signing Date*—the date the voluntary disclosure agreement is signed by the chairman or his authorized representative.

*Undisclosed Liability*—a tax liability that became due during the look-back period and which has not been determined, calculated, researched, identified by or known to the commission at the time of disclosure and which would likely not be discovered through normal administrative activities. The undisclosed liability must exceed \$500 during the look-back period to qualify for consideration of a voluntary disclosure agreement. The commission has the discretion to conduct an audit of the applicant’s records to confirm the amount of the undisclosed liability.

*Voluntary Disclosure Agreement*—a contractual agreement between an applicant and the commission

wherein the applicant agrees to pay the tax and interest due on an undisclosed liability, and the commission agrees to remit or waive payment of the whole or any part of the penalty associated with that liability and to restrict collection of prior liabilities to the look-back period, except for periods in which tax was collected and not remitted.

#### B. Program Requirements

1. An undisclosed liability will qualify for a voluntary disclosure agreement if it results from the underpayment or non-payment of sales tax due to an error in the mathematical computation of the tax due on the return, interpretation of the law, or process of reporting the tax due on the return. An undisclosed liability also qualifies if it resulted from the merger or acquisition of a company that previously failed to properly report sales and use taxes to the commission.

a. An error in the mathematical computation of the tax due on the return is an error on the part of the taxpayer in mathematical computation on the face of the return or on any of the supporting documents or the unintentional failure to include all amounts necessary for calculating the correct amount of taxes due on the return.

b. An error in the interpretation of the law is a construction of the law on the part of the taxpayer contrary to the commission's construction of the law that caused the applicant to incorrectly determine that no tax or a smaller amount of tax was due.

c. An error in the process of reporting the tax due on the return is an error, omission, or a mistake of fact of consequence to the determination of the tax liability on the part of the taxpayer.

2. Notwithstanding the provisions of Paragraph 1 of this Subsection, an applicant shall fail to comply with the requirements for a voluntary disclosure agreement under the following conditions.

a. The applicant is registered as a dealer that is required to report retail sales or sales at retail, as defined in R.S. 47:301(4)(m), to the commission on the application date and the undisclosed liability results from the applicant's failure to file remote seller sales tax returns.

b. The undisclosed liability results from the filing of false, fraudulent, or grossly incorrect returns and the circumstances indicate that the taxpayer had intent to defraud the commission of the tax due under all state and local sales tax impositions.

c. The applicant has been contacted by the commission to inquire about a tax matter, including but not limited to nexus, a potential tax liability or an audit of the taxpayer's records provided such contact occurred in writing and prior to the application date of the agreement.

d. The applicant is affiliated, as defined by law, with an entity that has been contacted by the commission for the purpose of performing an audit. An applicant shall be considered in compliance with the requirements of the voluntary disclosure program after the audit of the affiliated entity has been completed, provided the undisclosed liability qualifies under the criteria described in Paragraph 1 of this Subsection and the applicant is not disqualified under the criteria listed in Subparagraphs a, b or c of this Paragraph.

3. Notwithstanding the conditions listed in Paragraphs 1 and 2 of this Subsection, applicants that applied for a voluntary disclosure agreement with the commission prior to the effective date of this rule and subsequently entered into a

voluntary disclosure agreement with the commission shall be deemed to have met the program requirements.

#### C. Application and Evaluation of Offer to Enter into a Voluntary Disclosure Agreement

1. Applications to enter into voluntary disclosure agreements by taxpayers seeking relief from penalties in cases where a liability to the commission is owed shall be filed on forms provided and in the manner prescribed by the commission. The applicant or his authorized representative, acting under the authority of a power of attorney, shall sign the application, provide a statement of the facts, and include any other information or declarations required to verify that the applicant has complied with program requirements. Taxpayers may apply anonymously or disclose their identity on the application form.

2. If unregistered, the applicant shall apply to the commission for a sales tax account within 30 days of the application date.

3. The commission shall review the application and, based upon the information included therein, determine if the applicant complies with the requirements for a voluntary disclosure agreement. If the applicant complies, the offer will be accepted. If the applicant fails to comply, the offer will be denied.

#### D. Acceptance of Offer to Enter into Voluntary Disclosure Agreement

1. After the commission has reviewed the application and determined from the information included therein that the applicant qualifies for a voluntary disclosure agreement, the commission shall send a copy of the agreement, including the legal name of the taxpayer, to the applicant or the applicant's representative for signature.

2. The applicant or applicant's representative, acting under the authority of a power of attorney, must sign the agreement and return it to the commission within 30 calendar days of the postmark or e-mail date, or within any extension of time authorized by the commission beyond 30 calendar days from the postmark or e-mail date.

3. After the signed agreement is received from the applicant, the chairman will sign the agreement and return a copy of the agreement which has been signed by both parties to the applicant.

4. If the application was submitted to the Multistate Tax Commission, the applicant shall return signed agreements in accordance with policies established by the Multistate Tax Commission.

#### E. Determining the Look-back Period and Treatment of Periods prior to the Look-back Period

1. Except for taxes collected and not remitted, the look-back period for existing entities shall include that portion of the current calendar year prior to and including the application date and the three immediately preceding calendar years or the amount of time they were required by R.S. 47:340(G)(6)(a) to be registered with the commission if less than three years.

2. Except for taxes collected and not remitted, the look-back period for a discontinued, acquired, or merged entity shall include the last calendar year in which the discontinued, acquired, or merged entity had nexus in a jurisdiction and the three immediately preceding calendar years.

3. For taxes collected and not remitted, the look-back period shall include all filing periods in which tax was collected and not remitted up to and including the application date. This look-back period shall not affect the look-back period described Paragraphs 1 or 2 of this Subsection for undisclosed liabilities unrelated to tax collected and not remitted.

4. The commission, in concurrence with the applicant, may adjust the look-back period to accommodate special circumstances.

5. Look-back periods shall be established from the application date, unless the liability results from a merged or acquired entity as described in Paragraph 2 of this Subsection or there is mutual agreement to adjust a look-back period as provided in Paragraph 4 of this Subsection.

6. Periods prior to the look-back period shall be considered part of the voluntary disclosure agreement. However, payment is not required for any taxes due for these periods.

7. Under the agreement, the applicant and the commission agree to suspend prescription for the look-back period as follows:

a. through June 30 of the calendar year subsequent to the signature date when that date occurs on or after January 1 and on or before June 30; and

b. through December 31 of the calendar year subsequent to the signature date when that date occurs on or after July 1 and on or before December 31.

**F. Payment of Tax, Interest, and Penalty Due**

1. All tax due for the look-back period must be paid within 60 calendar days of the chairman's signing date of the voluntary disclosure agreement or within any extension of time authorized by the commission beyond 60 calendar days of the signing date. All schedules or returns required by the commission to show the amount of tax due must be included with this payment.

2. The commission shall compute the interest and penalty due for the tax disclosed by the applicant and send a schedule by mail or email to the applicant or his representative showing the amount of tax, interest and delinquent penalty due. The applicant must submit payment of the full amount of the interest and any penalties not abated or waived within 30 calendar days from the postmark or e-mail date of the schedule or, if applicable, within any extension of time granted by the commission. If payment of the full amount due has not been received at the expiration of such time, the commission may void the agreement.

**G. Waiver or Remittance of Payment of Penalty**

1. After all tax and interest due for the look-back period have been paid, the delinquent penalties will be abated or waived, unless the tax disclosed was collected but not remitted.

2. Where the tax was collected but not remitted, the commission may consider waiving payment of the whole or any part of the delinquent penalties on a case-by-case basis.

H. The commission may disclose tax information to the Multistate Tax Commission or any political subdivision of the state which has entered into an information exchange agreement with the commission in order to coordinate the

delivery and acceptance of applications for voluntary disclosure agreements. Any information so furnished shall be considered and held confidential and privileged by the Multistate Tax Commission or the political subdivision to the extent provided by R.S. 47:1508.

I. The commission may conduct an audit of the look-back period to confirm that the correct amount of tax has been paid. Interest and penalty may be assessed on tax found due in excess of the amounts reported under the voluntary disclosure agreement. The commission shall not assess additional interest or penalty for amounts reported and paid under the voluntary disclosure agreement except in cases of fraud, material misrepresentation, or any such misrepresentation of the facts by the taxpayer.

J. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

K. The commission reserves the right to void the voluntary disclosure agreement if the applicant fails to comply with any of the conditions outlined in the agreement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:340(G)(11).

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers LR 48:2360 (September 2022).

Jeff Lagrange  
Chairman

2209#072

**RULE**

**Department of Transportation and Development  
Professional Engineering and Land Surveying Board**

Engineering and Land Surveying  
(LAC 46:LXI.903, 909, 1107, 2101,  
2103, 2305, 2503, 3105, 3109 and 3121)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.903, 909, 1107, 2101, 2103, 2305, 2503, 3105, 3109 and 3121.

This is a revision of existing rules under which LAPELS operates. The revision (a) incorporates the new state statute dealing with the licensure of dependents of healthcare professionals, (b) clarifies the land surveying, mapping and real property course requirement for land surveyor interns, (c) codifies current LAPELS procedures with respect to the reactivation of expired, inactive and retired licenses, (d) clarifies the time period for licensees to notify a previous licensee or other related design professional of being engaged to complete, correct, revise or add to their work and (e) clarifies the annual continuing professional development requirements for dual licensees. This Rule is hereby adopted on the day of promulgation.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXI. Professional Engineers and Land Surveyors**  
**Chapter 9. Requirements for Certification and Licensure**  
**of Individuals and Temporary Permit to**  
**Practice Engineering or Land Surveying**

**§903. Professional Engineer Licensure**

A. - D.2. ...

E. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:1751(C) are as follows:

1. the applicant for licensure as a professional engineer shall be a dependent of a healthcare professional who has satisfied the requirements for licensure under R.S. 37:693(B)(2)(b) and Paragraph 2 of Subsection A herein, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a dependent of a healthcare professional who has lawfully engaged in the practice of engineering for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use an occupational license or government certification to regulate the practice of engineering, who does not have a disqualifying criminal record as determined by the board in accordance with the laws of this state, who has not had an occupational license revoked by a licensing board in another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional misconduct related to their work in the occupation, who has not surrendered an occupational license because of negligence or intentional misconduct related to their work in the occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending before a licensing board in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

F. The provisions of Subsections B, C and D shall not apply to any applicant who received a dishonorable discharge or to a military spouse whose spouse received a dishonorable discharge.

G. In Subsections B, C and D, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

H. In Subsections B, C and D, the term *dependent* shall mean a resident spouse or resident unmarried child under 21 years of age, a child who is a student under 24 years of age and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

I. In Subsection E, the term *dependent* shall mean any of the following who relocates to Louisiana with a healthcare professional:

1. the healthcare professional's spouse;

2. the healthcare professional's unmarried child under the age of 21 years;

3. the healthcare professional's child who is a student under the age of 24 years and who is financially dependent upon the healthcare professional; or

4. the healthcare professional's child of any age who is disabled and financially dependent upon the healthcare professional.

J. In Subsection E, the term *healthcare professional* shall mean a person who has relocated to and established his/her legal residence in Louisiana, who holds a valid license to provide healthcare services in Louisiana and who is providing healthcare or professional services in Louisiana as a physician, physician assistant, dentist, registered or licensed practical nurse or certified nurse assistant, advanced practice registered nurse, certified emergency medical technician, paramedic, certified registered nurse anesthetist, nurse practitioner, respiratory therapist, clinical nurse specialist, pharmacist, physical therapist, occupational therapist, licensed radiologic technologist, chiropractor, or licensed clinical laboratory scientist.

K. The authority for the executive director to issue a license can only be granted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688, 37:1751, and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR 38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:538 (March 2017), LR 43:1419 (July 2017), LR 44:616 (March 2018), LR 47:491 (April 2021), LR 47:894 (July 2021), LR 48:2363 (September 2022).

**§909. Professional Land Surveyor Licensure**

A. - D.2. ...

E. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:1751(C) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a dependent of a healthcare professional who has satisfied the requirements for licensure under R.S. 37:693(B)(4)(b) and Paragraph 2 of Subsection A herein, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a dependent of a healthcare professional who has lawfully engaged in the practice of land surveying for at least three years in a state, territory, or possession of the United States, or the District of Columbia, that does not use an occupational license or government certification to regulate the practice of land surveying, who does not have a disqualifying criminal record as determined by the board in accordance with the laws of this state, who has not had an occupational license revoked by a licensing board in another state, territory, or possession of the United States, or the District of Columbia, because of negligence or intentional

misconduct related to their work in the occupation, who has not surrendered an occupational license because of negligence or intentional misconduct related to their work in the occupation in another state, territory, or possession of the United States, or the District of Columbia, who does not have a complaint, allegation, or investigation pending before a licensing board in another state, territory, or possession of the United States, or the District of Columbia, which relates to unprofessional conduct or an alleged crime, who has passed the examination required by the board in the Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

F. The provisions of Subsections B, C and D shall not apply to any applicant who received a dishonorable discharge or to a military spouse whose spouse received a dishonorable discharge.

G. In Subsections B, C and D, the term *military* shall mean the armed forces or reserves of the United States, including the Army, Navy, Marine Corps, Coast Guard, Air Force, and the reserve components thereof, the National Guard of any state, the military reserves of any state, or the naval militia of any state.

H. In Subsections B, C and D, the term *dependent* shall mean a resident spouse or resident unmarried child under 21 years of age, a child who is a student under 24 years of age and who is financially dependent upon the parent, or a child of any age who is disabled and dependent upon the parent.

I. In Subsection E, the term *dependent* shall mean any of the following who relocates to Louisiana with a healthcare professional:

1. the healthcare professional's spouse;
2. the healthcare professional's unmarried child under the age of 21 years;
3. the healthcare professional's child who is a student under the age of 24 years and who is financially dependent upon the healthcare professional; or
4. The healthcare professional's child of any age who is disabled and financially dependent upon the healthcare professional.

J. In Subsection E, the term *healthcare professional* shall mean a person who has relocated to and established his/her legal residence in Louisiana, who holds a valid license to provide healthcare services in Louisiana and who is providing healthcare or professional services in Louisiana as a physician, physician assistant, dentist, registered or licensed practical nurse or certified nurse assistant, advanced practice registered nurse, certified emergency medical technician, paramedic, certified registered nurse anesthetist, nurse practitioner, respiratory therapist, clinical nurse specialist, pharmacist, physical therapist, occupational therapist, licensed radiologic technologist, chiropractor, or licensed clinical laboratory scientist.

K. The authority for the executive director to issue a license can only be granted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688, 37:1751, and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981),

LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 39:2802 (October 2013), LR 43:539 (March 2017), LR 44:617 (March 2018), LR 47:493 (April 2021), LR 48:2363 (September 2022).

## **Chapter 11. Curricula**

### **§1107. Land Surveying, Mapping and Real Property Courses**

A. To qualify for certification as a land surveyor intern pursuant to §907.A.1, the “30 semester credit hours, or the equivalent, in land surveying, mapping, and real property courses approved by the board” shall include:

1. 15 semester credit hours, or the equivalent, with a grade of “C-” or better in land surveying courses, at least three of which shall be in boundary surveying;
2. three semester credit hours, or the equivalent, with a grade of “C-” or better in mapping courses;
3. three semester credit hours, or the equivalent, with a grade of “C-” or better in real property courses; and
4. nine semester credit hours, or the equivalent, with a grade of “C-” or better in either land surveying or mapping courses.

B. The mapping courses referenced in Subsection A shall not include more than six semester credit hours, or the equivalent, in drafting, graphics, or computer-aided design (CAD).

C. The real property courses referenced in Subsection A must cover subject matter germane to land surveying applications as they apply to real property, such as real property principles and real property law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 45:77 (January 2019), LR 48:2364 (September 2022).

## **Chapter 21. Certificates of Licensure and Certification of Individuals or Firms**

### **§2101. Expiration and Renewals**

A. ...

B. After the 120-day period, the licensee or certificate holder may apply to the board to reactivate the expired license or certificate to active status. Applicants to reactivate an expired license must also successfully complete the board’s Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to reactivation. Additionally, applicants to reactivate an expired professional land surveyor license must successfully complete the board’s Louisiana standards of practice for boundary surveys quiz prior to reactivation. Designated supervising professionals for firms applying to reactivate an expired license must also successfully complete the board’s Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to reactivation of the firm. Additionally, designated supervising professionals for land surveying firms applying to reactivate an expired professional land surveying license must also successfully complete the board’s Louisiana standards of practice for boundary surveys quiz prior to reactivation of the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 6:417 (June 1983), LR 11:363 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1718 (August 2004), LR 44:622 (March 2018), LR 48:2364 (September 2022).

### §2103. Licensure and Certification Status

A. The board has established the following licensure statuses for licensees.

\* \* \*

*Inactive Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice engineering and/or land surveying in Louisiana and who has either elected to be in this status on his/her biennial licensure renewal form or otherwise received authorization from the board to be in this status. A licensee in an inactive status can represent himself/herself to the public as a P.E. inactive or a P.L.S. inactive, as applicable, but cannot otherwise practice or offer to practice engineering and/or land surveying in Louisiana. A licensee in an inactive status may apply to the board to reactivate the inactive license to active status. Applicants to reactivate an inactive license must also successfully complete the board's Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to reactivation. Additionally, applicants to reactivate an inactive professional land surveyor license must successfully complete the board's Louisiana standards of practice for boundary surveys quiz prior to reactivation.

\* \* \*

*Retired Status*—the licensure status which exists for an individual licensee of the board who has chosen not to practice or offer to practice engineering and/or land surveying in Louisiana and who has either elected to be in this status on his/her biennial licensure renewal form or otherwise received authorization from the board to be in this status. To qualify for the retired status, the licensee must be at least 70 years of age or have been a licensee of the board for at least 35 years. Unless the licensee is granted a waiver by the board, the renewal fee for the retired status shall be one-half of the current renewal fee for the active status. A licensee qualified for the retired status may be granted a waiver of this renewal fee if the licensee is at least 70 years of age, has been a licensee of the board for at least 35 years continuously, has never been subject to disciplinary action in any jurisdiction, has never committed any of the offenses described in R.S. 37:698(A)(3), (4) or (5), and is of good character and reputation. A licensee in a retired status can represent himself/herself to the public as a P.E. retired or a P.L.S. retired, as applicable, but cannot otherwise practice or offer to practice engineering and/or land surveying in Louisiana. A licensee in a retired status may apply to the board to reactivate the retired license to active status. Applicants to reactivate a retired license must also successfully complete the board's Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz prior to reactivation. Additionally, applicants to reactivate a retired professional land surveyor license must successfully complete the board's Louisiana standards of practice for boundary surveys quiz prior to reactivation.

\* \* \*

B. The board has established the following certification statuses for certificate holders.

\* \* \*

*Expired Status*—the certification status which exists for a certificate holder of the board who has either failed to properly renew certification as required in R.S. 37:697 or otherwise received authorization from the board to be in this status. A certificate holder in an expired status may apply to the board to reactivate the expired certification to active status.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2151 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1035 (July 2001), LR 30:1719 (August 2004), LR 36:1034 (May 2010), LR 44:622 (March 2018), LR 47:896 (July 2021), LR 48:2365 (September 2022).

## Chapter 23. Firms

### §2305. Supervising Professional

A.1. - C. ...

D. If there is a change in a firm's supervising professionals, the new supervising professional(s) must successfully complete the board's Louisiana laws and rules quiz and Louisiana ethics and professionalism quiz. Additionally, if there is a change in a land surveying firm's supervising professionals, the new supervising professional(s) must also successfully complete the board's Louisiana standards of practice for boundary surveys quiz.

E. A failure to comply with any of the provisions of this Chapter may subject both the licensed firm and the supervising professional to disciplinary action by the board.

F. Compliance with this Section will not be met by a contractual relationship between the firm and a licensed professional or a firm of licensed professionals in which such licensed professional or firm of licensed professionals is available on a consultative basis. Nor will it be considered compliance if a licensed professional is related to the firm solely in a nominal or inactive capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:689.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June, 2012), LR 44:623 (March 2018), LR 46:1398 (October 2020), repromulgated LR 46:1695 (December 2020), amended LR 47:897 (July 2021), LR 48:2365 (September 2022).

## Chapter 25. Professional Conduct

### §2503. Licensees

A. - C.3. ...

D. Licensees shall submit to a client only that work prepared by the licensee or under their responsible charge; however, licensees, as third parties, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana law, when engaged to do so by a client, provided:

1. ...

2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein within five business days of acceptance of the engagement; and

D.3. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended LR 11:950 (October 1985), LR 16:776 (September 1990), LR 17:273 (March 1991), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1037 (July 2001), LR 30:1721 (August 2004), LR 44:624 (March 2018), LR 48:2365 (September 2022).

**Chapter 31. Continuing Professional Development (CPD)**

**§3105. Requirements**

A. - B.2. ...

C. Each dual licensee is required to earn 15 PDHs per calendar year; however, at least one-third of the required PDHs for each calendar year shall be earned separately for each profession.

C.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:1104 (July 2016), LR 44:629 (March 2018), LR 47:495 (April 2021), LR 48:2366 (September 2022).

**§3109. Exemptions**

A. A licensee may be exempt from the CPD requirements in this Chapter for any one or more of the following reasons.

1 - 4. ...

5. Licensees who certify their licensure status as inactive on their biennial licensure renewal form shall be exempt from the CPD requirements until their next licensure renewal. In the event such licensee subsequently elects to reactivate his/her inactive license to active status, he/she must meet the requirements set forth in §3121.

6. Licensees who certify their licensure status as retired on their biennial licensure renewal form shall be exempt from the CPD requirements until their next licensure renewal. In the event such licensee subsequently elects to reactivate his/her retired license to active status, he/she must meet the requirements set forth in §3121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 42:1105 (July 2016), LR 44:630 (March 2018), LR 47:495 (April 2021), LR 47:897 (July 2021), LR 48:2366 (September 2022).

**§3121. CPD Reactivation**

A. To become reactivated to an active status, a licensee in an expired, inactive, or retired status must have earned all PDHs which he/she would have been required to earn if he/she had been in an active status during the previous two calendar years as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016), LR 44:633 (March 2018), LR 47:497 (April 2021), LR 48:2366 (September 2022).

Donna D. Sentell  
Executive Director

2209#001

**RULE**

**Department of Treasury  
Municipal Employees' Retirement System**

Administration of the Retirement System  
(LAC 58:XXV.Chapters 1-15)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq the Department of Treasury, Municipal Employees' Retirement System has adopted rules codifying its current policies and procedures for administration of the retirement system. Authority for rulemaking is generally established in R.S. 11:1823. Specific rulemaking authority is set out if R.S. 11:291, 11:1733, 11:1755, and 11:1821. This Rule is hereby adopted on the day of promulgation.

**Title 58  
RETIREMENT**

**Part XXV. Municipal Employees' Retirement System  
Chapter 1. General Provisions**

**§101. Definitions**

A. Use of the masculine includes the feminine and vice versa. Use of the singular includes the plural and vice versa.

B. The following definitions apply unless the usage clearly indicates another meaning.

*Active Member*—a member of the Municipal Employees' Retirement System (MERS) who is employed by a participating employer and actively contributing to MERS or who is participating in the Deferred Retirement Option Plan (DROP).

*Active Member Trustee*—a trustee holding a seat elected by active members of MERS or appointed to such a seat in accordance with R.S. 11:1821G(4).

*Board of Trustees or Board*—the board of trustees of the Municipal Employees' Retirement System.

*Director*—the executive director of the Municipal Employees' Retirement System.

*DROP*—Deferred Retirement Option Plan.

*Inactive Member*—a member who is not actively contributing to MERS but is not retired and has left their contributions in the system.

*MERS*—the Municipal Employees’ Retirement System of Louisiana.

*Retired Member Trustee*—a trustee holding a seat elected by retired members of MERS or appointed to such a seat in accordance with R.S. 11:1821G(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2366 (September 2022).

**§105. Payment of Benefits**

A. All new retirees and beneficiaries are required to have their monthly benefits electronically deposited into an account at a financial institution.

B. To facilitate electronic payment of benefits, a retiree/beneficiary must provide a copy of their Social Security card, name, complete address, routing number of a financial institution, account number, and indication of whether the account is a checking account or a savings account.

C. A voided check, for a checking account, or deposit slip, for a savings account must be provided by the payee.

D. Direct deposit payments are issued on the first business day of the month for which they are due. Paper checks, for retirees/beneficiaries not subject to the direct deposit rule, are mailed on the last business day of the month prior to the month in which they are due and dated the first of the month for which they are due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**§108. Rollover of Refunds**

A. Qualified rollovers of accumulated employee contributions require a certification from the receiving financial institution that the institution is qualified to receive the rollover.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**§110. Plan Year**

A. The plan year for MERS shall be July 1-June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**Chapter 2. Elections**

**§201. Active Eligible Candidates**

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least six years of creditable service.

B. A participant in the deferred retirement option plan (DROP) is eligible to run as an active member candidate.

C. A disability retiree who has returned to work under either R.S. 11:224 or R.S. 11:225 is eligible to run as an active member candidate.

D. An active member candidate for an elected official position must be holding an office elected through the state election code.

E. An active member candidate for a non-elected position may not be an elected official.

F. To satisfy the requirement that no more than two elected trustees from the same employer may serve on the board at the same time, the trustees first elected have preference for the seat. If trustees are elected at the same election, the person elected with the most votes has preference for the seat.

G. Any person convicted of a felony offense shall be prohibited from being a candidate for a period of five years after the latter of their conviction or the end of their imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**§203. Retiree Eligible Candidates**

A. A retiree member candidate for a position on the board of trustees must be a retired member of MERS as of the date that the nomination period for the seat closes.

B. Any person convicted of a felony offense shall be prohibited from being a candidate for a period of five years after the latter of their conviction or the end of their imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**§205. General Schedule of Elections**

A. Elections shall be held in years in which the term of an elected member of the board expires.

B. In the year 2022, an election shall be held for an active member trustee who is an elected official.

C. In the year 2023, an election shall be held for an active member trustee who is an elected official.

D. In the year 2024, an election shall be held for an active member trustee who is not an elected official.

E. In the year 2025, an election shall be held for an active member trustee who is not an elected official.

F. In the year 2026, an election shall be held for an active member trustee who is an elected official.

G. In the year 2027, an election shall be held for a retired member trustee.

H. Elections shall be held during the sixth year after the years listed above for the described trustee seats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees’ Retirement System, LR 48:2367 (September 2022).

**§207. Specific Schedule of Elections**

A. The schedule for elections shall be as follows.

1. nominations open on the first day of May;  
2. nominations close by 4 p.m. of the fourth Wednesday of May;

3. ballots will be mailed by the first Friday in July;

4. ballots are due no later than 4 p.m. of the fourth Friday in July. MERS may allow ballots to be cast by mail, telephone, and/or through an online system;

5. ballots will be tabulated by the fourth working day following the deadline for receipt of the ballots;



6. if no candidate receives a majority of the votes cast, a run-off election is required;

7. if a run-off is necessary, the candidates' names will appear alphabetically on the ballot;

8. run-off ballots will be mailed no later than the first Friday in August;

9. run-off ballots are due no later than the fourth Friday in August;

10. ballots will be counted by the fourth working day following the deadline for receipt of ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

### **§210. Nomination Process**

A. Candidates for the retiree seat must be nominated by at least 10 active and/or retired members of MERS.

B. Candidates for the elected and non-elected active seats must be nominated by at least 25 actively contributing members of MERS.

C. The nominating petition must contain the signature, printed name, and last four digits of the Social Security number of each person nominating the candidate.

D. Candidates must submit a candidate information form containing their education, positions held, and reasons they are seeking the position.

E. Staff of MERS must verify that candidates and enough members signing the nominating petition meet the criteria set forth in statute and these rules.

F. In the event that an election must be held for a partial term, in addition to a seat for a full term, the candidate must specify whether they are seeking the partial or full term.

G. If a candidate does not have opposition, that candidate may take office at the expiration of the term of the incumbent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

### **§215. Election Process**

A. Approximately three months before the expiration of a trustee's term, the director will issue a notice of the upcoming vacancy on the MERS' website and send a notice to participating employers.

B. A nominating petition packet will be made available on the MERS' website and will be distributed via electronic mail or through the United States Post Office upon request.

C. The names of candidates will appear in alphabetical order on the ballot. If an incumbent trustee is a candidate that will be noted on the ballot.

D. The director will cause ballots to be mailed to all eligible voters. The statements provided by each candidate with their nominating petition shall be included in the ballot mailout.

E. The number of votes which may be cast depends on the number of vacancies for which a trustee must be elected.

F. Only votes cast by the deadline will be counted.

G. Votes will be tabulated by a third party, such as a certified public accountant or an election vendor, selected by the director. Candidates may attend and observe the ballot tabulating, at their own expense.

H. A majority of votes is required for a candidate to win a contested election. If a single candidate does not attain a majority of votes, a runoff will be conducted in the same fashion as the original election with the top two vote recipients competing.

I. Ties affecting elected positions shall be decided by a drawing conducted by the director in the presence of at least two witnesses. The candidates, or a representative of the candidates, may attend.

J. Election results shall be certified by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

### **§220. Emergency Situations**

A. In the event an act of God or other circumstances beyond the control of the board prevents compliance with timelines set forth in these rules, the director and the board shall fulfill the responsibilities set out in these rules as soon as practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

## **Chapter 3. Employer Agreements**

### **§301. Employer Agreements**

A. A sample agreement for coverage shall be posted on the MERS website.

B. Employers are not required to use the sample agreement so long as any agreement for coverage submitted to the board of trustees for approval contains each of the elements specified in R.S. 11:1733.

C. An employer must submit a resolution of its governing authority agreeing to the application for coverage before it will be considered by the board of trustees.

D. The board of trustees may require that the actuarial study required with an agreement for coverage be conducted by the actuary retained by the system, at the expense of the applying employer.

E. The board of trustees must approve an agreement for coverage by a majority vote at a public meeting before coverage is extended.

F. Amendments to an employer agreement require the same process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1733.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

## **Chapter 4. Community Property**

### **§401. Spousal Rights**

A. Because Louisiana is a community property state, a spouse has an interest in the retirement benefits of a MERS member.

B. A divorced member of MERS should provide a certified copy of a judgment of divorce and/or community property settlement document indicating that their ex-spouse relinquishes their interest in the member's benefit paid by MERS. Alternatively, the member should provide a certified copy of a Domestic Relations Order (DRO) signed by a

judge and indicating how their retirement benefit must be shared with their former spouse.

C. A married member of MERS must obtain consent of their spouse to leave a retirement benefit of less than fifty percent for that spouse.

D. Absent a court order directing MERS to split a member's benefit with an ex-spouse, MERS will make payments to the member only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:291 and 1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

## **Chapter 5. Refunds**

### **§501. Method of Payment**

A. Refunds of accumulated contributions shall be issued as an electronic payment to the member or as a rollover to a qualified financial institution.

B. Refunds may be paid to a checking account, savings account, or debit card, provided the account is in the name of the member receiving the refund.

C. Refunds are issued after all contributions have been received from the employer. In exceptional circumstances, as set out in a written policy, the director may authorize a partial refund.

D. MERS shall withhold federal taxes on refunds as required by the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

### **§503. Documentation Required**

A. A refund to a member's checking account requires a pre-printed voided check or other documentation from the financial institution of the validity of the account.

B. A refund to a member's savings account requires a pre-printed deposit slip or other documentation from the financial institution of the validity of the account.

C. A refund to a debit card requires a signed direct deposit form from the financial institution.

D. A rollover of a refund requires a qualified financial institution to complete a form to acknowledge the status of the account and the ability to accept the funds.

E. A member must provide a copy of their Social Security card and a government issued photo identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

### **§505. Vested Employees**

A. A member who has earned enough service credit to qualify for monthly retirement benefits at their regular retirement age must sign a notarized statement forfeiting their monthly benefits to receive a refund.

B. If the member is married, their spouse must also sign the notarized statement.

C. The notarized statement to be signed by a vested member and legal spouse must state the estimated monthly benefit to which the member is entitled to receive for their lifetime upon reaching retirement age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

## **Chapter 6. Reemployed Retirees**

### **§601. Eligibility**

A. Members who retired with an early retirement or as a disability retiree are not eligible for reemployment with a participating MERS employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

### **§603. Waiting Period**

A. A retiree of MERS wishing to return to work with a participating employer in MERS, whether part-time or full-time, shall wait one month from the effective date of their retirement to begin reemployment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

### **§605. Earnings Limit for Part-Time Reemployed Retirees**

A. A member returning to work as a part-time employee may request a written earnings limit statement from MERS.

B. Monthly earnings of part-time reemployed retirees must be reported to MERS by the participating MERS employer by which they are employed.

C. It is the responsibility of the reemployed retiree to stay within the statutory earnings limit.

D. The member's monthly retirement benefit may be offset to recoup overearnings as a reemployed retiree.

E. If overearnings by a rehired retiree cannot be recouped through benefit payments, a payment plan subject to board approval shall be established with a promissory note required from the retiree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

## **Chapter 7. Conversion of Leave**

### **§701. Eligibility**

A. A participating employer may irrevocably elect to have its employees convert unused and unpaid annual and sick leave to retirement credit. The employer should submit a resolution to MERS indicating its acceptance of this option.

B. Only leave that is unused and unpaid by the employer at the time of the member's retirement may be converted to retirement credit.

C. Converted leave is not allowed for calculation of DROP account payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

## **§705. Reporting**

A. Within 30 days of a member's retirement, the participating employer which has elected to convert unused leave to retirement credit shall submit a conversion of leave form certifying the member's unused and unpaid leave.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

## **§710. Payment**

A. Upon receipt of the conversion of leave form from an employer, MERS will send an invoice to the employer for the actuarial cost of the leave conversion.

B. The participating employer shall pay to MERS the actuarial cost of the member's unused leave within 30 days of the date of the member's retirement.

C. The employer must make full payment of the actuarial value of the member's unused leave before it is converted to retirement credit.

D. The member's benefit will be recalculated by MERS, to include the value of their converted leave, upon receipt of payment from the employer. Future benefit payments to the member will then include the value of the leave and a one-time retroactive payment to the date of their retirement for leave not previously compensated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

## **Chapter 8. Disability Retirement**

### **§801. Application Process**

A. Disability applications should be submitted before the member exhausts all leave or terminates employment.

B. Disability applications will be processed upon receipt of the following:

1. disability application by the member;
2. disability report by supervisor;
3. notification of income from other sources from the member;
4. member statement of disabling condition;
5. copies of all medical records pertaining to the disability;
6. authorization to request income information from the member;
7. salary evaluation form;
8. authorization for direct deposit;
9. copy of member's birth certificate and Social Security card;
10. copy of beneficiary's birth certificate and Social Security card, if applicable;
11. spousal consent form if legally married and maximum option is chosen;
12. copy of certificate of elected service if the member is an elected official in Tier 1;
13. copy of death certificate of spouse if member's spouse is deceased; and
14. certified copy of divorce decree if member is divorced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

## **Chapter 9. Insurance Premium Deductions**

### **§901. Collection of Insurance Premiums**

A. Health and life insurance premiums may be deducted by MERS from benefit payments issued to retirees and beneficiaries.

B. The premiums collected by MERS will then be transmitted to the participating employer which is responsible for paying the premium to the insurer.

C. Written authorization from participating employers to withhold premiums from their retirees' benefits and transmit those premiums to the employer must be made to MERS.

D. The member or beneficiary must provide written authorization to MERS to initiate the premium deduction and to make any changes to the deduction, other than routine rate changes.

E. Deductions will cease on the first of the month following the payee's death or upon the first of the month following notice of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

## **Chapter 10. Deferred Retirement Option Plan (DROP)**

### **§1001. Application Process**

A. An application for DROP may be made when a member is eligible for retirement.

B. The DROP application shall include:

1. a form submitted by the member's employer providing data on the member's salary for the highest 60 consecutive or joined months of earnings;
2. a written acknowledgement by the member of the number of months in which they will participate in DROP;
3. a copy of the member's birth certificate and Social Security card;
4. a copy of the beneficiary's birth certificate and Social Security card;
5. a designation of a beneficiary to receive the DROP fund balance if the member dies while participating in DROP;
6. a spousal consent form as to the retirement benefit if the member is legally married and not selecting a benefit which provides at least 50 percent to the spouse;
7. a spousal consent form as to the DROP funds if the member is legally married and not leaving at least 50 percent of their DROP fund balance to their spouse;
8. a copy of the spouse's death certificate if the member is widowed;
9. a certified copy of the divorce judgment if the member is divorced; and
10. for elected officials, a certificate of elected service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

### **§1003. Ineligible for DROP**

A. A member who has retired is not eligible to enter DROP if they become reemployed.

B. A member who is approved for disability retirement is not eligible for DROP.

C. A member who retires with an actuarially reduced retirement is not eligible for DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

### **§1005. Third Party Provider**

A. MERS shall engage a third-party provider, selected by the board of trustees, to administer the DROP accounts of members.

B. Upon a member's completion of the DROP participation period, MERS shall transfer their DROP funds to the provider on the first business day of the month following the member's completion of the DROP participation period.

C. In situations where a member terminates employment and DROP prior to the selected participation period, DROP funds shall be transferred to the third-party provider on the first business day of the month following notification to MERS of the member's termination.

D. The third-party provider shall provide multiple investment options to participants, including fixed and variable investment options. Participation may result in the loss or gain of principal or earnings based on market performance.

E. The third-party provider shall not process withdrawal requests made by the member until MERS notifies the provider that the member has terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

## **Chapter 11. Fees**

### **§1101. Adoption of Fees**

A. The board of trustees may adopt fees for various services provided to members through the retirement system.

B. The board of trustees should recoup the amount of fees charged by the system's actuary for member calculations. At the discretion of the director, members may not be required to pay the full amount of fees of the actuary.

C. Fees may only be imposed upon adoption by the board of trustees at a public meeting with opportunity for public comment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

## **Chapter 12. Military Service Purchases**

### **§1201. Service Credit**

A. This section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

## **Chapter 13. Renunciation of Benefits**

### **§1301. Terms and Conditions to Renounce a Benefit**

A. Any person eligible to receive, or receiving a benefit from MERS may renounce such benefit under the following terms and conditions:

1. the renunciation shall be unconditional and irrevocable. Once a benefit is renounced, MERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit;

2. a base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. if more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. if the party making the renunciation is married, the spouse must join in the renunciation.

5. if the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced.

6. if the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. if the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. if a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. a renunciation must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by MERS.

10. a person revoking or participating in renunciation of a benefit must hold MERS harmless from such action.

11. a renunciation may not be used to terminate active participation in MERS.

12. amounts credited to a DROP account cannot be renounced.

13. a benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

B. MERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

#### **Chapter 14. Collection of Employer Contributions**

##### **§1401. Due Dates**

A. Contribution payroll files and payment of employee and employer contributions are required by the tenth of each month, covering the preceding month.

B. Employers may pay contributions through electronic means or with a check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).

##### **§1403. Late Contributions**

A. Interest may be charged for payments submitted after the tenth of the month.

B. Interest is calculated based on the system's actuarial valuation rate.

C. Payments more than 60 days late shall be reported to the board of trustees.

D. The board of trustees may certify delinquent amounts and request that the state treasurer deduct the certified amount from monies payable to the delinquent employer by any department or agency of the state.

E. The board of trustees may authorize the director to retain counsel to file suit for collection of certified delinquent amounts in a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).

#### **Chapter 15. Money Manager Obligations**

##### **§1501. Reporting by Money Managers**

A. Money managers shall report to MERS investments made with system funds in any company having facilities, employees, or both located in a prohibited nation as defined by the legislature.

B. Such reports shall be submitted by January 30 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:312.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).

Maris E. LeBlanc

Executive Director and General Counsel

2209#006

### **RULE**

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

Marking of Gill Nets, Trammel Nets, Hoop Nets,  
Slat Traps, and Wire Nets (LAC 76:VII.114)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.114) regarding the marking of gill nets, trammel nets, hoop nets, slat traps, and wire nets in inland waters. This Rule is intended to reduce litter and ensure accountability for passive gear being fished. This Rule expands on the saltwater net marking Rule (LAC 76:VII.325). This Rule is hereby adopted on the day of promulgation.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 1. Freshwater Sports and Commercial Fishing**

#### **§114. Marking System for Gill Nets, Trammel Nets, Hoop Nets, Slat Traps, and Wire Nets**

A. Each gill net or trammel net shall be marked with a waterproof tag attached to the corkline at each end of the net, no more than three feet from the edge of the webbing or on the attached buoy in indelible ink. Each hoop net, slat trap, or wire nets shall be marked with a waterproof tag attached directly to the device. Said tags shall be supplied by fisherman and to be completely waterproof. Each tag shall have the fisherman's full name (no initials) and the appropriate commercial or recreational fisherman's license number (not the net license number) printed thereon in the English language, so as to be clearly legible.

B. Each gill net or trammel net shall be marked with buoys which shall be visible above the surface of the water. Said buoys shall be supplied by the commercial fisherman, have a minimum diameter of six inches and be international orange in color. The buoys shall be attached to each end of the net.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:322.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 48:2372 (September 2022).

Joe McPherson  
Chairman

2209#017

# Notices of Intent

## NOTICE OF INTENT

### Board of Regents Office of Student Financial Assistance

Education Savings Account Rollover  
(LAC 28:VI.311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking implements Act 742 of the 2022 Regular Session of the Louisiana Legislature. (ST23206NI)

#### Title 28 EDUCATION

#### Part VI. Student Financial Assistance — Higher Education Savings

#### Chapter 3. Education Savings Account

#### §311. Termination, Refund, and Rollovers of an Education Savings Account

A. - H.3.c. ...

4. An account owner may not rollover any part or all of the value of an ESA to a START K12 account.

5. Beginning August 1, 2022, an account owner may rollover any or all of the value of an ESA to a START K12 account. Earnings enhancements may not be transferred to a START K12 account and will remain in the ESA for use by the beneficiary for qualified higher education expenses.

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:2551 (November 2010), LR 39:2238 (August 2013), LR 42:1080 (July 2016), LR 44:1877, 1887 (October 2018), LR 47:42 (January 2021), LR 48:

#### Family Impact Statement

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

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

## Public Comments

Interested persons may submit written comments on the proposed changes (SG23206NI) until 4:30 p.m., October 10, 2022, 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: Education Savings Account Rollover

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

The proposed rule change will not result in any costs or savings to state or local governmental units. This proposed change places in rule the authority for a START account owner to transfer funding from a START account to a START K-12 account to comply with Act 742 of the 2022 Regular Session of the Louisiana Legislature. The funding in these accounts is the property of the account owners (it is not State General Fund).

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

There is no impact on state or local governmental revenues.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

START account holders will have additional flexibility in providing funding for allowed educational expenses for account beneficiaries.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and employment.

Robyn Rhea Lively  
Senior Attorney  
2209#074

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Regents Office of Student Financial Assistance

Scholarship/Grant Programs—2022 Legislation  
(LAC 28:IV.509, 703, 705, 803, 805, 2103, and Chapter 24)

The Louisiana Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements Act 447, Act 463, Act 681, and Act 502 of the 2022 Regular Session of the Louisiana Legislature. (SG23207NI)

**Title 28  
EDUCATION**

**Part IV. Student Financial Assistance—Higher  
Education Scholarship and Grant Programs**

**Chapter 5. Applications, Federal Grant Aid and ACT  
Test**

**§509. ACT Testing Deadline**

A. - A.4.d. ...

5.a. Applicable to 2021 graduates only, the final deadline for achieving a qualifying score on an official ACT test (including national, international, military or special test types) is December 31, 2021. A student may qualify for an initial award or a higher award based on such test. The award for a student who achieves a qualifying ACT score as provided in the Section shall not be reduced as set forth in §509.C.

b. The provisions of this Subsection shall apply to any student who:

i. was enrolled in a Louisiana public high school during the 2020-2021 academic year (high school);

ii. was enrolled in a nonpublic high school in Louisiana having the approval by the State Board of Elementary and Secondary Education required by Part I of this Chapter for program eligibility purposes during the 2020-2021 academic year (high school);

iii. resided in the state of Louisiana and was enrolled in a home study program approved by the State Board of Elementary and Secondary Education during the 2020-2021 academic year (high school); or

iv. resided out of state during the 2020-2021 academic year but who is able to meet the residency requirements to qualify for an award as provided for in §703.A.2.

c. A student who meets the requirements of this Subsection may request an exception to the final deadline if the student provides documentation that:

i. he was registered for one or more ACT exams prior to the December 31, 2021, deadline; and

ii. one or more ACT exams for which the student was registered was cancelled due to Hurricane Laura, Hurricane Delta, Hurricane Zeta, Hurricane Ida, or due to measures implemented to mitigate the spread of COVID-19; and

iii. he was unable to register for an ACT exam that would occur prior to the deadline, that was within a reasonable distance from his home or from the location to which he/his family had been evacuated due to Hurricane Laura, Hurricane Delta, Hurricane Zeta, or Hurricane Ida.

B.1. - E. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 26:1995 (September 2000), amended LR 26:2000 (September 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), repromulgated LR 27:1847 (November 2001), amended LR 30:1161 (June 2004), LR 31:37 (January 2005), LR 38:3157 (December 2012), amended by the Board of Regents, Office of

Student Financial Assistance, LR 44:503 (March 2018), LR 44:1869 (October 2018), LR 47:38 (January 2021), LR 47:863 (July 2021), LR 48:481 (March 2022), LR 48:

**Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

**§703. Establishing Eligibility**

A. - A.5.a.i.(h)....

(i). beginning with the graduates of academic year (high school) 2026-2027, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math- Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
Science - 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, IB Physics II, or AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies - 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics, Economics, AP Macroeconomics, or AP Microeconomics; African American History.

Units	Course
Foreign Language – 2 Units Or Computer Science- 2 Units	
2	Foreign Language, two units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB. Or Computer Science, two units, which may include: Computer Science I; Computer Science II; Fundamentals of HTML, CSS, and JavaScript (Level 1); Advanced JavaScript, Functional Programming, and Web Development (Level 2); AP Computer Science A; AP Computer Science Principles; Computer Science Year One IB; and Computer Science Year Two IB.:
Art - 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a) - (e). ...  
 \* \* \*

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry

TOPS Core Course	Advanced Placement
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian



TOPS Core Course	International Baccalaureate
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math-Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II Differential Calculus I Integral Calculus I	CMAT 2103 CMAT 2113-5 CMAT 2123-5 CMAT 2113 CMAT 2116
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313

(v). Honors Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	Introduction to Psychology	CPSY2013
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

TOPS Core Course	Honors
Arabic	Arabic: Cambridge AICE-AS
Biology II	Biology II: Honors
IB Biology II	Biology II: Cambridge AICE-AS
Calculus I	Calculus: Honors Math 2 (Part 1): Cambridge AICE-A Level
Calculus II	Math 2 (Part 2): Cambridge AICE – A Level
Chemistry I	Chemistry I: Honors
Chemistry II	Chemistry II: Honors
IB Chemistry II	Chemistry II: Cambridge AICE-AS
Chinese	Chinese: Cambridge AICE-AS
Economics	Economics: Cambridge AICE - AS

A.5.a.iii.(a) - L.2.c.ii. ...

M. 2021 Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2021-2022 academic year (high school) must meet all of the requirements of §803.A, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2021-2022 academic year (high school) from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2021-2022 academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2020-2021 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2021-2022 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.F.2. for at least the 12 months prior to August 27, 2021.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed in §703.M.2.

e. A displaced student who during the 2021-2022 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE

shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means a student who on August 27, 2021, was actually residing in Jefferson, Lafourche, Livingston, Plaquemines, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:1346 (July 2017), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:506 (March 2018), LR 44:1004 (June 2018), LR 44:1870 (October 2018), LR 46:326 (March 2020), LR 47:39 (January 2021), amended LR 47:861 (July 2021), LR 47:864 (July 2021), amended LR 47:868 (July 2021), LR 48:

## §705. Maintaining Eligibility

A. - F.2.c. ...

G. 2020 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2020-2021 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2020-2021 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the

student does not enroll on a full-time basis in an eligible college or university during the 2020-2021 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §705.A.6.

d. A displaced student shall not be required to meet the steady academic progress requirements set forth in §705.A.7.

e. A displaced student shall not be required to meet the continuation GPA requirements set forth in §705.A.8.

2. For the purposes of this Subsection, *displaced student* means:

a. a student whose home of record on August 26, 2020, was located in, or who, on August 26, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Caddo, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lasalle, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, St. Landry, Union, Vermilion, Vernon, or Winn Parish: or

b. a student whose home of record on October 8, 2020, was located in, or who, on October 8, 2020, was attending a postsecondary institution located in Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia, Jefferson Davis, Lafayette, Rapides, St. Landry, St. Martin, or Vermilion Parish.

c. a student whose home of record on October 26, 2020, was located in, or who, on October 26, 2020, was attending a postsecondary institution located in Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

H. 2021 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2021-2022 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2021-2022 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting the requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2021-2022 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §705.A.6.

d. A displaced student shall not be required to meet the steady academic progress requirements set forth in §705.A.7.

e. A displaced student shall not be required to meet the continuation GPA requirements set forth in §705.A.8.

2. For the purposes of this Subsection, *displaced student* means a student whose home of record on August 27, 2021, was located in, or who, on August 27, 2021, was attending a postsecondary institution located in Jefferson, Lafourche, Livingston, Plaquemines, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

4. Notwithstanding the definition of *displaced student* set forth in Subsection H.2, the provisions of this Section shall apply to any student who, on August 27, 2021, was a member of the Louisiana National Guard called to active duty to assist in the preparation for and response to Hurricane Ida.

I.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1, and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007), LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:664 (April 2015), LR 42:47 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:520 (March 2018), LR 47:40 (January 2021), LR 47:865 (July 2021), amended LR 47:869 (July 2021), LR 48:

## Chapter 8. TOPS-Tech Award

### §803. Establishing Eligibility

A. - A.6.a.i. ...

ii. for students graduating in the 2027 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
1	Geometry or an applied Geometry course
2	Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math -Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, Physics, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

iii. for students graduating in the 2018 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course

Core Curriculum—TOPS-Tech Award	
Units	Course
3	Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math - Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, Physics, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

iv. for students graduating in the 2015-2016 academic year (high school) and later, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
2	English III, English IV, AP or IB English courses, Business English, Technical Writing, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education.
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or an applied or hybrid algebra course
3	Geometry, Algebra II, Math Essentials, Financial Literacy, Business Math, Algebra III, Advanced Math - Functions and Statistics, Advanced Math - Pre-Calculus, Pre-calculus, or comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by the state Board of Elementary and Secondary Education. Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry, and Algebra II, and shall equal three mathematics credits
1	Biology
1	Chemistry I, Earth Science, Environmental Science, Agriscience I and Agriscience II (both for one unit), Physical Science, or AP or IB science courses
1	U.S. History, AP U.S. History, or IB U.S. History
1	Civics, Government, AP U.S. Government and Politics: Comparative, or AP U.S. Government and Politics: United States

Core Curriculum—TOPS-Tech Award	
Units	Course
9	In Jump Start course sequences, workplace experiences, and credentials. A student shall complete a regionally designed series of Career and Technical Education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. This shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements in Jump Start, and other courses, including career electives, that the Jump Start regional team determines are appropriate for the career major.

v. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
<b>Remaining Core Courses shall be Selected from One of the Following Options:</b>	
<b>Option 1—Total of 17 Units</b>	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II

Core Curriculum—TOPS-Tech Award	
Units	Course
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

vi. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the state Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

vii. for students graduating in the 2013-2014 school year through the 2016-2017 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English

Core Curriculum—TOPS-Tech Award	
Units	Course
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
Remaining Core Courses Shall Be Selected from One of the Following Options	
Option 1—Total of 17 Units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b.i. - E.2.c.ii. ...

F. 2021 Natural Disaster Initial Eligibility Requirements

1. To establish eligibility for a TOPS Tech Award, a displaced student graduating from high school or completing a BESE approved home study program at the 12th grade level during the 2021-2022 academic year (high school) must meet all of the requirements of §803.A, except as follows.

a. A displaced student who has been certified by the principal or headmaster to have graduated during the 2021-2022 academic year (high school) from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the scholastic aptitude test than required for a student who graduates from an eligible Louisiana high school.

b. The requirement that a student who graduates from an eligible Louisiana high school during the 2021-2022

academic year (high school) must have successfully completed the applicable core curriculum shall be waived for a displaced student based upon a sworn affidavit by the student's high school principal or headmaster or authorized designee that failure to comply with such requirement is due solely to the fact that the required course or courses were not available to the student at the school attended.

c. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during the entire 2020-2021 academic year (high school) and was enrolled for such time in an eligible Louisiana high school and graduated from high school during 2021-2022 academic year (high school); or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §803.F.2. for at least the 12 months prior to August 27, 2021.

d. A dependent student who graduated from an eligible out-of-state high school shall be deemed to meet the Louisiana residency requirement if his parent or court-ordered custodian was displaced as a resident from a parish listed in §803.F.2.

e. A displaced student who during the 2021-2022 academic year (high school) successfully completes at the 12th grade level a home study program approved by BESE shall not be required to have also completed the 11th grade level of an approved home study program.

2. For the purposes of this Subsection, *displaced student* means a student who on August 27, 2021, was actually residing in Jefferson, Lafourche, Livingston, Plaquemines, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, or Terrebonne Parish, and:

i. was enrolled in an eligible Louisiana high school as provided in §1701.A.1, 2 and 3; or

ii. was enrolled in a home study program approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:654 (April 2015), LR 41:2597 (December 2015), LR 42:48 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:523 (March 2018), LR 44:1874 (October 2018), LR 45:1172 (September 2019), LR 47:40 (January 2021), LR 47:866 (July 2021), LR 47:870 (July 2021), LR 48:

### **§805. Maintaining Eligibility**

A. - H.3. ...

I. 2021 Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Tech Award, a displaced student must meet all of the criteria in §805.A-C above, except as follows.

a. The TOPS Award of a displaced student who enrolls as a full-time student in an eligible out-of-state college or university during the 2021-2022 academic year (TOPS) and subsequently enrolls at a Louisiana-eligible college or university shall not be cancelled or reduced due to enrollment in an eligible out-of-state institution during the 2021-2022 academic year (TOPS).

b. The period of suspension of a TOPS Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2021-2022 academic year (TOPS).

c. A displaced student shall not be required to meet the minimum academic progress requirements set forth in §805.A.8.

d. A displaced student shall not be required to meet the steady academic progress requirements set forth in §805.A.6.

e. A displaced student shall not be required to meet the continuation GPA requirements set forth in §805.A.7.

2. For the purposes of this Subsection, *displaced student* means a student whose home of record on August 27, 2021, was located in, or who, on August 27, 2021, was attending a postsecondary institution located in Jefferson, Lafourche, Livingston, Plaquemines, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, or Terrebonne Parish.

3. For the purposes of this Subsection, *home of record for a dependent student* shall mean the domiciliary address of the student's parent or court-ordered custodian and for an independent student shall mean the domiciliary address of such student.

4. Notwithstanding the definition of *displaced student* set forth in Subsection I.2, the provisions of this Section shall apply to any student who, on August 27, 2021, was a member of the Louisiana National Guard called to active duty to assist in the preparation for and response to Hurricane Ida.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031, R.S. 17:3042.1 and R.S. 17:5001 et seq.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:666 (April 2015), LR 41:2598 (December 2015), LR 42:49 (January 2016), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:527 (March 2018), LR 47:41 (January 2021), LR 47:867 (July 2021), LR 47:871 (July 2021), LR 48:

**Chapter 21. Miscellaneous Provisions and Exceptions**  
**§2103. Circumstances Warranting Exception to the**  
**Initial and Continuous Enrollment**  
**Requirements**

A. - H.6. ...

I. 2021 Natural Disaster Exceptions

1. For the purposes of this subsection, *displaced students* are TOPS, Rockefeller State Wildlife Scholarship, and GO Youth Challenge recipients and students eligible for TOPS whose home of record on August 27, 2021, was located in, or who, on August 27, 2021, was attending a postsecondary institution located in Jefferson, Lafourche, Livingston, Plaquemines, St. Charles, St. Helena, St. James, St. John the Baptist, Tangipahoa, or Terrebonne Parish.

2. For the purposes of this Subsection, *home of record* is:

a. the domiciliary address of a dependent student's parent or court-ordered custodian; or

b. the domiciliary address of an independent student.

3. For the 2021-2022 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment, or to earn at least 24 hours during the 2021-2022 academic year (TOPS).

4. Displaced students who are Rockefeller State Wildlife Scholarship recipients may enroll full-time or part-time in a college or university that does not offer a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

a. Upon request of the student, the eligible college or university may bill for the Rockefeller State Wildlife Scholarship for these students.

b. The amount paid for any such semester of enrollment in accordance with this Subsection shall reduce the student's total eligibility for the Rockefeller State Wildlife Scholarship Program.

c. Institutions must document the displaced student's request for payment in accordance with this Subsection.

d. Any grades earned by a displaced student who enrolls in school during the 2021-2022 in accordance with this Subsection will be included in the calculation of the student's cumulative grade point average.

6. For the 2021-2022 academic year (TOPS), students who are not *displaced students*, but who, due to the effects of Hurricane Ida, were unable to enroll for the first time as full time students by the applicable deadline, to enroll as full-time students, to maintain continuous enrollment in school, or to earn 24 hours during the 2021-2022 academic year (TOPS) may submit a request for exception in accordance with §2103.D based on the circumstances provided in §2103.E.12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126

(February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), LR 47:862 (July 2021), LR 47:867 (July 2021), LR 47:871 (July 2021), LR 48:

**Chapter 24. Geaux Teach Program**  
**§2401. General Provisions**

A. Act 463 of the 2022 Regular Session of the Louisiana Legislature establishes the Geaux Teach Program in R.S. 17:7.6 et seq.

B. Description and Purpose. The Geaux Teach Program provides scholarships to students who are enrolled in teacher preparation programs at the state's postsecondary institutions that are approved by the Board of Elementary and Secondary Education (BESE). In addition, up to 20 percent of the available funding may be awarded to students attending certified alternative teacher preparation programs approved by BESE.

C. Effective Date. Awards shall be made, and these rules shall apply, beginning with the 2022-2023 academic year.

D. Authority to Audit. By participating in the scholarship and grant programs administered by the board and described in LAC 28:IV, all participants grant the board, LOSFA, and the Louisiana Legislative Auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and the board's rules and regulations.

E. Discrimination Prohibition. The exclusion of a person from equal opportunity for a Geaux Teach Program scholarship by the board because of race, religion, sex, handicap, national origin, or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

F. Criminal Penalties. If an erroneous award has been made and the board determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or court-ordered custodian, the board may seek reimbursement from the student, the student's parent(s) or court-ordered custodian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or court-ordered custodian, then the board shall refer the case to the attorney general for investigation and prosecution. If a student or the student's parent(s) or court-ordered custodian is suspected of having intentionally misrepresented the facts which were provided to the board and used by it to determine the eligibility of the student for the program and the board has referred the case to the attorney general for investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

G. Award Amount

1. The award amount shall be applied only to tuition, fees, textbooks, and instructional materials required for enrollment. Geaux Teach Program scholarships shall be awarded after all state and institutional financial aid are applied.

2. The maximum annual award amount shall be \$5,000.



3. Each postsecondary institution/provider shall determine the award amounts for eligible students attending teacher certification programs at that institution/provider based on the requirements in these rules, the allocation to the institution/provider, the institution's/provider's financial aid packaging policy for this program, and the guidance established by the board and published by LOSFA.

H. The total amount awarded for Geaux Teach Program scholarships during any academic year is limited to the total amount appropriated for the award for the academic year. Eligibility for an award during any particular semester, quarter or term does not guarantee that a student will receive the Geaux Teach Program scholarship in a subsequent semester, quarter or term.

I. Allocation of Funds to Postsecondary Institutions

1. The amount allocated to an eligible institution during the 2022-2023 academic year will be divided equally among all institutions having one or more qualified programs of study.

2. Beginning in the 2023-2024 academic year, allocations to institutions will be determined by dividing the amount of the institution's prior year's allocation that was expended by the total amount appropriated for that academic year multiplied by the total amount appropriated for the current year.

J. Allocation of Funds to Providers

1. The amount allocated to an eligible provider during the 2022-2023 academic year will be divided equally among all providers having one or more qualified programs of study.

2. Beginning in the 2023-2024 academic year, allocations to providers will be determined by dividing the amount of the provider's prior year's allocation that was expended by the total amount appropriated for that academic year multiplied by the total amount appropriated for the current year.

K. Reallocation of Funds

1. Uncommitted funds allocated to a particular institution shall be reallocated if not committed by the deadline set by LOSFA. Uncommitted funds shall be apportioned among those institutions that have committed all funds allocated to the institution before the deadline and have students who are eligible for an award and did not receive it or who did receive an award but did not receive the maximum award amount for which they were eligible.

2. Uncommitted funds allocated to a particular provider shall be reallocated if not committed by the deadline set by LOSFA. Uncommitted funds shall be apportioned among those providers that have committed all funds allocated to the provider before the deadline and that have students who are eligible for an award and did not receive it or who did receive an award but did not receive the maximum award amount for which they were eligible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

**§2403. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the

singular is used, it includes the plural, and vice versa. The term "the board" refers to the Louisiana Board of Regents.

*Academic Year*—for purposes of this program, the academic year begins on July 1 and ends on the following June 30.

*Administering Agency*—the Louisiana Board of Regents (the Board) through the Louisiana Office of Student Financial Assistance (LOSFA).

*Alternative Teacher Certification Program Provider (Provider)*—a provider of a certified teacher alternative teacher preparation program approved by the Board of Elementary and Secondary Education.

*Continuous Enrollment*—full-time enrollment in an approved program during the fall and spring semesters, or full time enrollment in the fall, winter, and spring quarters.

*Eligible Postsecondary Institution*—postsecondary institutions at which the Board of Elementary and Secondary Education has approved a teacher preparation program.

*Louisiana Resident*—

a. a dependent or independent student whose true, fixed, and permanent home of residence is Louisiana as reported on the free application for federal student aid (FAFSA);

b. a dependent student whose non-custodial parent completes a residency affidavit in Subparagraph f below that establishes Louisiana residency;

c. a veteran of the United States Armed Forces who received an honorable discharge or general discharge under honorable conditions within the 24 months preceding the date of application and who has become a resident of Louisiana since separation from the United States Armed Forces;

d. the spouse or dependent child of a resident of Louisiana on active duty with the United States Armed Forces who is stationed outside Louisiana but who claims Louisiana as the state of legal residence and who has filed a Louisiana state income tax return for the most recent two years; or

e. the spouse or dependent child of a nonresident of Louisiana on active duty with the United States Armed Forces who is stationed in Louisiana under permanent change of station orders and who, not later than one hundred eighty days after reporting, changes his military personnel records to establish Louisiana as the official state of legal residence and complies with Louisiana income tax laws and regulations for the time period while stationed in Louisiana.

f. Residency may be established by completion of a standard affidavit developed by the board. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the board:

i. if registered to vote, a Louisiana voter registration card; and

ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and

iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and

iv. if earning a reportable income, a Louisiana tax return.

*Eligible Postsecondary Institution*—postsecondary institutions at which the Board of Elementary and Secondary Education has approved a teacher preparation program.

*Qualified Program of Study*—an approved teacher preparation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

#### **§2405. Initial Eligibility**

A. To be eligible for Geaux Teach Program scholarship, a student must:

1. be a United States citizen who is registered with the Selective Service, if required;

2. be a Louisiana Resident for at least two full years prior to July 1 immediately preceding the academic year in which the student will be enrolled in a qualified program of study;

3. be enrolled full-time in an approved teacher preparation program at a Louisiana postsecondary institution or enrolled in an approved, alternative certified teacher education program through the fourteenth class day at an institution/provider operating on a semester basis, or through the ninth class at an institution/provider operating on a quarter basis;

4. have at least a 2.50 cumulative college grade point average;

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

#### **§2407. Continuing Eligibility**

A. To maintain eligibility to receive a Geaux Teach Program scholarship, a student must:

1. have received the award for not more than four academic years;

2. maintain a minimum cumulative college grade point average of at least a 2.50;

3. enroll full time in an approved teacher preparation program at a Louisiana postsecondary institution or enrolled in an approved, alternative certified teacher education program through the fourteenth class day at an institution/provider operating on a semester basis, or through the ninth class at an institution/provider operating on a quarter basis.

4. maintain continuous enrollment, unless granted an exception for cause in accordance with §2103 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

#### **§2409. Responsibilities of Eligible Postsecondary Institutions and Alternative Teacher Certification Program Providers**

A. Initial Eligibility. Eligible institutions and providers must determine the requirements set forth in §2405.A.1-4.

B. Continuing Eligibility. Eligible Louisiana institutions must determine the requirements set forth in §2407.A.2-4.

#### **C. Packaging Policy**

1. Eligible institutions/providers must establish and use a policy on Geaux Teach Program packaging that provides:

a. procedures for compliance with these rules and the guidance established by the board and published by LOSFA for determining the award amount;

b. record retention to comply with Subsection H of this Section;

c. the basis used to establish any award amount that is less than the maximum award amount allowed;

2. Eligible Louisiana institutions must revise the institution's Geaux Teach Program packaging policy as necessary to reflect changes to the Geaux Teach Program rules or guidance issued by the board.

D. Award Amount. Eligible Louisiana institutions must establish the award amounts for each individual student based on the institution's/provider's packaging policy. The amount awarded must comply with the requirements and limitations established in these rules and the guidance published by LOSFA.

E. Submission of Payment Requests. Each semester, quarter or term, eligible Louisiana institutions/providers shall submit a payment request to LOSFA for students enrolled at the institution/provider who have been determined eligible for a Geaux Teach Program scholarship as follows:

1. for each student eligible for a Geaux Teach Program scholarship who is enrolled at the end of the fourteenth class day for semester schools, or the ninth class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session;

2. the payment request shall include the:

a. Social Security number;

b. college code/provider name;

c. term;

d. date;

e. hours attempted;

f. award amount;

g. the CIP code for the program of study in which the student is enrolled;

h. the degree level code for the program of study in which the student is enrolled;

i. the increment key assigned by the board that provides each program a unique key for the program of study in which the student is enrolled; and

j. amount requested for each student;

3. for students who are enrolled in more than one eligible Louisiana institution, the home school (school paying the Pell Grant or a financial need grant) is responsible for submitting a payment request for the Geaux Teach Program based on the total hours enrolled at all institutions.

#### **F. Certification of Student Data**

1. At the end of each semester, term, or quarter, institutions/providers shall report the following student data:

a. semester hours attempted; and

b. semester hours earned; and

- c. semester quality points earned; and
- d. resignation from the institution or withdrawal from all courses; and
- e. a student's completion of a program of study.

**G. Over Payments**

1. No institution shall submit a payment request for Geaux Teach funds which would result in a student receiving an annual total of more than is authorized in §2401.G.

2. Eligible Louisiana institution/provider certifies by submitting a payment request for a Geaux Teach Program scholarship that the institution will reimburse LOSFA:

- a. for the total amount of any award that is disbursed to ineligible students; and
- b. for any amount of an award that is in excess of the maximum annual award.

H. Excess Award. In the event an excess award occurs during the fall semester or quarter or the winter quarter due to receipt of additional state or institutional financial aid, the institution/provider shall reduce the award amount for the spring accordingly. In the event an excess award occurs during the spring semester or quarter due to receipt of additional state or institutional financial aid, the institution/provider shall document the reason for the excess award.

I. Records Retention. Records pertaining to the Geaux Teach Program are subject to audit as required by the board and the Louisiana Legislative Auditor. Institutions and providers shall maintain all records for a minimum of three years from creation. All such records shall be made available upon request by the board and/or the Louisiana Legislative Auditor.

J. Each eligible institution/provider shall provide a copy of its Geaux Teach Program packaging policy as required by this section to LOSFA, when requested.

K. Audits. Institutions/providers that participate in the Geaux Teach Program grant LOSFA and the Louisiana Legislative Auditor the right to inspect records and perform on-site audits of each institution's/provider's administration of the program for the purpose of determining the institution's/provider's compliance with state law and applicable rules and regulations.

AUTHORITYNOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

**§2411. Responsibilities of the Louisiana Office of Student Financial Assistance**

A. LOSFA shall provide a residency affidavit that must be completed by an applicant who is determined not to have met the Louisiana residency requirement set forth in these rules.

B. LOSFA shall determine whether an applicant meets the continuing eligibility criteria set forth in §2407.A.1.

C. LOSFA shall pay each eligible institution/provider the amount requested by the eligible college in accordance with the provisions of §2409.E.

D. LOSFA shall maintain a database of all students who have received Geaux Teach Program scholarship, including, but not limited to, all information reported by eligible colleges in accordance with §2209. In the event LOSFA receives a payment request in an amount that would exceed

the maximum amount payable to a student, LOSFA will require the school to rebill.

E. LOSFA shall audit eligible Louisiana institutions to ensure compliance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

**§2413. Responsibilities of the Louisiana Board of Regents**

A. The Louisiana Board of Regents shall promulgate rulemaking to implement the Geaux Teach Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3047 et seq.

HISTORICAL NOTE: Promulgated by the by the Board of Regents, Office of Student Financial Assistance, LR 48:

**Family Impact Statement**

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

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

**Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

**Public Comments**

Interested persons may submit written comments on the proposed changes (SG23207NI) until 4:30 p.m., October 10, 2022, 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 2022 Legislation**

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

The proposed changes to implement Act 681 of the 2022 Regular Session of the Louisiana Legislature will result in an increase in state expenditures for the TOPS program as they allow students additional opportunities to qualify for an award in certain circumstances. Such increases in TOPS expenditures are indeterminable but are anticipated to be minimal and within the normal TOPS projection margin of error.

In addition, the Geaux Teach Program implemented by Act 463 of the 2022 Regular Session of the Louisiana Legislature will result in an increase in state expenditures. These expenditures are limited to the amount of funding appropriated by the legislature, currently \$1.25 million for the 2022-23 state fiscal year.

The proposed TOPS core curriculum changes will not have an impact on TOPS expenditures since they do not substitute

significantly harder or easier courses for those currently required for TOPS eligibility.

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

Revenue collections of state and local governments will not be affected by the proposed changes.

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

Under the proposed changes, students that experienced difficulty in qualifying for a TOPS award due to the impact of Hurricane Ida will be allowed additional opportunities to qualify. Many of these students will attend an in-state school to further their education and will remain in Louisiana upon completion of their education. In addition, the Geaux Teach Program will help alleviate the certified teacher shortage in the state by providing more opportunities for prospective teachers to attain certification. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana thus providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students attending post-secondary institutions will increase the number of educated/trained workers in the state, which will have a positive impact on competition and employment.

Robyn Rhea Lively  
Senior Attorney  
2209#062

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Solid Waste Regulations  
(LAC 33:VII.115, 721, 10509,  
10511, 10523, and 10529)(SW069)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.115, 721, 10509, 10511, 10523, and 10529 (SW069).

This Rule provides updates to facilitate implementation of the legislative mandate of remediating environmental and public health problems caused by improper disposal of waste tires. These proposed regulations establish procedures, standards, and requirements for Solid Waste Type III landfills to collect, transport, process, properly dispose of waste tires, and provides for the updates authorized in Act 291 of the 2021 Regular Legislative Session. The basis and rationale for this Rule are to revise and update the Solid Waste regulations to ensure proper collection, transportation, disposal of waste tires and disposable waste tire material. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 1. General Provisions and Definitions**

**§115. Definitions**

A. ...

\* \* \*

*Disposable Tire Material*—material produced from whole waste tires which have been baled, cut, chipped, shredded or prepared by other volume reduction methods to facilitate disposal.

\* \* \*

*Type III Facility*—a facility used for disposing or processing of construction/demolition debris, disposable tire material, or woodwaste, composting organic waste to produce a usable material, or separating recyclable wastes (e.g., a construction/demolition-debris or woodwaste landfill, separation facility, or composting facility).

\* \* \*

*Waste Tire*—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect and/or has been discarded by the consumer.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008), LR 37:1563 (June 2011), LR 37:3233 (November 2011), LR 38:46 (January 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:234 (February 2019), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

**Chapter 7. Solid Waste Standards**

**Subchapter C. Minor Processing and Disposal Facilities**

**§721. Standards Governing Construction and**

**Demolition Debris and Woodwaste Landfills**

**(Type III)**

A. - B.2.a. ...

b. The permit holder shall maintain records of transporters transporting waste for processing or disposal at the facility. The records shall include the date of receipt of shipments of waste and the transporter's solid waste identification number issued by the administrative authority. Waste tire transporters shall comply with the applicable requirements of LAC 33:VII.Chapter 105.

c. - c.v. ...

d. The permit holder who completes waste tire generator and/or processor manifests must comply with LAC 33:VII.10534.

B.3. - C.1.e.i. ...

- ii. *woodwaste*, as defined in LAC 33:VII.115;
- iii. *yard trash*, as defined in LAC 33:VII.115; and
- iv. *disposable tire material*, as defined in LAC 33:VII.115.

f. - 1.h. ...

i. No more than 150 waste tires shall be stored at one time, unless stored in a container in accordance with LAC 33:VII.503.A.2 or as approved by the administrative authority.

j. Disposable tire material shall not comprise more than 50 percent of the volume of the waste disposed during any 14-day period.

k. Placement of disposable tire material in any contiguous area shall be no more than four feet in depth prior to application of cover or other waste types sufficient to serve as a fire break.

2. - 2.g....

h. Facilities that dispose of disposable tire material shall:

- i. enter into a written agreement with the local fire department regarding fire protection at the facility;

- ii. develop and implement a fire protection and safety plan for the facility to ensure personnel protection and minimize impact to the environment; and

- iii. develop a waste tire preparation and disposal plan.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:1901 (September 2008), LR 37:1566 (June 2011), LR 37:3253 (November 2011), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

## Subpart 2. Recycling

### Chapter 105. Waste Tires

#### §10509. Prohibitions and Mandatory Provisions

A. - J. ...

K. Commercial farmers, persons operating a vehicle fleet and performing on-site maintenance exclusively on their own vehicles shall not be subject to LAC 33:VII.Chapter 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2774 (December 2000), amended by the Office of Environmental Assessment, LR 31:1323 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 42:248 (February 2016), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

#### §10511. Permit System

A. ...

1. Scope. The requirement to obtain a permit under this Chapter applies to the owners and/or operators of any facility that collects waste tires and/or processes waste tires or waste tire material, with the exception of generators, owners and/or operators of permitted solid waste landfills and government agencies. This exception does not relieve the owner/operator of any solid waste landfill from the requirement to obtain a permit in accordance with LAC 33:VII.721.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:38 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2775 (December 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 42:249 (February 2016), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

#### §10523. Standards and Responsibilities of Waste Tire Transporters

A. - F. ...

G. For in-state waste tire transportation, the transporter shall transport all waste tires only to an authorized collection center, an authorized waste tire transfer station, a permitted processing facility, permitted solid waste landfill, or an authorized end-market use.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18:41 (January 1992), amended LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2778 (December 2000), LR 27:831 (June 2001), repromulgated LR 27:1885 (November 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2503 (October 2005), LR 33:2159 (October 2007), amended by the Office of the Secretary, Legal Affairs Division, LR 42:257 (February 2016), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

#### §10529. Standards and Procedures for Waste Tire Cleanups

A. - B.1.1. ...

2. All waste tires collected shall be removed by an authorized waste tire transporter and processed by the permitted waste tire processor or permitted solid waste landfill indicated on the single event cleanup/government tire sweep form submitted to the administrative authority. Use of a waste tire processor not indicated on the form must be approved in writing by the administrative authority.

B.3 - D.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2780 (December 2000), amended by the Office of

the Secretary, Legal Division, LR 42:262 (February 2016), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

#### **Family Impact Statement**

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

#### **Poverty Impact Statement**

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

#### **Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

#### **Provider Impact Statement**

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

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW069. Such comments must be received no later than November 3, 2022, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW069. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

#### **Public Hearing**

A public hearing will be held via Zoom on October 27, 2022, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

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

Courtney J. Burdette  
Executive Counsel

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Solid Waste Regulations**

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

There are no estimated implementation costs or savings to state governmental units as a result of the proposed rule change.

The proposed rule provides for revisions to the solid waste regulations to ensure proper collection, disposal of waste tires and Disposable Tire Material and provides for the updates

authorized in Act 291 of the 2021 Regular Legislative Session. Also, the proposed rule change allows Solid Waste Type III landfill operators to collect, process, and properly dispose of waste tires.

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

There is no anticipated effect on revenue collections of state and local governmental units from this proposed action.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will not result in increased costs to anyone purchasing a tire. The change would allow for Solid Waste Type III operators to landfill Disposable Tire Material. This rule change would provide an additional revenue stream should the operators take advantage of it. Operators may experience a one-time cost for the purchase of equipment to process and dispose waste tires.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change would increase competition for sourcing waste tires from waste generators and one-time cleanups. The update could increase employment opportunities for the Type III landfill operators should they decide to invest in equipment to process waste tires.

Courtney J. Burdette  
Executive Counsel  
2209#029

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Board of Pardons**

Parole (LAC 22:XI.307, 504, 510, and 705)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and pursuant to R.S. 15:573.1, the Board of Pardons hereby gives notice of its intent to amend LAC XI.307, 504, and 705. The amendment to §307 outlines when an offender can be reconsidered for medical parole or medical treatment furlough. The amendment to §504 changes who notifies the board if an offender needs to be rescinded. The amendment to §510 improves the methods for notifying victims by adding electronic communications such as text messaging and e-mail. The amendments to §705 increases the time for individuals that a crime of violence in R.S. 14:2(B) and crimes against person in R.S. 14-29-47 brings language associated with applying for a rehearing in-line with Act 102 of the 2022 Regular Session. These changes will assist victims and survivors navigating the post-conviction process.

#### **Title 22**

### **CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT**

#### **Part XI. Committee on Parole**

#### **Chapter 3. Parole—Eligibility and Types**

#### **§307. Medical Parole/Medical Treatment Furlough**

##### **A. - C.3. ...**

4. An offender who is denied medical parole or medical treatment furlough may apply for a rehearing within the time frame applicable to a denial of parole under any other provision of this Part if still deemed eligible by the Department of Public Safety and Corrections.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2297 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2270 (August 2013), LR 41:43 (January 2015), LR 42:1283 (August 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:2495 (December 2017), LR 44:575 (March 2018), LR 44:2141 (December 2018), LR 48:

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

### **§504. General Procedures**

A. - J.2. ...

K. Upon notification that an offender has violated the terms of the decision granted by the committee or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

1. The board may choose to automatically rescind and change the decision for granting of parole under the below conditions:

a. offender has received a disciplinary report prior or subsequent to the hearing, but prior to parole release;

b. time calculation adjustments by the Department of Corrections that changes the parole eligibility date, causing the offender to become ineligible for parole or pushing his parole eligibility dates beyond the allowed time frame for parole release or rescheduling;

c. refusing to comply with post and/or prior to release conditions set forth by the panel.

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.

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

b. In the event that the offender has been granted parole, the board may rescind its decision and promptly schedule a hearing in accordance with §510.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 45:1063 (August 2019), amended LR 46:42 (January 2020), LR 47:360 (March 2021), LR 48:

### **§510. Victims**

A. - F. ...

G. Should a hearing be re-scheduled by the board for any reason other than the victim's request, the board shall notify the victim as soon as possible by their preferred method of notification.

H. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of teleconference or telephone communication.

J. If more than one person is entitled to appear for a parole hearing, the person chosen by all persons entitled to appear may serve as a spokesperson for all those entitled to

appear. Any person making an oral presentation to the parole panel will be allowed no more than five minutes. However, at the parole panel chairman's discretion more than one person may present a written or oral statement to the panel.

1. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

K. There is no limit on written correspondence in favor of and/or opposition to a candidate for parole release.

L. The Committee on Parole shall notify all persons who have filed a victim notice and registration form with the Department of Public Safety and Corrections of an offender's release from incarceration by parole. Such written notice shall be sent by mail or electronic communication.

M. Notice to Crime Victim Services Bureau of Parole Hearings. The committee shall provide notice to the Department of Public Safety and Corrections Crime Victims Services Bureau at least 30 days prior to parole hearings.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 48:

## **Chapter 7. Parole Decisions**

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

A. If denied at the initial parole hearing, an offender must apply in writing for a subsequent parole hearing, referred to as a "parole rehearing". The written request must be submitted by the offender or his attorney.

B. Application for a parole rehearing will be allowed only under the following conditions.

1. The offender must not have had a major (schedule B) disciplinary misconduct report in the six months prior to the reapplication request;

2. The offender must not have been in disciplinary lockdown status for a period of six months prior to the reapplication request.

3. If both criteria in §705.B.1 and 2 are met, an offender may apply to the committee for a rehearing at the following intervals.

Type of Crime	Request for Rehearing
Nonviolent, except as otherwise restricted	6 mos after most recent denial
Crime of Violence enumerated in R.S. 14:2(B)	Every 2 yrs after most recent denial
Crime Against Person enumerated in R.S. 14:29-47	Every 2 yrs after most recent denial
Sex Offense as defined in §903	Every 2 yrs after most recent denial
Murder, 1st or 2nd degree	Every 2 yrs after most recent denial
Manslaughter	Every 2 yrs after most recent denial

C. 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.

#### D. Disciplinary Removals

1. If the Offender has one or more major (schedule B) disciplinary report(s) in the 12 months prior to their parole eligibility date, they will 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 twelve consecutive months.

Offenders may be removed from a parole docket if they receive a schedule B disciplinary report during the investigation period. The offender will be notified if they are not considered for placement on or removed from a docket.

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

b. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2301 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2266 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:58 (January 2014), LR 45:1065 (August 2019), LR 47:363 (March 2021), LR 48:

#### Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or 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 relations to individual or community asset development as described in R.S. 49:973.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2022.

Sheryl M. Ranatza  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Parole

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

The proposed rule changes may result in nominal expenditure savings to the Department of Public Safety and Corrections (DPSC) associated with electronic notifications to victims sent in lieu of certified mail. Additionally, there is the potential for an indeterminable increase in expenses associated with offenders remaining in custody longer due to extending the time waiting to request a rehearing. There is no impact on expenditures for local government units as a result of the proposed rules. The proposed revisions outline when an offender can be reconsidered for medical parole or medical treatment furlough, changes who notifies the board if an offender needs to be rescinded, changes the methods for notifying victims by adding electronic communications such as



- text messaging and email in accordance with Act 140 of the 2022 Regular Session, and increases the time for individuals to apply for a parole rehearing that are convicted of crimes of violence in R.S. 14:2(B) and/or crimes against a person in R.S. 14:29-47 in-line with Act 726 of the 2022 Regular Session.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
 There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
 There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
 There is no estimated effect on competition and employment as a result of the proposed rule changes.

Thomas C. Bickham, III  
 Undersecretary  
 2209#030

Alan M. Boxberger  
 Interim Legislative Fiscal Officer  
 Legislative Fiscal Officer

**NOTICE OF INTENT**

**Office of the Governor  
 Division of Administration**

**Office of Broadband Development and Connectivity**

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

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

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

**Title 4  
 ADMINISTRATION  
 Part XXI. Granting Unserved Municipalities Broadband Opportunities (GUMBO)**

**Chapter 1. Program Summary  
 §101. Background and Authorization**

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

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

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

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

**§103. Definitions**

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

\* \* \*

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

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

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

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

**§105. Non-Applicability of other Procurement Law**

A. In accordance with R.S. 51:2370.14(C), grants solicited and awarded pursuant to the GUMBO grant

program shall not be subject to the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq., or the Public Bid Law, R.S. 38:2181 et seq.

B. ...

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

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

## **Chapter 2. Project Area Eligibility Requirements**

### **§201. Eligible and Ineligible Project Areas**

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

B.1. Ineligible areas for the program are areas that already have reliable internet access service available to them at transmission speeds of at least 100:20 Mbps through wireline or fixed wireless technology. In addition, areas, inclusive of any singular location where a provider has been fully authorized to receive funding through Universal Service, Connect America Phase II, Rural Digital Opportunity Fund, or other public funds shall be considered served and therefore ineligible for the GUMBO grant program if such funding is intended to result in the initiation of activity related to construction of wireline broadband infrastructure in the area within 24 months from the expiration of the grant application period. In order to designate areas as ineligible and subject to exclusion, providers shall submit to the office individual addresses not less than 60 days prior to the beginning date of the application period. Such individual addresses shall be submitted in shapefile and table format, and shall be inclusive of longitudinal and latitudinal coordinates, specific to each individual address. Should such an address be assigned a specific geolocator number or other specific identifier by the federal government prior to submission to the office, relative to federal broadband availability mapping efforts, such identifier shall be included with each address. Such addresses shall also be denoted by individual points within the shapefile. Any location or area of the state, subject to a Rural Digital Opportunity Fund award, in which the provider receiving the award has proposed to provide broadband internet access service through a technology other than a wireline technology, may be eligible for the GUMBO grant program.

2. A provider with firm plans to privately fund broadband deployment within 20 months from the expiration of the grant application period may qualify the area for protection by submitting to the office, within 30 days of the close of the application period, a listing of the individual

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

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

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

5. Failure on the part of a provider to submit a relevant project area for ineligibility and exclusion shall result in those areas being eligible for GUMBO grant funding for the applicable grant application period.

However, a provider with existing wireline technology facilities in the area, or a provider that intends to deploy reliable broadband service within either 24 months of the close of the application period as a result of receiving public funds specifically for broadband deployment, or 20 months of the close of the application period as a result of plans to privately fund deployment, upon submitting evidence to the office, shall be able to utilize the protest process.

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

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

### **§203. Resources for Identification of Project Areas**

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

B.1. The office shall secure broadband availability mapping information and data from any entity, public or private, providing internet access service to at least one location, within the jurisdiction of the state, to assist the office in compiling a statewide parish-by-parish broadband availability map identifying the locations, technologies, and reliable transmission speed capabilities of broadband service in the state. At the request of the office, any such entity shall submit to the office, on or before the fifteenth day following the expiration of the date required for submission of broadband availability and deployment information to the federal government, any such broadband availability and deployment information. Such information shall be submitted to the office and shall contain the same information and be provided in the same format as it was submitted to the Federal Communications Commission, or any other federal entity, in a manner specified by the office. Specific to this requirement, in no instance shall an entity be required to provide any data or information beyond that which it is required to provide to the Federal Communications Commission or any other federal entity.

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

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

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

4. Any entity submitting broadband availability mapping data and information, submitted as part of this mapping submission requirement, may be afforded the opportunity to review a proposed draft of the state broadband map prior to publication or utilization of the map

for any state-administered grant application period or program designated for broadband infrastructure deployment in the state, and submit any necessary corrective data and information to the office. In conjunction with this review, the office shall provide for a challenge period and process to allow any such entity to challenge any location or area deemed eligible for any state-administered grant program designated for broadband infrastructure deployment in the state that overlaps with the challenging entity's verified service territory.

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

6. Broadband availability mapping data and information submitted as part of this mapping submission requirement shall be exempt from the Public Records Law and shall be considered confidential, proprietary, and a trade secret of the entity providing such information. The office, as well as any private entity, third-party consultant, or state agency retained or employed in the development or maintenance of the map, specific to provider-identifying information, shall keep such information strictly confidential and shall not disclose such information, or cause or permit to be disclosed such information, to any third person, private entity, or public body as defined in R.S. 44:1 and shall take all actions reasonably necessary to ensure that such information remains strictly confidential and is not disclosed to or seen, used, or obtained by any third person, private entity, or public body as defined in R.S. 44:1.

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

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

NOTE: Mapping tools and other resources can be found on the website of the office, at [connect.la.gov](http://connect.la.gov).

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

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

## **Chapter 3. Applications**

### **§303. Applications with Multiple Providers or Project Areas**

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

B. ...

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

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

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

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

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

**§305. Application Requirements**

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

- 1. ...
- 2. project area and locations to be served;
- 3. - 4. ...

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

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

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

A. Every application shall include:

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

- a. ...
- b. a history of the number of households and consumers, by year of service, to which the applicant has

provided broadband internet access, as well as the current number of households to which broadband internet access (at least 100:20 Mbps) is offered;

1.c. - 2. ....

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

- a. a separate provider or potential provider of broadband service, requiring a formalized agreement; or
- b. a nonprofit or not-for-profit, or a for-profit subsidiary of either, and the applicant is:

i. - ii. ...

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

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

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

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

A. Every application shall include the following.

1. Mapping and Descriptions

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

b. Data and information included shall be relevant to the proposed project area and include the number of prospective broadband recipients that will be served and

have access to broadband as a result of the project. For the proposed area to be served, the total cost per prospective broadband recipient must be provided, as well as the GUMBO cost per prospective broadband recipient.

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

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

e. Data Submission Requirements

i. Address-Level Data—data shall be submitted at the address level. Such individual addresses shall be submitted in shapefile and table format, and shall be inclusive of longitudinal and latitudinal coordinates, specific to each individual address. Should such an address be assigned a specific geolocator number or other specific identifier by the federal government prior to submission to the office, relative to federal broadband availability mapping efforts, such identifier shall be included with each address. Such addresses shall also be denoted by individual points within the shapefile. Locations projected to be served must be digitally submitted in a GIS shapefile or kml file format and should be georeferenced to either the Louisiana North State Plane NAD83 (US Feet) coordinate system or the Louisiana South State Plane NAD83 (US Feet) coordinate system. Service to any prospective broadband recipient should be referenced. Data and information submitted through mapping files shall match the information and data entered into the application. Any discrepancy in the data and information entered into the application and submitted in any associated files, including mapping files, may be grounds for administrative rejection of the application, without the opportunity for remedy by the applicant. The office may provide a common data dictionary prior to the opening of any grant application period.

f. Additional Data Sets

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

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

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

2. - 2.a. ...

3. Attestation of Project Area Eligibility

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

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

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

**§311. Technical Report**

A. ...

B. Reporting requirements for all deployments:

1. - 2. ...

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

4. - 7. ...

C. Reporting requirements for wired infrastructure deployment:

1. ...

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

a. - b. ...

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

a. ...

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

4. ...

D. Reporting requirements for fixed wireless deployment:

1. ...

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

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

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

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

a. - c. ...

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

4. - 5. ...

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

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

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

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

#### **A. Budget and Narrative**

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

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

3. ...

#### **B. Total Project/Infrastructure Cost**

1. ...

\* \* \*

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

D. GUMBO Cost—per prospective broadband recipient

#### **E. Proof of Funding Availability**

1. Applicants must submit a signed letter of funding availability from each source of funds committed for the project. If loan or other grant funds are pledged, a loan/grant commitment letter from each source of funds must be included.

2. Should an applicant be an awardee of Universal Service, Connect American Phase II, Rural Digital Opportunity Fund, or other public funds for the deployment

of broadband service, the applicant shall attest as to whether or not the applicant's GUMBO application and associated project's buildout is dependent upon such awarded funds.

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

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

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

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

#### **A. Every application shall include:**

1. - 3. ...

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

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

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

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

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

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

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

## **Chapter 4. Scoring**

### **§401. Overview**

A. The GUMBO grant program is a competitive grant program. Applications shall be scored independently as provided in this Chapter, based upon a system that awards a single point for criteria considered to be the minimum level for the provision of broadband service, with additional points awarded to criteria that exceed minimum levels.

B. Applications shall be scored independently, and applications receiving the highest score shall receive priority status for the awarding of grants. Should the final application or project area with priority status for the

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

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

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

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

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

**§403. Overlapping Applications or Project Areas**

A. At the close of the application period, should one or more applications overlap one or more other applications; relative to one or more unserved individual addresses, the impacted applicants shall have the option and ability to resolve the overlapping individual addresses through the applicants' own volition, discussion, and efforts. Applicants working to resolve an instance of overlapping applications, following the close of the application period, shall jointly notify the office of such efforts. An acceptable resolution and amended applications will be accepted by the office until 5 p.m. on the fifteenth day of the 30-day evaluation period. Such an acceptable resolution between impacted applicants shall not result in the addition of partners to a previously submitted application nor the expansion of an application's project area.

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

overlapping a higher-scored application shall be removed from grant funding consideration.

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

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

**§405. Factors Subject to Scoring**

A. Applicant Experience. The office shall award points based upon the applicant's experience, technical ability, financial wherewithal in successfully deploying and providing broadband service, and the matching funds percentage of the total cost of the project. For experience, the office shall reference, by date of application submittal and without regard to the potential project, the number of years the applicant has provided internet services; the number of households to which the applicant currently provides broadband internet service access (at least 100:20 Mbps); the number of internet service infrastructure projects completed by the applicant, funded in part through federal or state grant programs, prior to the date of application submittal; penalties paid by the applicant, relative to internet service infrastructure projects funded in part through federal or state grant programs, prior to the date of application submittal; and whether the applicant, a subsidiary or affiliate of the applicant, or the holding company of the applicant has ever been a defendant in any federal or state criminal proceeding or civil litigation as a result of its participation in an internet service infrastructure project funded in part through federal or state grant programs, prior to the date of application submittal. Points shall be awarded as follows.

\* \* \*

B. Technical Ability. The office shall award points based upon the broadband transmission speeds (Mbps download and upload) that will be deployed as a result of the project. If more than one set of transmission speeds are offered to consumers, scoring shall be based on the fastest transmission speeds offered. The office shall award points based upon the scalability of the project's technology and infrastructure beyond the project's current maximum speed offering for future increases in bandwidth. Should a project include a mix of wireline and fixed wireless technology solutions, broadband speed and scalability criteria shall be scored based upon the technology that serves a majority of a project's prospective broadband recipients. The office shall reference the average distance, in miles, between prospective broadband recipients to be served by the project and shall award points to the five applications with the longest average distance between prospective broadband recipients. Points shall be awarded as follows.

Broadband Speeds (Mbps Down:-Mbps Up)	Points
At least 100:20	1
100:100 and beyond	10

Scalability (Mbps Down:-Mbps Up)	Points
At least 100:100	1
At least 300:300	5
At least 500:500	10
At least 1000:1000	15

Average Distance (in miles) Between Prospective Broadband Recipients	Points
Longest average distance	25
2 <sup>nd</sup> longest average distance	20
3 <sup>rd</sup> longest average distance	15
4 <sup>th</sup> longest average distance	10
5 <sup>th</sup> longest average distance	5
6 <sup>th</sup> longest average distance or shorter	0

C. Financial Wherewithal. The office shall reference both a project’s total/infrastructure cost per prospective broadband recipient and GUMBO cost per prospective broadband recipient. A project’s total/infrastructure cost per prospective broadband recipient shall be calculated by dividing a project’s total/infrastructure cost by the total number of prospective broadband recipients to be served by the project. A project’s GUMBO cost per prospective broadband recipient shall be calculated by dividing a project’s GUMBO requested funding by the total number of prospective broadband recipients to be served by the project. In each criterion, the office shall award points to the 10 applications with the lowest costs per prospective broadband recipient. The office shall also reference the number of bankruptcies filed (prior to the date of application submission). Points shall be awarded as follows.

\* \* \*

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

Provider Matching Funds (Percentage of Total/Infrastructure Cost)	Points
25 percent	0
Each additional percentage point – beyond required 25 percent.	1
Each increment of 5 percentage points – beyond required 25 percent.	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of matching funds provided, beyond the required 25 percent. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of matching funds provided, beyond the required 25 percent. Points are awarded based upon the total percentage of matching funds provided, beyond the required 25 percent, irrespective of the number of providers contributing to a single project.

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

Local Government Letters of Support, Numbers	Points (max. 10 points)
1 local government	1
2 local government	5
3+ local governments	10

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

Number of Unserved Households	Points
499 or fewer	1
500 to 1,999	4
2,000 to 4,999	6
5,000 to 9,999	8
10,000 or more	10

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

G. Percentage of Total Unserved Households Served. The office shall award points to projects that will provide broadband service based upon the percentage of the total unserved households within the eligible economically distressed parish that the project will newly and directly serve. Unserved households served as a result of other, non-GUMBO federal or state grant programs shall not be used in the calculation of this criterion. The number of unserved households shall be determined using the most recent data published by the Federal Communications Commission or the most reliable source of information available as of the close of the application period, as determined by the office. The office shall also award points based upon the number of households newly and directly served, as a result of the project, with current service of less than 25:3 Mbps, as a percentage of the total number of households proposed to be served by the project. Points shall be awarded as follows.

Percent of Unserved Households Newly and Directly Served	Points
5 percent or less	1
6 percent to 10 percent	4
11 percent to 24 percent	6
25 percent to 49 percent	8
50 percent or more	10

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

Percent of Households With Service of Less Than 25:3 Mbps Newly and Directly Served By a Project, Relative to the Total Number of Households Proposed to Be Served By a Project	Points
Less than 1 percent	0
1 percent to 24 percent	5



Percent of Households With Service of Less Than 25:3 Mbps Newly and Directly Served By a Project, Relative to the Total Number of Households Proposed to Be Served By a Project	Points
25 percent to 49 percent	25
50 percent to 74 percent	50
75 percent to 99 percent	75
100 percent	100

H. - I. ...

\* \* \*

J. Consumer Price. The office shall award points based upon the ultimate price of broadband service to the consumer as a result of the proposed project and shall reference the average price of all broadband service packages offering transmission speeds that meet or exceed 100:20 Mbps offered to consumers by an applicant as the result of the proposed project. The office shall award points to the 10 applications with the lowest average price of all broadband service packages offering transmission speeds that meet or exceed 100:20 Mbps offered to consumers by an applicant as a result of the proposed project. Points shall be awarded as follows.

Consumer Price (Lowest Average Package Price)	Points
Lowest average price	20
2 <sup>nd</sup> lowest average price	18
3 <sup>rd</sup> lowest average price	16
4 <sup>th</sup> lowest average price	14
5 <sup>th</sup> lowest average price	12
6 <sup>th</sup> lowest average price	10
7 <sup>th</sup> lowest average price	8
8 <sup>th</sup> lowest average price	6
9 <sup>th</sup> lowest average price	4
10 <sup>th</sup> lowest average price	2
11 <sup>th</sup> lowest average price or higher	0

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

K. ...

Local Gov't In-Kind and Matching	Points
No in-kind contribution or funding match	0
Each percentage point of total/infrastructure project cost provided by in-kind contributions or funding matches	1
Each increment of 5 percentage points of total/infrastructure project cost provided by in-kind contributions or funding matches	5 Bonus Points

NOTE: An applicant will receive 1 point for each percentage point of the total/infrastructure cost of a project provided by local government through in-kind contributions or matching funds. Additionally, an applicant will receive 5 bonus points for each increment of 5 percentage points of the total/infrastructure cost of a project provided by local government through in-kind contributions or matching funds. Points are awarded based upon the total percentage of in-kind

contributions and matching funds provided by local governments, irrespective of the number of local governments contributing to the project.

L. - N. ...

Summary	
Scored Section	Points
A-1. Experience (Years Providing Internet Service)	0 – 5
A-2. Experience (Households Provided Access)	0 – 5
A-3. Experience (Completed Internet Projects)	0 – 5
A-4. Experience (Penalties Paid)	0 – 5
A-5. Experience (Defendant in Criminal or Civil)	0 – 5
B-1. Technical Ability (Broadband Speeds)	1 – 10
B-2. Technical Ability (Scalability)	0 – 15
B-3. Technical Ability (Distance Between Broadband Recipients)	0 – 25
C-1. Financial Wherewithal (Cost Per Prospective Broadband Recipient)	0 – 10
C-2. Financial Wherewithal (GUMBO Cost Per Prospective Broadband Recipient)	0 – 20
C-3. Financial Wherewithal (Bankruptcy)	0 – 2
D. Provider Matching Funds	0 – 1 – 5+
E. Local Government Letters of Support	0 – 1 – 10
F. Number of Unserved Households in Parish	1 – 10
G-1. Percent of Total Unserved Households Now Served	1 – 10
G-2. Percent of 25:3 Mbps in Project	0 – 100
H. Unserved Businesses Now Served	1 – 5
I-1. Leverage of Existing Infrastructure (Percentage of Mileage of Preexisting Infrastructure)	0 – 5
I-2. Leverage of Existing Infrastructure (Timing of Construction Start Date)	1 – 5
I-3. Leverage of Existing Infrastructure (Timing of Wireline Construction Completion)	1 – 10
Or	
I-4. Leverage of Existing Infrastructure (Timing of Wireless Construction Completion)	1 – 5
J. Consumer Price	0 – 20
K. Local Government Matching	0 – 1 – 5+
L. Certified Hudson/Vet Initiative Grant Recipient	0 – 10
M. Certified Hudson/Vet Initiative Subcontractor	0 – 20
<b>Total Possible Points:</b>	<b>6 – 322+</b>

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:

**§503. Protests**

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:

#### **§505. Grant Agreements [Formerly §603]**

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

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

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

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

### **Chapter 6. Compliance**

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

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

B. Grant recipients that have offered broadband service to at least one thousand consumers for a period of at least five consecutive years shall offer broadband service at prices consistent with offers to consumers in other areas of the state. Any other broadband provider shall ensure that the broadband service is priced to consumers at no more than the cost rate identified in the project application, for the duration of the five-year service agreement.

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

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

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

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

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

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

### **§603. Reporting [Formerly §703]**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **§605. Disbursement and Reimbursement [Formerly §705]**

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

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

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

1. 10 percent;
2. 35 percent;
3. 60 percent;
4. 85 percent;
5. 100 percent.

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

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

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

### **§607. Failure to Perform [Formerly §707]**

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

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

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

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

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

F. A grant recipient shall not be required to forfeit the amount of the grant received if it fails to perform due to a natural disaster, an act of God, force majeure, a catastrophe, pandemic, the failure to obtain access to private or public

property or any government permits under reasonable terms, such claims that shall be evaluated to the satisfaction of the office, or such other occurrence over which the grant recipient has no control, as evaluated to the satisfaction of the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Chapter 7. Applicability of Amended Rule**

### **§701. Applicability of Amended Rule**

A. Any application received through the GUMBO grant program prior to August 1, 2022, or any protest, appeal, or other filing, including any judicial filing arising from an application submitted prior to August 1, 2022, shall be subject to Act 477 of the 2021 Regular Legislative Session and the final Rule published on June 20, 2022. Any application received through the GUMBO grant program on or following August 1, 2022, or any protest, appeal, or other filing, including any judicial filing arising from an application submitted on or following to August 1, 2022, shall be subject to Act 288 of the 2022 Regular Legislative Session and the Emergency Rule published on August 20, 2022.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity, LR 48:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has the potential to produce a positive impact on family stability, functioning, and earnings and a family's budget as described in R.S. 49:972 through broadband access offering enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

#### **Poverty Impact Statement**

The proposed Rule should produce a foreseeable, positive impact on the state's children, individuals, and families as defined by R.S. 49:973.B. In particular, the positive impact on factors influencing poverty will be evident through enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

#### **Small Business Analysis**

Pursuant to R.S. 49:978.5, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered and cared for when creating this proposed Rule.

Should a small business not have the financial reporting capabilities and documents required within the Rule for the purposes of applying for the grant program, the office is granted the ability to accept other equivalent documents, at its discretion. Otherwise, this proposed Rule is not anticipated to have an adverse impact on small businesses within the state that apply for or are ultimately grant recipients of the program; therefore, a Small Business Economic Impact Statement has not been prepared.

#### **Provider Impact Statement**

It is likely that a private provider of broadband service provides such service to individuals with developmental disabilities. The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session, as the proposed Rule implements a grant program that will fund, through federal appropriations at a minimum of 80 percent of total costs, broadband infrastructure projects in previously unserved

areas of the state. 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 Veneeth Iyengar, Executive Director, Office of Broadband Development and Connectivity, P.O. Box 94095, Baton Rouge, LA 70804-9095. Interested persons may also submit written comments by email to [connect@la.gov](mailto:connect@la.gov). Mr. Iyengar is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing shall be scheduled for Monday, October 31, 2022, from 10 a.m. to 11 a.m. in the 2-207 Room, 1201 North Third Street, Baton Rouge, LA 70802. At that time all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Jay Dardenne  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Granting Unserved Municipalities Broadband Opportunities (GUMBO)**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule is anticipated to result in implementation costs to state government, specifically the Office of Broadband Development and Connectivity, and in the amounts of \$89.1 M in grant awards and \$900,000 in professional services during FY 23. To implement the proposed rule, the Office of Broadband Development and Connectivity was authorized through legislative action two (2) percent of statutory dedicated Granting Unserved Municipalities Broadband Opportunities Fund from federal American Rescue Plan Act dollars appropriated to the state for the purposes of expanding broadband infrastructure throughout the state. The federal appropriation to the state is \$180 M, of which the office intends to utilize \$90 M statutory dedication for FY 23. This would allow the office to award \$89.1 M in grants and expend up to \$900,000 to administer the rule. The Office of Broadband Development and Connectivity intends to solicit third-party professional services to perform independent application evaluation and scoring, as well as to engage in grant recipient compliance processes.

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

The proposed rule has the potential to impact, positively, revenue collections of state and local governmental units, however, said positive impact is indeterminable at this time. What is determinable is that for FY 23, up to \$90 M in dedicated grant funding and appropriation is available through the state for the purposes of broadband infrastructure construction to expand broadband access. In the short and medium term, potential economic activity as it relates to broadband technology infrastructure construction has the

potential to positively impact revenue collections of state and local governmental units through increased sales tax collections and income taxes. Over the long term, potential economic activity as it relates to increased broadband access has the potential to positively impact revenue collections of state and local governmental units through increased sales tax collections, income tax revenue, and property tax revenue as a result of lower unemployment, higher wages, and business development.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

For cost considerations, the proposed rule is anticipated to create optional, minor costs for directly affected persons, small businesses, or non-governmental groups. This would take the form of broadband service packages offered by private providers to prospective broadband recipients provided the opportunity to subscribe to broadband service. Recent national averages for broadband subscriptions range from \$50 to \$75 per month. The possible economic benefits to directly affected persons, small businesses, or non-governmental groups is substantial, yet indeterminable. Increased broadband access has the potential to transform smaller, rural communities consisting of persons, small businesses, or non-governmental groups, through increased economic output, namely in the form of enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is a positive estimated effect on competition and employment as a result of the proposed rule, although indeterminable. The proposed rule is intended to implement the Granting Unserved Municipalities Broadband Opportunities (GUMBO) grant program. The grant program will fund broadband infrastructure projects throughout the state in areas that are classified as "unserved," defined as areas not having access to broadband services (at least 100:20 Mbps) through wireline or fixed wireless technology. The effect on competition and employment as a result of these projects should be a positive one, driving enhanced economic output, over the short-, medium-, and long-term. Factors enhancing economic output would include enhanced employment opportunities, higher wages, business development, improved access to healthcare, and educational opportunities.

Veneeth Iyengar  
Director  
2209#031

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Behavior Analyst Board**

Continuing Education (LAC 46:VIII.803 and 807)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Behavior Analyst Board intends to amend LAC 46:VIII.803 and 807. This amendment establishes new deadlines for licensed behavior analyst and state certified assistant behavior analyst to complete continuing education hours within biennial reporting periods beginning in July of 2024. This amended Rule also deletes two categories previously listed as acceptable for continuing professional development.

Continuing education is an ongoing process consisting of learning activities that increase professional development.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part VIII. Behavior Analysts**

#### **Chapter 8. Continuing Education Requirements for Licensed Behavior Analysts and State Certified Assistant Behavior Analysts**

##### **§803. Requirements**

A. For the reporting period that begins July 2026 and henceforth, licensed behavior analysts will be required to report 32 total credits of continuing professional development, 4 of which must be in Ethics. State certified assistant behavior analysts will be required to report 20 total credits of continuing professional development, four of which must be in ethics. Certificants/licenseses should not repeat a continuing education event in order to obtain additional continuing credits. The hours must conform to the distribution listed below.

1. Only for the reporting period of July 2024, credits of continuing professional development will be required in the following amounts and must conform to the distribution listed below.

a. Licensed behavior analyst must report 24 total credits of continuing professional development, three of which must be in ethics.

b. State certified assistant behavior analyst must report 15 total credits of continued professional development, three of which must be in Ethics.

B. Within each reporting period, four of the required hours or credits of continuing professional development must be within the area of ethics.

C. Certificants/licenseses can accumulate continuing professional development credits in seven categories.

1. - 2.b....
3. - 3.c.Repealed.
4. - 5.b....
6. - 6.b.Repealed.
7. - 7.b....

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1514 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 43:1961 (October 2017), LR 48:

##### **§807. Noncompliance**

A. - B. ...

C. If the certificant/licensee fails to meet continuing professional development requirements by the appropriate date, the certificate/license shall be regarded as lapsed at the close of business June 30th of the year for which the certificant/licensee is seeking renewal.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3713.

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 42:1515 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 43:1962 (October 2017), LR 48:

##### **Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to continuing education is being implemented to guarantee the licensing authority can safeguard the public

welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

##### **Poverty Impact Statement**

The proposed Rule creates a new Rule, LAC 46:VIII. Chapter 8. The 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 does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

##### **Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by on October 7, 2022.

Rhonda Boe  
Executive Director

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Continuing Education**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule amendment will result in a one-time cost of approximately \$600 in FY22/2023 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the Louisiana Register. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule amendment changes the deadline to complete continuing education hours to coincide with the new renewal deadline.

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

The proposed rule amendment 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 amendment changes the renewal deadline date to a time of year that does not create a financial hardship. The proposed rule amendment changes the deadline

to complete continuing education hours to coincide with the new renewal deadline and eliminates two categories of professional development previously accepted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment changes the deadline to complete continuing education hours to coincide with the new renewal deadline. The proposed changes should have no effect on competition and/or employment.

Rhonda Boe  
Executive Director  
2209#013

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Behavior Analyst Board**

Ethical Standards (LAC 46:VIII.1001)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Behavior Analyst Board intends to amend §1001 by updating to the current Professional and Ethical Compliance Code which provides authority to enforce ethical standards.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part VIII. Behavior Analysts**

**Chapter 10. Ethical Standards**

**§1001. Professional and Ethical Compliance Code**

A. The Louisiana Behavior Analyst Board incorporates by reference and maintains that Licensed Behavior Analysts, State Certified Assistant Behavior Analysts and Registered Line Technicians shall follow the Behavior Analyst Certification Board's (hereinafter referred to as BACB's) Professional and Ethical Compliance Code, approved by the BACB's Board of Directors on August 7, 2014, effective January 1, 2016 and updated January 1, 2022. This updated code replaces the Professional and Ethical Compliance Code (2014) and now serves as the BACB's guide on ethical matters and as the basis for disciplinary complaints and will also be the Louisiana Behavior Analyst Board's (hereinafter referred to as LBAB) guide on ethical matters and as such enforceable by the LBAB. The information regarding the code can be found on the BACB's official web site, bacb.com, under the ethics section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:1515 (September 2016), amended LR 48:

**Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to continuing education is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of

children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule amendment updates the rule, LAC 46:VIII. Chapter 10 to the most current edition. The 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 amendment does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on October 7, 2022.

Rhonda Boe  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Ethical Standards**

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

The proposed rule amendment will result in a one-time cost of approximately \$600 in FY22/2023 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the Louisiana Register. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule amendment changes §1001 by updating to the current Professional and Ethical Compliance Code which provides authority to enforce ethical standards.

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

The proposed rule amendment 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 amendment changes §1001 by updating to the current Professional and Ethical Compliance Code and does not create a financial hardship or economic benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment changes §1001 by updating to the current Professional and Ethical Compliance Code. The

proposed changes should have no effect on competition and/or employment.

Rhonda Boe  
Executive Director  
2209#012

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Behavior Analyst Board

#### Licensing and Administrative Fees (LAC 46:VIII.305)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Behavior Analyst Board intends to amend §305 in order to add the stipulation not to exceed the maximum amounts listed. The board has lowered renewal fees for licensure and certification for the past two years through the filing of Emergency Rules. The amendment allows the board to lower fees without the necessity of an Emergency Rule.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part VIII. Behavior Analysts

#### Chapter 3. Application Procedures and Board Fees

#### §305. Licensing and Administrative Fees

##### A. Licensing Fees

Application for Licensed Behavior Analyst	\$400
Application for State Certified Assistant Behavior Analyst	\$250
Registration for Line Technicians	\$50
Temporary Licensure	\$125
Annual Renewal – Behavior Analyst 2022 Only	\$300
Annual Renewal – Behavior Analyst	\$200
Annual Renewal—Assistant Behavior Analyst 2022 Only	\$187.50
Annual Renewal - Assistant Behavior Analyst	\$125
Annual Renewal - Line Technicians	\$50
Jurisprudence Examination	\$75
Criminal Background Check	\$50

##### B. Administrative Fees

Late fees	\$50
Duplicate copy of license	\$15
Official Name Change on License	\$25
License Verification	\$15
Insufficient Check Fee	\$15
Copies of documents	\$2/page

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3714.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1930 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 48:

#### Family Impact Statement

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to renewals is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family

budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

The proposed Rule amends LAC 46:VIII.Chapter 4. The 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 does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments to Rhonda Boe, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by 12 p.m. on October 7, 2022.

Rhonda Boe  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Licensing and Administrative Fees

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

The proposed rule amendment will result in a one-time cost of approximately \$600 in FY22/2023 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the Louisiana Register. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule amendment stipulates not to exceed the fees listed. The proposed rule change will alleviate the necessity of filing Emergency Rules when fees are decreased.

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

The proposed rule amendment will not affect revenue collections for state or local governmental units. The proposed rule amendment will alleviate the necessity of filing Emergency Rules when fees are decreased.

##### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendment will provide economic benefit to affected persons when fees are decreased. The proposed rule amendment will alleviate the necessity of filing Emergency Rules when fees are decreased.



IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule amendment stipulates not to exceed the fees listed. The proposed rule change will alleviate the necessity of filing Emergency Rules when fees are decreased. The proposed changes should have no effect on competition.

Rhonda Boe  
Executive Director  
2209#010

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Behavior Analyst Board**

**Renewal Requirements (LAC 46:VIII.401 and 402)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Behavior Analyst Board intends to amend §401 A, B, C, and D., §402 A, and B in order to change the renewal deadline date to a time of year that does not create a financial hardship. The change creates a six-month gap and the amendments address additional changes required to complete the cycle to accommodate the gap. The amendment also lowers renewal fees for licenses and certificates. The amendment also lowers renewal fees for registered line technicians for one renewal period only.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part VIII. Behavior Analysts**

**Chapter 4. License, Certification and Registration  
Renewal Process**

**§401. Renewal Process**

A. A licensed behavior analyst shall renew their current license every year by July 1st, beginning in 2024. The renewal period shall open in May and will close June 30th annually. The licensed behavior analyst must submit the required renewal forms, renewal fee and proof of fulfillment of all continuing education requirements, as approved by the board. Renewals for 2022 only shall be due by December 31, 2022 and the renewal fee shall be \$300 to cover one and a half years, specifically January 1, 2023 through June 30, 2024. Thereafter, renewal fees shall be \$200 annually and cover one year, specifically July 1 through June 30.

B. A state certified assistant behavior analyst shall renew their current license every year by July 1, beginning in 2024. The renewal period shall open in May and will close June 30 annually. The state certified assistant behavior analyst must submit the required renewal forms, renewal fee and proof of fulfillment of all continuing education requirements, as approved by the board. Renewals for 2022 only shall be due by December 31, 2022 and the renewal fee shall be \$187.50 to cover one and a half years, specifically January 1, 2023 through June 30, 2024. Thereafter, renewal fees shall be \$125 annually and cover one year, specifically July 1 through June 30.

C. A licensed behavior analyst shall renew the registration of all registered line technicians under their supervision every year by July 1st beginning in 2024. The

renewal period shall open in May and close June 30 annually. The licensed behavior analyst in conjunction with the registered line technicians must complete the proper renewal forms accompanied with the renewal fee as determined by the Board. Renewals for 2022 only shall be due by December 31, 2022 and the renewal fee shall be \$50 to cover one and a half years, specifically January 1, 2023 through June 30, 2024. Thereafter, renewal fees shall be \$50 annually and cover one year, specifically July 1st through June 30.

D. A license, certificate or registration renewal will be valid for one year beginning July 1 through June 30 for each renewal period, with the exception of the year specifically noted above.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3709.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1932 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 48:

**Subchapter B. Supervision Requirements  
for Registered Line Technicians (RLT)**

**§402. Noncompliance—Renewal Process**

A. Noncompliance shall include, in part, incomplete forms, unsigned forms, failure to file all of the required renewal forms by June 30, failure to postmark the renewal package by June 30 and failure to report a sufficient number of acceptable continuing education credits as determined by the board. Noncompliance in the year 2022 only will have a deadline of December 31, thereafter deadline will be June 30.

B. If a license, certificate or registration is not renewed by June 30, due notice having been given, the license, certificate, or registration shall be regarded as lapsed effective July 1, with the exception of the renewal year 2022 as outlined above. An individual shall not practice or provide with supervision applied behavior analysis in Louisiana while the license, certificate, or registration is lapsed.

C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:3709.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1932 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 48:

**Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to renewals is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule amends LAC 46:VIII. Chapter 4. The 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 does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by 12 p.m. on October 7, 2022.

Rhonda Boe  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Renewal Requirements**

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

The proposed rule amendment will result in a one-time cost of approximately \$600 in FY22/2023 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the Louisiana Register. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule amendment changes the renewal deadline date to a time of year that does not create a financial hardship and also lowers the renewal fees for persons in this profession. The proposed rule change will result in a decrease in renewal fees collected by the Behavior Analyst Board. The Board has prepared and worked towards a stable financial position to be able to accommodate these renewal fee reductions.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

The proposed rule amendment will affect revenue collections for state or local governmental units. The Board has prepared and worked towards a stable financial position to be able to accommodate these renewal fee reductions.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

The proposed rule amendment changes the renewal deadline date to a time of year that does not create a financial hardship. The proposed changes to the renewal deadline also creates a one time, one and one-half year renewal period for licenses and certificates at a discounted renewal fee thereby allowing six additional months of continued registration without a fee. After a cycle has been completed to accommodate this gap, license and certificate renewal fees will be reduced by half.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed changes to the renewal deadline also creates a one time, one and one-half year renewal period for registered line technicians at the same cost as a one-year renewal thereby allowing six additional months of continued registration without a fee. This one time change benefits employers who pay the renewal fees of their registered line technicians. The proposed changes should have no effect on competition.

Rhonda Boe  
Executive Director  
2209#011

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Medical Examiners**

**Bridge Year Graduate Physician Program  
(LAC 46:XLV.303 and 398)**

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1275, and the newly enacted R.S. 37:1310.11 and 1310.12, that the board proposes to amend LAC 46:XLV.303 by adding the definitions of “Bridge Year Graduate Physician” and “Training Physician” and to add a new provision, LAC 46:XLV.398, regarding the Bridge Year Graduate Physician Program, including the creation of a certificate, and to set forth requirements and provisions relative to the program and the certificate.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XLV. Medical Professions  
Subpart 2. Licensure and Certification  
Chapter 3. Physicians  
Subchapter A. General Provisions  
§303. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified.

\* \* \*

*Bridge Year Graduate Physician*—a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the Board pursuant to §§333 to 341 of this Chapter who meets the requirements and qualifications provided in §§311 et seq., and who holds a certificate to practice under the direct supervision of a board-certified physician as provided in these rules.

\* \* \*

*Training Physician*—a board-certified physician who meets and maintains the requirements to serve as a preceptor for physicians practicing under a bridge year graduate physician certificate.

\* \* \*

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271 and 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:835 (June 2001), LR 31:1582 (July 2005), LR 38:3173 (December 2012), LR 48:

#### **Subchapter H. Restricted Licensure, Permits**

##### **§398. Bridge Year Graduate Physician Program**

A. A graduate of an accredited school of medicine or osteopathy who applied to, but was not accepted into, an accredited medical residency training program for the first year following medical school graduation, may apply for a bridge year graduate physician certificate.

1. A physician practicing under a bridge year graduate physician certificate shall practice in training for one post-graduate year under the direct supervision of a board-certified physician who has completed training required by the board to be a training physician and who maintains such training at intervals required by the board.

2. The training physician shall practice in the same or an adjacent facility and shall formally review and co-sign the work of the bridge year physician.

3. A physician practicing under a bridge year graduate physician certificate shall have prescriptive authority in accordance with state and federal law and board rules, as authorized and supervised by the training physician.

4. The training physician shall issue a report at the end of the bridge year indicating the scope and breadth of the practice of the participating bridge year graduate physician and the instruction and training given to the bridge year graduate physician. The training physician's report shall contain a statement as to whether or not the bridge year graduate physician would be recommended for a residency position upon reapplication.

5. A bridge year graduate physician certificate shall be valid for one year and may be renewed for no more than two additional one-year periods upon application to, and discretion of, the board.

B. The board shall select the participants for the bridge year graduate physician program and has the authority to accept or reject any applicant. If the number of applicants exceeds the available number of training physicians or training locations, preference may be given to applicants desiring to practice in underserved areas, in primary care or internal medicine, to Louisiana residents, or to graduates of Louisiana medical schools.

C. The board may suspend, terminate, or revoke a bridge year graduate physician certificate prior to the expiration of one year for any reason provided by law or board rule for the termination of licenses, permits, registrations, or certificates issued by the board.

D. A bridge year graduate physician certificate shall not confer any future right to full, unrestricted licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, 37:1310.11 and 1310.12.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 48:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed

amendments on the family has been considered. It is anticipated that the proposed amendments will have a positive impact on family, formation, stability or autonomy, as described in R.S. 49:972, due to providing increased access to health care.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is anticipated that the amendments will lead to the increased provision of health care in the community, thereby leading to more care, education development, workforce and employment opportunities, which will lead to financial security for families and to increased income and sales tax revenues for local and state government.

#### **Small Business Analysis**

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:978.1 et seq.

#### **Provider Impact Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

#### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Jacintha Duthu, LSBME, 630 Camp Street, New Orleans, LA 70130. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 10, 2022.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 25, 2022 at 9 a.m., at the office of the LSBME, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call in advance to confirm.

Vincent A. Culotta, Jr., M.D.  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bridge Year Graduate Physician Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed changes will result in a one-time publication expense estimated at \$789.00, in FY23 for the Louisiana State Board of Medical Examiners (LSBME). There is no anticipated impact, inclusive of adjustments in workload and paperwork requirements, on any state or local governmental units other than the LSBME. Creation and regulation of the bridge year

graduate physician certificate will increase workload and paperwork requirements of the LSBME initially, at least for FY23. Since the board already has established procedures for other forms of licensure and restricted licenses, whether applications for the new bridge year certificate result in increased expense, workload, and paperwork, such as hiring additional licensing analysts or investigators, will depend on the number of applicants, which is unknown at this time but projected to be less than 150 (based on the approximate number of anticipated unmatched graduates).

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

The proposed addition of LAC 46:XLV.398 is pursuant to Act 757 of the 2022 Regular Session of the Louisiana Legislature, which enacts new provisions, R.S. 37:1310.11 and 1310.12, authorizing the Board to develop, implement, and maintain a bridge year graduate physician program. The new provision in LAC 46:XLV.398 sets standards for a bridge year graduate physician certificate. With regard to the current proposed rule, the Board anticipates there will be no effect on the revenue collections of the LSBME or other state or local governmental units. It is possible with future promulgations that there may be a modest increase in revenue for the board from applications for bridge year certificates due to any related fees, but that is not part of this promulgation.

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

It is not anticipated that the proposed rule regarding the creation and regulation of a bridge year graduate physician certificate will in and of itself have a material effect on costs and/or economic benefit directly to affected persons, small businesses, or non-governmental groups. Use of the certificates to practice medicine pursuant to the bridge year graduate physician program will result in economic benefits to the participating physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the creation of a bridge year graduate physician certificate will have a significant impact on competition overall as there is a need for practicing physicians throughout Louisiana. The certificate will allow bridge year graduate physicians to practice medicine under the supervision of a preceptor physician while participating in the program. Use of the certificate will create income-producing employment for the participants while they are enrolled in the program.

Vincent A. Culotta, Jr., M.D.  
Executive Director  
2209#063

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Medical Examiners**

License in Good Standing (LAC 46:XLV.303)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1271, and R.S. 37:1274, the board

proposes to amend LAC 46:XLV.303, the definitions section, by adding a definition of “license in good standing” so as to exclude from the definition any licensure status that restricts the activities authorized by the license.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians**

**Subchapter A. General Provisions**

**§303. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified:

\* \* \*

*License in Good Standing*—a license or registration that is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license or registration.

\* \* \*

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271 and 37:1274.7n

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:835 (June 2001), LR 31:1582 (July 2005), LR 38:3173 (December 2012), LR 48:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or 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 impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

**Small Business Analysis**

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:978.1 et seq.

**Provider Impact Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

**Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Jacintha Duthu, LSBME, 630 Camp Street, New Orleans, LA 70130. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 10, 2022.

**Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 25, 2022, at 9 a.m., at the office of the LSBME, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call in advance to confirm.

Vincent A. Culotta, Jr., M.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: License in Good Standing**

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

The proposed changes will result in a one-time publication expense estimated at \$789, in FY 23 for the Louisiana State Board of Medical Examiners (LSBME). Otherwise, there is no anticipated impact on the LSBME or any state or local governmental unit, inclusive of adjustments in workload and paperwork requirements.

The proposed changes amend the LSBME’s rules by adding the following definition to §303: *License In Good Standing*—a license or registration that is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the or registration.

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

There is no anticipated effect on the revenue collections of the LSBME or other state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is not anticipated that the proposed amendment will have any economic benefit to directly affected persons, small businesses, or non-governmental groups and/or have any material effect on costs, paperwork or workload of physicians or other health care providers licensed by the LSBME, nor on receipts and/or income of licensees, small businesses, or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed changes will have any impact on competition or employment.

Vincent A. Culotta, Jr., M.D.  
Executive Director  
2209#066

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Medical Examiners**

Marijuana for Therapeutic Use by Patients  
Suffering From a Debilitating Medical Condition  
(LAC 46:XLV.Chapter 77)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board proposes pursuant to R.S. 40:1046, to repeal the board’s rules, LAC 46:XLV.Chapter 77, governing physicians who recommend therapeutic marijuana, legal warning with regard to recommending marijuana, definitions and prohibitions with regard to the conditions for which it may be recommended, registration of physicians, form for recommendation, requirements for treatment and keeping of records, and discipline pertaining to such rules, to conform to Act 286 of the 2020 Regular Session of the Louisiana Legislature. The repeal will be effective upon final promulgation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 3. Practice**

**Chapter 77. Marijuana for Therapeutic Use by  
Patients Suffering from a Debilitating  
Condition**

**Subchapter A. General Provisions**

**§7701. Preamble, Warning, and Suggested Consultation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017), LR 46:342 (March 2020), repealed LR 48:

**§7703. Scope of Chapter**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017), repealed LR 48:

**§7705. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1471 (October 2019), LR 46:342 (March 2020), repealed LR 48:

## **Subchapter B. Prohibitions and Exceptions**

### **§7707. Prohibitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 45:1472 (October 2019), repealed LR 48:

### **§7709. Exceptions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019), LR 46:342 (March 2020), repealed LR 48:

## **Subchapter C. Registration**

### **§7711. Registration, Physician Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:319 (February 2017), LR 46:342 (March 2020), repealed LR 48:

### **§7713. Application**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, 1281, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), repealed LR 48:

### **§7715. Registration Issuance, Expiration, Renewal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, 1281, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), repealed LR 48:

## **Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records**

### **§7717. Use of Marijuana for Therapeutic Purposes, Limitations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019), repealed LR 48:

### **§7719. Board Access to Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), repealed LR 48:

### **§7721. Form of Written Request or Recommendation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017), LR 45:1472 (October 2019), repealed LR 48:

## **Subchapter E. Sanctions, Severability**

### **§7723. Sanctions against Medical License or**

#### **Registration**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), repealed LR 48:

### **§7727. Severability**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), repealed LR 48:

### **§7729. Appendix—Form for Recommendation for Therapeutic Marijuana**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017), LR 45:1472 (October 2019), repealed LR 48:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or 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 impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### **Small Business Analysis**

Physicians licensed under the repealed provisions will have slightly reduced costs, paperwork or workload vis a vis the LSBME as they will no longer have to pay LSBME for a registration to recommend marijuana to patients. It is not anticipated that the proposed amendments will have a material effect on costs, paperwork or workload of other health care providers licensed by the LSBME, nor on receipts and/or income of licensees, small businesses, or non-governmental groups. It is also not anticipated that the proposed amendments and repeal will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:978.1 et seq.

#### **Provider Impact Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed

amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

#### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Jacintha Duthu, LSBME, 630 Camp Street, New Orleans, LA 70130. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., October 10, 2022.

#### Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on October 25, 2022, at 9 a.m., at the office of the LSBME, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call in advance to confirm.

Vincent A. Culotta, Jr., M.D.,  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition

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

The proposed changes will result in a one-time publication expense estimated at \$789.00, in FY 23 for the Louisiana State Board of Medical Examiners (LSBME). Otherwise, there is no anticipated implementation cost to the LSBME. With regard to workload and paperwork requirements, the LSBME will have a very small reduction in paperwork and workload as it will not handle marijuana registrations. LSBME does not anticipate any other impacts, for LSBME, or any state or local governmental unit, inclusive of adjustments in workload and paperwork requirements.

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

Overall, the repeal of Chapter 77 attempts to comply with Act 286 of the 2020 Regular Session of the Legislature in which the Board's authority to promulgate rules regarding the recommendation of marijuana was repealed. As Chapter 77 provided for physicians registering to become marijuana recommenders once they met criteria, there will be a loss of revenue to the Board of approximately \$7,575.00, the amount the LSBME received in marijuana registrations for 2019.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The only anticipated material effect for physicians licensed by the LSBME will be to reduce the physicians' costs, paperwork or workload vis a vis the LSBME as they will no longer have to pay LSBME for a registration to recommend marijuana to patients. It is not anticipated that the proposed amendments will have a material effect on costs, paperwork or workload of other health care providers licensed by the

LSBME, nor on receipts and/or income of licensees, small businesses, or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The only anticipated impact on competition is to slightly increase it since repealing the Chapter will reduce the number of regulations and enable more practitioners. It is not anticipated that the proposed changes will have any other impact on competition or employment.

Vincent A. Culotta, Jr., M.D.  
Executive Director  
2209#067

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

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

Early and Periodic Screening, Diagnosis and Treatment  
Health Services  
EarlySteps Reimbursement Rate Increase  
(LAC 50:XV.7107)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XV.7101 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for certain services rendered to infants and toddlers in the EarlySteps Program within the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. In compliance with Act 199, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing EPSDT EarlySteps services in order to increase reimbursement for certain services (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

#### Chapter 71. Health Services

#### §7107. EarlySteps Reimbursement

A. Effective for dates of service on or after January 1, 2011, the reimbursement for certain Medicaid-covered health services rendered in the EarlySteps Program shall be reduced by 2 percent of the rate in effect on December 31, 2010.

1. The following services rendered in the natural environment shall be reimbursed at the reduced rate:

- a. audiology services;

- b. speech pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

2. Services rendered in special purpose facilities/inclusive child care and center-based special purpose facilities shall be excluded from this rate reduction.

B. Effective for dates of service on or after July 1, 2022, the reimbursement for Medicaid covered health services rendered in the EarlySteps Program (Part C of IDEA) shall be increased by 30 percent of the rate in effect on January 1, 2011.

1. The increased rate shall be applied to services provided in the following settings:

- a. natural environment that includes a child's home and settings in the community where children of the same age with no disabilities or special needs participate;
- b. special purpose facility/inclusive child care that includes settings such as a child care center, nursery schools, or preschools where at least 50 percent of the children have no disabilities or developmental delays, and
- c. center-based special purpose facility that is a facility where only children with disabilities or developmental delays are served.

2. The following services shall be reimbursed at the increased rate:

- a. audiology services;
- b. speech language pathology services;
- c. occupational therapy;
- d. physical therapy; and
- e. psychological services.

C. - C.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:800 (April 2004), amended LR 31:2030 (August 2005), LR 35:69 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1599 (June 2011), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Health Services EarlySteps Reimbursement Rate Increase**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$4,173,484 for FY 22-23, \$4,323,394 for FY 23-24, and \$4,479,036 for FY



24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,152,816 for FY 22-23, \$2,229,982 for FY 23-24, and \$2,310,261 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which increased reimbursement rates for certain Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services rendered to infants and toddlers in the EarlySteps Program. The increased reimbursement resulting from this proposed rule will ensure that EPSDT providers continue rendering services to EarlySteps beneficiaries in the Medicaid Program. Implementation of this proposed rule is anticipated to increase payments for EarlySteps services by approximately \$6,325,652 for FY 22-23, \$6,553,376 for FY 23-24, and \$6,789,297 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#041

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers  
Adult Day Health Care Waiver  
Direct Support Worker Wages and Bonus Payments  
(LAC 50:XXI.Chapter 29)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.Chapter 29 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 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature requested the department make adjustments in the state Medicaid budget for the purpose of increasing funding more equitably to providers throughout the disabilities services system. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing adult day health care (ADHC) services to home and community-based services

waiver participants under section 9817 of the American Rescue Plan.

In compliance with HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Aging and Adult Services promulgated an Emergency Rule which adopted provisions governing reimbursement in the Adult Day Health Care (ADHC) Waiver in order to establish a direct wage floor and workforce retention bonus payments for direct support workers at ADHC centers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**

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

**Subpart 3. Adult Day Health Care Waiver**

**Chapter 29. Reimbursement**

**§2901. Adult Day Health Care (ADHC) Direct Support Worker Wages, Other Benefits, and Workforce Retention Bonus Payments**

A. Establishment of ADHC Direct Support Worker Wage Floor and Other Benefits

1. ADHC providers that were providing ADHC services on or after October 1, 2021 and employing ADHC direct support workers will receive a rate increase. The ADHC reimbursement rates shall be rebased resulting in an average increase of \$4.31 per hour (rates differ based on facility specific transportation rate).

2. For direct support workers employed at the ADHC centers on or after October 1, 2021, 70 percent of the ADHC provider rate increases shall be passed directly to the ADHC direct support workers in the form of a minimum wage floor of \$9 per hour and in other wage and non-wage benefits.

3. All ADHC providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the ADHC direct support worker in various forms. These forms include a minimum wage floor of \$9 per hour and wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected ADHC direct support workers of any working status, whether full-time or part-time.

4. The ADHC provider rate increases, wage floor, and/or wage and non-wage benefits will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

5. The Department of Health (LDH) reserves the right to adjust the ADHC direct support worker wage floor and/or wage and non-wage benefits as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Establishment of Direct Support Worker Workforce Retention Bonus Payments

1. ADHC providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each ADHC direct support worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the ADHC direct support worker works with participants and is still employed with that agency.

2. The ADHC direct support worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 monthly bonus payment paid to the provider. This bonus payment is effective for all affected ADHC direct support workers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

C. Audit Procedures for ADHC Direct Support Worker Wage Floor, Other Benefits, and Workforce Retention Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to ADHC providers shall be subject to audit by LDH.

2. ADHC providers shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the ADHC direct support worker wage floor, wage and non-wage benefits and/or bonus payments.

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

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

5. Non-compliance or failure to demonstrate that the wage enhancement, wage and non-wage benefits and bonus payments were paid directly to ADHC direct support workers may result in the following:

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

D. Sanctions for ADHC Direct Support Worker Wage Floor, Other Benefits and Workforce Retention Bonus Payments

1. The ADHC provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on the following factors:

a. failure to pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

b. the number of employees identified that the ADHC provider has not passed 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the ADHC provider rate increases directly to the ADHC direct support workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Service  
Waivers—Adult Day Health Care Waiver  
Direct Support Worker Wages and Bonus Payments**

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

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$127,349 for FY 22-23 and \$51,943 for FY 23-24. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$283,123 for FY 22-23 and \$105,557 for FY 23-24. It is anticipated that \$486 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established a wage floor and workforce retention bonus payments in the Adult Day Health Care (ADHC) Waiver for direct support workers at ADHC centers, along with audit procedures and sanctions. The proposed rule complies with HCR 127 of the 2021 Regular Session of the Louisiana Legislature and with CMS requirements for the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that ADHC providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for ADHC waiver services by approximately \$409,500 for FY 22-23 and \$157,500 for FY 23-24.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#042

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

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

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

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing Children's Choice Waiver services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Children's Choice Waiver in order to establish workforce retention bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

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

**Subpart 9. Children's Choice Waiver**  
**Chapter 121. Reimbursement Methodology**  
**§12101. Unit of Reimbursement**

A. ...

**1. Establishment of Support Coordination Workforce Retention Bonus Payments**

a. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

b. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers of any working status, whether full-time or part-time.

c. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of

the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

## 2. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

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

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

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

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

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

i. sanctions; or

ii. disenrollment from the Medicaid Program.

## 3. Sanctions for Support Coordination Workforce Retention Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay support coordination workers the \$125 monthly bonus payments;

ii. the number of employees identified as having been paid less than the \$125 monthly workforce retention bonus payments;

iii. the persistent failure to pay the \$125 monthly bonus payments; or

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

B. - B.3. ...

## 4. Direct Service Worker Wages and Workforce Retention Bonus Payments

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

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

ii. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

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

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

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

b. Establishment of Direct Service Worker Workforce Retention Bonus Payments.

i. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

ii. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to providers. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

iii. Bonus payments will end March 31, 2025 or when the state's funding authorized under Section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

v. - v.(b). Repealed.

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

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

(a). - (d). Repealed.

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

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

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

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

(a). sanctions; or

(b). disenrollment from the Medicaid Program.

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

i. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

(a). failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

(b). the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus;

(c). the persistent failure to pay the floor minimum go \$9 per hour and/or the \$125 monthly bonus payments; or

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:40 (January 2022), LR 48:1544 (June 2022), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Waivers Children's Choice Waiver Direct Service Worker Wages and Bonus Payments**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$1,541,219 for FY 22-23 and \$630,802 for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$3,432,937 for FY 22-23 and \$1,281,878 for FY 23-24. It is anticipated that \$594 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Children's Choice Waiver for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has

been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that the Children's Choice Waiver providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for Children's Choice Waiver services by approximately \$4,972,968 for FY 22-23 and \$1,912,680 for FY 23-24.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#043

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

Home and Community-Based Services Waivers  
Community Choices Waiver  
Direct Support/Service Worker Wages and Bonus Payments  
(LAC 50:XXI.9503)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.9503 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 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature requested the department make adjustments in the state Medicaid budget for the purpose of increasing funding more equitably to providers throughout the disabilities services system. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing personal assistance services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

In compliance with HCR 127, the Department of Health, Bureau of Health Services Financing and the Office for Aging and Adult Services promulgated an Emergency Rule which adopted provisions governing reimbursement in the Community Choices Waiver (CCW) in order to establish wage floor and workforce retention bonus payments for direct support workers and personal assistance service providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

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

**Subpart 7. Community Choices Waiver  
Chapter 95. Reimbursement  
§9503. Direct Support/Service Worker Wages, Other  
Benefits, and Workforce Retention Bonus  
Payments**

A. Establishment of Direct Support/Service Worker Wage Floor and Other Benefits

1. Personal assistance service (PAS) providers that were providing services on or after October 1, 2021 and employing direct service workers (DSWs) will receive the equivalent of a \$5.50 per hour rate increase.

2. DSWs providing self-direction PAS on or after July 31, 2022 shall be paid a minimum wage floor of \$9 per hour.

3. Adult day health care (ADHC) providers that were providing ADHC services on or after October 1, 2021 and employing ADHC direct support workers will receive a rate increase. The ADHC reimbursement rates shall be rebased resulting in an average increase of \$4.31 per hour (rates differ based on facility specific transportation rate).

4. All PAS and ADHC providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the direct support/service worker in various forms. These forms include a minimum wage floor of \$9 per hour and other wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected direct support/service workers of any working status, whether full-time or part-time.

5. The rate increase, wage floor and/or wage and non-wage benefits will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

6. The Department of Health (LDH) reserves the right to adjust the direct support/service worker wage floor and/or wage and non-wage benefits as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Establishment of Direct Support/Service Worker Workforce Retention Bonus Payments

1. PAS and ADHC providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct support/service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct support service worker works with participants and is still employed with that agency.

2. The PAS and ADHC direct support/service workers providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 monthly bonus payment paid to the provider. This bonus payment is effective for all affected direct support/service workers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

C. Audit Procedures for Direct Support/Service Worker Wage Floor, Other Benefits, and Workforce Retention Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to providers shall be subject to audit by LDH.

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

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

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

5. Non-compliance or failure to demonstrate that the wage enhancements, wage and non-wage benefits and/or bonus payments were paid directly to direct support/service workers may result in the following:

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

D. Sanctions for Direct Support/Service Worker Wages, Other Benefits, and Workforce Retention Payments

1. Providers will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend on the following factors:

a. failure to pass 70 percent of the PAS and ADHC provider rate increases directly to the direct support/service workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

b. the number of employees identified that the PAS and ADHC provider has not passed 70 percent of the provider rate increases directly to the direct support/service workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the PAS and ADHC provider rate increases directly to the direct support/service workers in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. 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 (corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services  
Waivers—Community Choices Waiver  
Direct Support/Service Worker Wages and  
Bonus Payments**

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

It is anticipated that implementation of this proposed rule will result in estimated programmatic costs of approximately \$5,737,695 for FY 22-23 and \$2,349,073 for FY 23-24. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$12,782,349 for FY 22-23 and \$4,773,647 for FY 23-24. It is anticipated that \$486 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established a wage floor and workforce retention bonus payments in the Community Choices Waiver (CCW) for direct support workers and personal assistance service providers, along with audit procedures and sanctions. The proposed rule complies with HCR 127 of the 2021 Regular Session of the Louisiana Legislature and with CMS requirements for the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that CCW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for CCW services by approximately \$18,519,072 for FY 22-23 and \$7,122,720 for FY 23-24.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#044

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

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

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing New Opportunities Waiver (NOW) services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the New Opportunities Waiver in order to establish workforce retention bonus payments for direct service workers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**

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

**Subpart 11. New Opportunities Waiver**

**Chapter 143. Reimbursement  
§14301. Unit of Reimbursement**

A. - E. ...

F. Direct Service Worker Wages and Bonus Payments

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

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

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for



the identified home and community based waiver services provided beginning October 1, 2021.

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

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

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

#### 2. Establishment of Direct Service Worker Workforce Retention Bonus Payments

a. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

b. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

e. - e.ii. Repealed.

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

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

i. - iv. Repealed.

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

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

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

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

i. sanctions; or

ii. disenrollment from the Medicaid Program.

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

a. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

i. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

ii. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

iii. the persistent failure to pay the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments; or

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

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

### Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Direct Service Worker Wages and Bonus Payments

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

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$17,374,013 for FY 22-23 and \$7,113,509 for FY 23-24. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$38,706,775 for FY 22-23 and \$14,455,651 for FY 23-24. It is anticipated that \$486 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the New Opportunities Waiver (NOW) for direct service workers along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that NOW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for NOW services by approximately \$56,079,816 in FY 22-23 and \$21,569,160 in FY 23-24.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#045

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

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

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.16903 and adopt §16905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing Residential Options Waiver (ROW) services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended and adopted provisions governing reimbursement in the ROW in order to establish workforce retention bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This

proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part XXI. Home and Community-Based Services**

### **Waivers**

#### **Subpart 13. Residential Options Waiver**

#### **Chapter 169. Reimbursement**

#### **§16903. Direct Service Worker Wages and Bonus**

##### **Payments**

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

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

2. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community based waiver services provided beginning October 1, 2021.

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

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

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

B. Establishment of Direct Service Worker Workforce Retention Bonus Payments

1. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

2. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

5 - 5.b. Repealed.

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

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

a. - d. Repealed.

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

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

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

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

a. sanctions; or

b. disenrollment from the Medicaid Program.

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

1. The provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

b. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;

c. the persistent failure to pay the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:42 (January 2022), LR 48:

#### **§16905. Support Coordination**

A. Establishment of Support Coordination Workforce Retention Bonus Payments

1. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

2. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

**B. Audit Procedures for Support Coordination Workforce Retention Bonus Payments**

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

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

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

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

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

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

**C. Sanctions for Support Coordination Workforce Retention Bonus Payments**

1. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- a. failure to pay support coordination workers the \$125 monthly bonus payments;
- b. the number of employees identified as having been paid less than the \$125 monthly bonus payments;
- c. the persistent failure to pay the \$125 monthly bonus payments; or
- d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

**Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services  
Waivers—Residential Options Waiver  
Direct Service Worker Wages and Bonus Payments**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,116,192 for FY 22-23 and \$456,776 for FY 23-24. It is anticipated that \$1,188 (\$594 SGF and \$594 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$2,486,022 for FY 22-23 and \$928,234 for FY 23-24. It is anticipated that \$594 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Residential Options Waiver (ROW) for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that ROW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for ROW services by approximately \$3,601,026 for FY 22-23 and \$1,385,010 for FY 23-24.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#046

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

**Home and Community-Based Services Waivers  
Support Coordination Workforce Retention Bonus Payments  
(LAC 50:XXI.553)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.553 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing support coordination services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which adopted provisions in order to establish workforce retention bonus payments for support coordination agencies along with audit procedures and sanctions. (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXI. Home and Community-Based Services**

**Waivers**

**Subpart 1. General Provisions**

**Chapter 5. Support Coordination Standards for**

**Participation for Office of Aging and**

**Adult Services Waiver Programs**

**Subchapter C. Provider Responsibilities**

**§553. Workforce Retention Bonus Payments**

A. Establishment of Support Coordination Workforce Bonus Payments

1. Support coordination agencies (SCAs) providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each SCA staff member that worked directly with participants for that month. These payments will remain in effect for each month thereafter that the SCA staff member worked directly with participants and is still employed with the agency.

2. The SCA staff member that worked directly with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the agency. This bonus payment is effective for all affected SCA staff members of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-02) is exhausted.

4. The Department of Health (LDH) reserves the right to adjust the amount of the bonus payments paid to the SCA staff member as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

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

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

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

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

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to SCA staff member may result in the following:

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

C. Sanctions for Support Coordination Workforce Retention Bonus Payments

1. The support coordination agencies will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action shall depend upon the following:

- a. failure to pay SCA staff members the \$125 monthly bonus payments;
- b. the number of employees identified as having been paid less than the \$125 monthly bonus payments; or
- c. the persistent failure to pay the \$125 monthly bonus payments; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

**Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based Services Waivers—Support Coordination Workforce Retention Bonus Payments**

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

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$173,153 for FY 22-23 and \$70,742 for FY 23-24. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$385,303 for FY 22-23 and \$143,758 for FY 23-24. It is anticipated that \$378 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments for support coordination agencies providing services to home and community-based (HCBS) waiver participants, along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S.

Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that providers continue rendering support coordination services to HCBS waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for support coordination services by approximately \$557,700 in FY 22-23 and \$214,500 in FY 23-24.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#047

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

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

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

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.6101 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing Supports Waiver services to home and community-based services (HCBS) waiver participants under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing reimbursement in the Supports Waiver in order to establish workforce retention bonus payments for direct service workers and support coordination providers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

#### Title 50

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

#### Subpart 5. Supports Waiver

#### Chapter 61. Reimbursement

#### §6101. Unit of Reimbursement

A. - G. ...

H. Direct Service Worker Wages and Bonus Payments

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

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

b. Effective October 1, 2021, this increase or its equivalent will be applied to all service units provided by direct service workers with an effective date of service for the identified home and community-based waiver services provided beginning October 1, 2021.

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

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

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

2. Establishment of Direct Support Worker Workforce Retention Bonus Payments

a. Providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each direct service worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the direct service worker works with participants and is still employed with that agency.

b. The direct service worker providing services on or after April 1, 2021 that worked with participants must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected direct service workers of any working status, whether full-time or part-time.

c. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. 117-002) is exhausted.

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

e. - e.ii. Repealed.

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

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

i. - iv. Repealed.

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

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

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

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

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

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

a. The provider will be subject to sanctions or penalties for failures to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such an action will depend upon the following factors:

- i. failure to pay I/DD HCBS direct service workers the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;
- ii. the number of employees identified as having been paid less than the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments;
- iii. the persistent failure to pay the floor minimum of \$9 per hour and/or the \$125 monthly bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

I. ...

1. Establishment of Support Coordination Workforce Retention Bonus Payments

a. Support coordination providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each support coordination worker that worked with participants for that month. These payments will remain in effect for each month thereafter that the support coordination worker works with participants and is still employed with that agency.

b. The support coordination worker that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected support coordination workers of any working status, whether full-time or part-time.

c. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

2. Audit Procedures for Support Coordination Workforce Retention Bonus Payments

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

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

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

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

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

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

3. Sanctions for Support Coordination Workforce Retention Bonus Payments

a. The support coordination provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

- i. failure to pay support coordination workers the \$125 monthly bonus payments;
- ii. the number of employees identified as having been paid less than the \$125 monthly bonus payments;
- iii. the persistent failure to pay the \$125 monthly bonus payments; or
- iv. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281(October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43 (January 2022), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:43(January 2022), LR 48:1579 (June 2022), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses



has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

### Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver Direct Service Worker Wages and Bonus Payments

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

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$452,148 for FY 22-23 and \$184,909 for FY 23-24. It is anticipated that \$1,080 (\$540 SGF and \$540 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$1,006,134 for FY 22-23 and \$375,761 for FY 23-24. It is anticipated that \$540 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established workforce retention bonus payments in the Supports Waiver (SW) for direct service workers and support coordination providers, along with audit procedures and sanctions. The use of bonus payments has been authorized by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that SW providers continue rendering services to waiver participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for SW services by approximately \$1,457,752 for FY 22-23 and \$560,670 for FY 23-24.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#048

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with  
Intellectual Disabilities  
Dedicated Program Funding Pool Payments  
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32917 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health for supplemental payments to non-state, non-public intermediate care facilities for persons with intellectual disabilities (ICFs/IID). In compliance with Act 199, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement to ICFs/IID in order to allow a one-time, lump sum payment from the dedicated program funding pool (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part VII. Long-Term Care**  
**Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

**Chapter 329. Reimbursement Methodology**

**Subchapter A. Non-State Facilities**

**§32917. Dedicated Program Funding Pool Payments**

A. - B.5. ...

C. Effective for providers active and Medicaid certified as of July 1, 2022, a one-time, lump sum payment will be made to non-state, non-public intermediate care facilities for individuals with intellectual disabilities (ICFs/IID).

1. Methodology

a. Payment will be based on each provider's specific pro-rated share of an additional dedicated program funding pool totaling \$27,974,178.

b. The pro-rated share for each provider will be determined utilizing the provider's percentage of program Medicaid days for dates of service in a three consecutive month period selected by the department occurring between January 1, 2022 and December 31, 2022.

c. If the additional dedicated program funding pool lump sum payments exceed the Medicare upper payment limit in the aggregate for the provider class, the department shall recoup the overage using the same means of distribution in §32917.C.1.b above.

d. The one-time payment will be made on or before June 30, 2023.

e. All facilities receiving payment shall be open and operating as an ICF/IID at the time the payment is made.

f. Payment of the one-time, lump sum payment is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

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 46:28 (January 2020, amended LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

**Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities  
Dedicated Program Funding Pool Payments**

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

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately

\$19,308,102 for FY 22-23, but will not result in costs for FY 23-24 and FY 24-25, as these one-time, lump sum payments will be made from funds appropriated during the 2022 Legislative Session. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$8,666,724 for FY 22-23, but will not result in increases for FY 23-24 and FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which amended the reimbursement methodology for non-state, non-public intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to allow a one-time, lump sum payment from the dedicated program funding pool. This proposed rule will enable qualifying ICFs/IID that receive enhanced reimbursement via these one-time, lump sum payments to continue to provide necessary services to Medicaid beneficiaries. It is anticipated that implementation of this proposed rule will result in increased expenditures for ICF/IID services of approximately \$27,974,178 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#049

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

Pediatric Day Health Care  
Licensing Standards  
(LAC 48:I.Chapter 52)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 52 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 619 of the 2022 Regular Session of the Louisiana Legislature requires pediatric day health care (PDHC) facilities licensed by the Department of Health to install and operate cameras at the licensed premises that record both audio and video and to develop and disseminate policies regarding the recordings. In compliance with Act 619, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of PDHC facilities in order to add requirements for the installation and operation of cameras at the licensed premises that record both audio and video. In addition, this

proposed Rule establishes requirements for the inactivation of a PDHC facility's license due to non-declared emergencies.

**Title 48**

**PUBLIC HEALTH-GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 52. Pediatric Day Health Care Facilities**

**Subchapter B. Licensing Procedures**

**§5205. General Provisions**

A. - G. ...

H. The PDHC facility shall provide for the installation and operation of cameras that record both video and audio at its licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2761 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§5213. Changes in Licensee Information or Personnel**

A. - D.3....

E. Any request for a duplicate license must be accompanied by the appropriate fees.

F. - F.2. ...

G. A change of ownership of the PDHC facility shall not be submitted at the time of annual renewal of the PDHC facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2763 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**Subchapter C. Administration and Organization**

**§5233. Policy and Procedures**

A. - E.5. ...

F. The director of the PDHC facility shall develop and share with all facility employees and the parents or guardians of children served at the facility a policy relative to cameras that record both video and audio at the facility that, at minimum, provides for all of the following:

1. the location and placement of cameras that record both video and audio in any room in which children may be cared for, except the interior of a restroom or any other area in which a child's bare body is normally exposed;

2. a requirement that written notice of the cameras that record both video and audio be provided to facility employees, the parents or guardians of children served at the facility, and authorized visitors;

3. a requirement that all employees who provide services at the facility receive training concerning the use of cameras that record both video and audio;

4. provisions relative to the duration of retention of video and audio data recorded by the devices required in §5205 and procedures for data storage and disposal;

5. procedures for protecting children's privacy and for determining to whom, and under what circumstances, video or audio data may be disclosed. Such policies shall restrict authorization to review video or audio data recorded by cameras at PDHC facilities to the following persons, exclusively:

a. the director of the PDHC facility;

- b. the secretary of the department or his/her designee;
- c. the parents or guardians of a recorded child, pursuant to an allegation or evidence of abuse, neglect or injury;
- d. any member of law enforcement while investigating, in his official capacity, an allegation or evidence of abuse, neglect or injury; and
- e. any party designated in a subpoena issued by a court of law;

6. a requirement that any person who views a recording showing what he believes could be a violation of state or federal law shall report the suspected violation to the appropriate law enforcement agency;

7. a requirement that any cameras that record both video and audio installed pursuant to §5205 be in compliance with the National Fire Protection Association *Life Safety Code*, as adopted by the Office of State Fire Marshal; and

8. a requirement that any video and audio recordings made by cameras at PDHC facilities, installed and operated in accordance with §5205, shall be kept confidential and are not public records; however, such a recording may be viewed by a party designated in Subsection F.5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2768 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**Subchapter F. Facility Responsibilities**

**§5265. Staffing Requirements**

A. - F.1.g. ...

2. Each direct care staff person employed by the facility shall have at least the following qualifications and experience:

a. - b. ...

c. be currently registered with the Certified Nurse Aide (CNA) Registry or Direct Service Worker (DSW) Registry as a CNA or DSW in good standing and without restrictions;

d. - e. ...

**G. Nursing and Direct Care Staffing Levels**

1. PDHC facilities shall have sufficient nursing and direct care staff to meet the needs of each infant and child receiving services in the PDHC facility in accordance with the plan of care.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2773 (December 2009, amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**Subchapter G. Safety and Emergency Preparedness**

**§5281. Emergency Preparedness**

A. - J.5. ...

K. Inactivation of License due to Declared Disaster or Emergency

1. - 1.a.v. ...

b. the licensed PDHC facility resumes operating as a PDHC facility in the same service area within one year of

the issuance of such an executive order or proclamation of emergency or disaster;

EXCEPTION: If the PDHC facility requires an extension of this timeframe due to circumstances beyond the PDHC facility’s control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the PDHC facility’s active efforts to complete construction or repairs and the reasons for request for extension of the PDHC facility’s inactive license. Any approval for extension is at the sole discretion of the department.

1.c. - 2....

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

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department as soon as possible prior to the anticipated date of reopening;

b. ...

c. the license reinstatement request shall include a completed licensing application with approval from the Office of Public Health and the Office of State Fire Marshal; and

3.d. - 7....

L. Inactivation of Licensure due to a Non-Declared Disaster or Emergency

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

a. the PDHC facility shall submit written notification to the Health Standards Section (HSS) within 30 days of the date of the non-declared emergency or disaster stating that:

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

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

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

iv. the PDHC facility’s initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

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

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

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

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

3. Upon receipt of the department’s approval of request to inactivate the PDHC facility’s license, the PDHC

facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and OPH as required.

4. The facility shall resume operating as a PDHC facility in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the PDHC facility requires an extension of this timeframe due to circumstances beyond the PDHC facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the PDHC facility's active efforts to complete construction or repairs and the reasons for request for extension of the PDHC facility's inactive license. Any approval for extension is at the sole discretion of the department.

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

a. the PDHC facility shall submit a written license reinstatement request to the licensing agency of the department;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

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

6. Upon receiving a completed written request to reinstate a PDHC facility's license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the PDHC facility has met the requirements for licensure including the requirements of this Subsection.

7. No change of ownership (CHOW) of the PDHC facility shall occur until such PDHC facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PDHC facility.

8. The provisions of this Subsection shall not apply to a PDHC facility which has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PDHC facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2777 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by facilitating transparency and ability to monitor delivery of services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this

proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Statement**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an adverse impact on small businesses, as described the Act if the requirements of these licensing changes increases the financial burden on providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative methods of achieving the intended purpose since the changes result from legislative mandates.

#### **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 increase direct or indirect cost to the provider to provide the same level of service due to the costs of installation and maintenance of the cameras. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the costs adversely impacts the provider's financial standing.

#### **Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Pediatric Day Health Care  
Licensing Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$1,404 will be expended in FY 21-22 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 since the licensing fees, in the same amounts, will continue to be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
In compliance with Act 619 of the 2022 Regular Session of the Louisiana Legislature, the proposed rule amends the provisions governing the licensing of pediatric day health care (PDHC) facilities in order to add requirements for the installation and operation of cameras at the licensed premises that record both audio and video. In addition, this proposed rule establishes requirements for the inactivation of a PDHC facility's license due to non-declared emergencies. The proposed rule will be beneficial to children served and their families by providing transparency and the ability to monitor the delivery of services. It is anticipated that implementation of this proposed rule will result in indeterminable costs to PDHC providers and small businesses in FY 22-23, FY 23-24, and FY 24-25, for installation and maintenance of the cameras.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This rule has no known effect on competition and employment.

Tasheka Dukes, RN                      Alan M. Boxberger  
Deputy Assistant Secretary        Interim Legislative Fiscal Officer  
2209#050                                Legislative Fiscal Office

**NOTICE OF INTENT  
Department of Health  
Bureau of Health Services Financing**

Pediatric Day Health Care Program  
Reimbursement Rate Increase  
(LAC 50:XV.28101)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.28101 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates for pediatric day health care (PDHC) centers. In compliance with Act 199, the

Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing reimbursement in the PDHC Program in order to increase daily, hourly, and transportation rates for PDHC centers (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the August 8, 2022 Emergency Rule.

**Title 50  
PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XV. Services for Special Populations  
Subpart 19. Pediatric Day Health Care Program  
Chapter 281. Reimbursement Methodology  
§28101. General Provisions**

- A. - B. ...  
C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

### Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Pediatric Day Health Care Program Reimbursement Rate Increase

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,579,798 for FY 22-23, \$1,493,787 for FY 23-24, and \$1,538,601 for FY 24-25. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$129,250 for FY 22-23, \$266,255 for FY 23-24, and \$274,243 for FY 24-25. In addition, it is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$3,544,424 for FY 22-23, \$3,650,478 for FY 23-24, and \$3,759,992 for FY 22-24. It is anticipated that \$270 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the August 8, 2022 Emergency Rule, which

increased daily, hourly, and transportation reimbursement rates for pediatric day health care (PDHC) centers. These increased payments will ensure that PDHC providers continue rendering services to beneficiaries in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for PDHC services by approximately \$5,252,932 for FY 22-23, \$5,410,520 for FY 23-24, and \$5,572,836 for FY 24-25.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#051

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Personal Care Services—Long Term  
Direct Service Worker Wages and Bonus Payments  
(LAC 50:XV.12917 and 12921)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.12917 and adopt §12921 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 127 (HCR 127) of the 2021 Regular Session of the Louisiana Legislature requested the department make adjustments in the state Medicaid budget for the purpose of increasing funding more equitably to providers throughout the disabilities services system. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing long term-personal care services (LT-PCS) under section 9817 of the American Rescue Plan.

In compliance with HCR 127, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended and adopted provisions governing LT-PCS in order to establish a wage floor and workforce retention bonus payments for direct service workers along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated to continue the provisions of the July 31, 2022 Emergency Rule.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

#### Subpart 9. Personal Care Services

#### Chapter 129 Long Term Care

#### §12917. Reimbursement

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is

provided to the participant. One quarter hour (15 minutes) is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

B. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 47:594 (May 2021), LR 48:

#### **§12921. Direct Service Worker Wages, Other Benefits, and Workforce Retention Bonus Payments**

A. Establishment of Direct Service Worker Wage Floor and Other Benefits

1. Long term-personal care services (LT-PCS) providers that were providing LT-PCS on or after October 1, 2021 and employing direct service workers (DSWs) will receive the equivalent of a \$4.50 per hour rate increase.

2. This increase or its equivalent will be applied to all service units provided by DSWs with an effective date of service for the LT-PCS provided on or after October 1, 2021.

3. All LT-PCS providers affected by this rate increase shall be subject to passing 70 percent of their rate increases directly to the DSW in various forms. These forms include a minimum wage floor of \$9 per hour and wage and non-wage benefits. This wage floor and wage and non-wage benefits are effective for all affected DSWs of any working status, whether full-time or part-time.

4. The LT-PCS provider rate increases, wage floor and/or wage and non-wage benefits will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

5. The Department of Health (LDH) reserves the right to adjust the DSW wage floor and/or wage and non-wage benefits as needed through appropriate rulemaking promulgation consistent with the Administrative Procedure Act.

B. Establishment of Direct Service Worker Workforce Retention Bonus Payments

1. LT-PCS providers providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for each DSW that worked with participants for that month. These payments will remain in effect for each month thereafter that the DSW works with participants and is still employed with that agency.

2. The DSW that provided services on or after April 1, 2021 that worked with participants must receive at least

\$125 of this \$150 bonus payment paid to the provider. This bonus payment is effective for all affected DSWs of any working status, whether full-time or part-time.

3. Bonus payments shall end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

C. Audit Procedures for Direct Service Worker Wage Floor, Other Benefits, and Workforce Retention Bonus Payments

1. The wage enhancements, wage and non-wage benefits and bonus payments reimbursed to LT-PCS providers shall be subject to audit by LDH.

2. LT-PCS providers shall provide LDH or its representative all requested documentation to verify that they are in compliance with the DSW wage floor, wage and non-wage benefits and/or bonus payments.

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

4. LT-PCS providers shall produce the requested documentation upon request and within the timeframe provided by LDH.

5. Non-compliance or failure to demonstrate that the wage enhancement, wage and non-wage benefits and/or bonus payments were paid directly to DSWs may result in the following:

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

D. Sanctions for Direct Service Worker Wage Floor, Other Benefits, and Workforce Retention Bonus Payments

1. The LT-PCS provider will be subject to sanctions or penalties for failure to comply with this Rule or with requests issued by LDH pursuant to this Rule. The severity of such action will depend upon the following factors:

a. failure to pass 70 percent of the LT-PCS provider rate increases directly to the DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

b. the number of employees identified that the LT-PCS provider has not passed 70 percent of the LT-PCS provider rate increases directly to the DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments;

c. the persistent failure to not pass 70 percent of the LT-PCS provider rate increases directly to the LT-PCS DSWs in the form of a floor minimum of \$9 per hour and in other wage and non-wage benefits and/or the \$125 monthly bonus payments; or

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of



Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the

Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Personal Care Services—Long Term Direct Service Worker Wages and Bonus Payments**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$10,040,601 for FY 22-23 and \$4,110,364 for FY 23-24. It is anticipated that \$972 (\$486 SGF and \$486 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$22,368,639 for FY 22-23 and \$8,353,882 for FY 23-24. It is anticipated that \$486 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which established a wage floor and workforce retention bonus payments for direct service workers that provide long term-personal care services (LT-PCS), along with audit procedures and sanctions. The proposed rule complies with HCR 127 of the 2021 Regular Session of the Louisiana Legislature and with CMS requirements for the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that LT-PCS providers continue rendering services to beneficiaries in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for LT-PCS services by approximately \$32,408,376 in FY 22-23 and \$12,464,760 in FY 23-24.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#052

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Bureau of Health Services Financing**

Pharmacy Benefits Management Program  
Copayment and Maximum Quantity  
(LAC 50:XXIX.111 and 119)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.111 and §119 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.

Act 708 of the 2022 Regular Session of the Louisiana Legislature directed that the Department of Health require all Medicaid health plans to include the dispensing of a six-month supply of contraceptive drugs to be obtained at one time by the member, unless the member or the prescribing provider requests a smaller supply. In compliance with Act 708, the Department of Health, Bureau of Health Service Financing proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to allow for a six-month supply of contraceptives. In addition, this proposed Rule allows a 90-day supply of maintenance medications, and exempts pharmacy services provided during a federal public health emergency (PHE) from copayment requirements.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XXIX. Pharmacy**

#### **Chapter 1 General Provisions**

##### **§111. Copayment**

A. - A.1. ...

\* \* \*

2. The pharmacy provider shall collect a copayment from the Medicaid beneficiary for each drug dispensed and covered by Medicaid. The following pharmacy services are exempt from the copayment requirements:

a. - b. ...

c. family planning services;

d. preventive medications as designated by the U.S. Preventive Services Task Force's A and B recommendations; and

e. services provided during a federal public health emergency (PHE).

A.3. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 46:34 (January 2020), LR 48:

##### **§119. Maximum Quantity**

A. ...

B. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Maintenance type drugs should be prescribed and dispensed in at least a month's supply after the initial fill. A 90-day supply is allowed on maintenance drugs after a beneficiary has been on the same drug and strength for 60 days. Contraceptives should be dispensed in a six-month supply, after a beneficiary has been on the same drug and strength for six months, unless the beneficiary or prescriber requests a smaller supply.

C. For patients in nursing homes, the pharmacist shall bill for a minimum of a month's supply of medication unless the treating physician specifies a smaller quantity for a special medical reason. A 90-day supply is allowed on maintenance drugs after a beneficiary has been on the same drug and strength for 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1182 (June 2017), LR 46:34 (January 2020), LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring that beneficiaries have access to sufficient quantities of prescription medications.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by removing the copayment requirement for pharmacy services during a federal public health emergency.

#### **Small Business Statement**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an adverse impact on small businesses, as described in the Act, if these legislatively required changes increase the financial burden on providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative methods of achieving the intended purpose since the changes result from legislative mandates.

#### **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 staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect costs to the provider and may have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if additional inventory cost, inventory tax, and decreased reimbursement as a result of reduced dispensing fees adversely impacts the provider's financial standing.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

## Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Pharmacy Benefits Management Program—Copayment and Maximum Quantity

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

It is anticipated that implementation of this proposed rule will result in estimated SGF programmatic savings of approximately \$49,326 for FY 22-23, \$105,827 for FY 23-24, and \$105,827 for FY 24-25. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed and final rule.

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

It is anticipated that implementation of this proposed rule will reduce federal revenue collections by approximately \$110,358 for FY 22-23, \$215,053 for FY 23-24, and \$215,053 for FY 24-25. It is anticipated that \$378 will be collected for the federal share of the expense for promulgation of the proposed and final rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 708 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Pharmacy Benefits Management Program in order to allow for a six-month supply of contraceptives. In addition, it allows a 90-day supply of maintenance medications, and exempts pharmacy services provided during a federal public health emergency (PHE) from copayment requirements. This proposed rule will ensure that beneficiaries have sufficient quantities of prescription medications and eliminate copayments during a federal PHE. Providers of pharmacy services may be adversely impacted if the proposed rule results in additional inventory cost, inventory tax, and decreased reimbursement due to decreased dispensing fees. Implementation of this proposed rule is anticipated to

reduce expenditures in the Medicaid Program by approximately \$160,440 for FY 22-23, \$320,880 for FY 23-24, and \$320,880 FY 24-25.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#053

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Targeted Case Management  
Reimbursement Methodology  
EarlySteps Reimbursement Rate Increase  
(LAC 50:XV.10701)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XV.10701 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.

Act 199 of the 2022 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health to increase reimbursement rates paid for targeted case management services rendered in the EarlySteps Program. In compliance with Act 199, the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing targeted case management services in order to increase reimbursement and utilize a flat rate reimbursement methodology for services in the EarlySteps Program (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XV. Services for Special Populations

#### Subpart 7. Targeted Case Management

#### Chapter 107. Reimbursement

#### §10701. Reimbursement

A. Reimbursement for case management services for the Infant and Toddler Program (EarlySteps):

1. Effective for dates of service on or after July 1, 2022, case management services provided to participants in the EarlySteps Program shall be reimbursed at a flat rate for each approved unit of service.

a. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

b. Service provision includes the core elements in:

i. §10301 of this Subpart;

- ii. the case management manual; and
- iii. EarlySteps practices.

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700, 1701 (September 2014), LR 41:1490 (August 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:63 (January 2018), LR 47:1128 (August 2021), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring continued provider participation in the Medicaid Program.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses.

**Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

**Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this

proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

**Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Targeted Case Management  
Reimbursement Methodology  
EarlySteps Reimbursement Rate Increase**

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

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$1,211,101 for FY 22-23, \$1,254,365 for FY 23-24, and \$1,299,522 for FY 24-25. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$1,218,492 for FY 22-23, \$1,262,022 for FY 23-24, and \$1,307,455 for FY 24-25. It is anticipated that \$324 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

In compliance with Act 199 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule continues the provisions of the July 31, 2022 Emergency Rule, which amended the targeted case management (TCM) provisions in order to increase reimbursement and utilize a flat rate reimbursement methodology for services in the EarlySteps Program. The increased reimbursement resulting from this proposed rule will ensure that TCM providers continue rendering services to EarlySteps beneficiaries in the Medicaid Program. Implementation of this proposed rule is anticipated to increase payments for EarlySteps TCM services by

approximately \$2,428,945 for FY 22-23, \$2,516,387 for FY 23-24, and \$2,606,977 for FY 24-25.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc  
Medicaid Executive Director  
2209#054

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Bureau of Health Services Financing**

Targeted Case Management  
Reimbursement Methodology  
Workforce Retention Bonus Payments  
(LAC 50:XV.10704)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:XV.10704 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 U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments for agencies providing case management services for the early and periodic screening, diagnosis and treatment targeted population and for participants in the New Opportunities Waiver under section 9817 of the American Rescue Plan.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing targeted case management services in order to establish workforce retention bonus payments along with audit procedures and sanctions (*Louisiana Register*, Volume 48, Number 8). This proposed Rule is being promulgated in order to continue the provisions of the July 31, 2022 Emergency Rule.

**Title 50**

**PUBLIC HEALTH-MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 7. Targeted Case Management**

**Chapter 101. General Provisions**

**§10704. Targeted Case Management Workforce**

**Retention Bonus Payments**

**A. Establishment of Targeted Case Management Workforce Retention Bonus Payments**

1. Case management agencies for the early and periodic screening, diagnosis, and treatment targeted population and for participants in the New Opportunities Waiver providing services on or after April 1, 2021 shall receive bonus payments of \$150 per month for the case manager that worked with participants for that month. These payments will remain in effect for each month thereafter that the case manager works with participants and is still employed with that agency.

2. The case manager that worked with participants on or after April 1, 2021 must receive at least \$125 of this \$150 bonus payment paid to the agency. This bonus payment is effective for all affected case managers of any working status, whether full-time or part-time.

3. Bonus payments will end March 31, 2025 or when the state's funding authorized under section 9817 of the American Rescue Plan Act of 2021 (Pub. L. No. 117-002) is exhausted.

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

**B. Audit Procedures for Targeted Case Management Workforce Retention Bonus Payments**

1. The bonus payments reimbursed to case management agencies shall be subject to audit by LDH.

2. Case management agencies shall provide to LDH or its representative all requested documentation to verify that they are in compliance with the targeted case management bonus payments.

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

4. Case management agencies shall produce the requested documentation upon request and within the time frame provided by LDH.

5. Non-compliance or failure to demonstrate that the bonus payments were paid directly to case managers may result in the following:

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

**C. Sanctions for Targeted Case Management Workforce Retention Bonus Payments**

1. The case management agency will be subject to sanctions or penalties for failure to comply with this Rule. The severity of such action will depend upon the following:

- a. failure to pay case managers the \$125 monthly bonus payments;
- b. the number of employees identified as having been paid less than the \$125 monthly bonus payments;
- c. the persistent failure to pay the \$125 monthly bonus payments; or
- d. failure to provide LDH with any requested documentation or information related to or for the purpose of verifying compliance with this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S.

49:972 by ensuring continued provider participation in the Medicaid Program.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, 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 services they already render.

#### **Public Comments**

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on October 31, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on October 10, 2022. 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 October 27, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Targeted Case Management Reimbursement Methodology Workforce Retention Bonus Payments**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have state programmatic fiscal costs of approximately \$252,896 for FY 22-23 and \$103,392 for FY 23-24. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that implementation of this proposed Rule will increase federal revenue collections by approximately \$562,960 for FY 22-23 and \$210,108 for FY 23-24. It is anticipated that \$378 will be collected in FY 22-23 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the July 31, 2022 Emergency Rule which established workforce retention bonus payments for targeted case management (TCM) provided to the early and periodic screening, diagnosis and treatment (EPSDT) population and New Opportunities Waiver (NOW) participants, along with audit procedures and sanctions. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) approved the use of bonus payments under Section 9817 of the American Rescue Plan Act of 2021. These increased payments will ensure that TCM providers continue rendering services to EPSDT beneficiaries and NOW participants in the Medicaid Program. Implementation of this proposed rule is anticipated to increase expenditures for TCM services by approximately \$815,100 for FY 22-23 and \$313,500 for FY 23-24.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Tara A. LeBlanc Medicaid Executive Director 2209#055	Alan M. Boxberger Interim Legislative Fiscal Officer Legislative Fiscal Office
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### **NOTICE OF INTENT**

#### **Department of Health Office of Public Health**

#### **List of Conditions that Shall Deem an Unborn Child "Medically Futile" (LAC 48:I.401)**

Under the authority of R.S. 14:87.1, 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 of Public Health (LDH-OPH), intends to promulgate the following Section in LAC 48:I.Chapter 4. As required by Act 545 of the 2022 regular session of the Louisiana Legislature, the following Rule establishes the

exclusive list of anomalies, diseases, disorders, and other conditions that shall deem an unborn child “medically futile” for purposes of R.S. Title 14, Chapter 1, Part V, Subpart A.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

##### **Subpart 1. General**

#### **Chapter 4. Medically Futile Pregnancies**

##### **§401. Conditions that Shall Deem an Unborn Child “Medically Futile”**

A. Pursuant to Act 545 of the 2022 regular session of the Louisiana Legislature, the Department of Health establishes the following exclusive list of anomalies, diseases, disorders, and other conditions that shall deem an unborn child “medically futile” for purposes of R.S. Title 14, Chapter 1, Part V, Subpart A:

1. achondrogenesis;
2. acrania;
3. anencephaly;
4. arcadia;
5. body stalk anomaly;
6. campomelic dysplasia;
7. craniorachischisis;
8. dysencephalia splanchnocystica (Meckel-Gruber syndrome);
9. ectopia cordis;
10. exencephaly;
11. gestational trophoblastic neoplasia;
12. holoprosencephaly;
13. hydrops fetalis;
14. iniencephaly;
15. perinatal hypophosphatasia;
16. osteogenesis imperfecta (type 2);
17. renal agenesis (bilateral);
18. short rib polydactyly syndrome;
19. sirenomelia;
20. thanatophoric dysplasia;
21. triploidy;
22. trisomy 13;
23. trisomy 16 (full);
24. trisomy 18;
25. trisomy 22; and
26. a profound and irremediable congenital or chromosomal anomaly existing in the unborn child that is incompatible with sustaining life after birth in reasonable medical judgment as certified by two physicians that are licensed to practice in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:87.1

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

##### **Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;

3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

##### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

##### **Small Business Analysis**

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

##### **Public Comments**

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, October 25, 2022 at COB, 4:30 pm, and should be addressed to David McCay, Louisiana Department of Health, P.O. Box 629, Baton Rouge, LA 70802.

##### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing either 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 Monday, October 10, 2022. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:00 a.m. on October 25, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building).

Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: List of Conditions that Shall Deem an Unborn Child “Medically Futile”

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The Louisiana Department of Health will incur \$213 SGF in expenses associated with the publication of this proposed rule change.  
In accordance with Act 545 of the 2022 RLS, the following rule establishes the exclusive list of anomalies, diseases, disorders, and other conditions that shall deem an unborn child “medically futile.”
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change will not affect revenue collections for state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule is not anticipated to result in costs to or have economic impacts on directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule will not impact competition or employment.

Doris Gray Brown  
Assistant Secretary  
2209#037

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Office of Public Health

Medical Marijuana Regulation  
(LAC 51:XXIX.101-907)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that state health officer, acting through the Department of Health, Office of Public Health (LDH/OPH), intends to enact a new Part of Title 51 of the *Louisiana Administrative Code* (also known as the *Louisiana State Sanitary Code*) as a consequence of changes made to medical marijuana regulations under Act No. 491 and Act No. 492 of the 2022 Louisiana Legislature. The following changes will authorize the LDH/OPH the ability to transition to conducting oversight of the manufacture and distribution of medical marijuana products, which could affect the health of Louisiana’s citizens and visitors. Further, this Notice of Intent will provide the state health officer the ability to make critical decisions that protect human health.

This Rule adds a new Part, Part XXIX, to Title 51 of the *Louisiana Administrative Code*, consisting of nine Chapters enumerating the various provisions of the regulation of medical marijuana. Chapter 1 explains definitions that are unique to this regulation. Chapter 3 specifies the enabling legislation and notes that the products to be regulated herein are subject to federal law. Chapter 5 describes the permitting process for contractors and the licensure process for the two statutorily-prescribed licensees. Chapter 7 lists the inspection requirements for medical marijuana facilities and the operational requirements for the firms. Chapter 9 indicates the requirements for medical marijuana testing laboratories.

## Title 51

### PUBLIC HEALTH—SANITARY CODE

#### Part XXIX. Medical Marijuana

#### Chapter 1. General Requirements

##### §101. Definitions

A. Except as may be otherwise defined in any provision of this Part, and unless the context or use thereof clearly indicates otherwise, the following words and terms used in this Part of the *Sanitary Code* are defined for the purposes thereof, and for purposes of any other Parts which are adopted or may hereafter be adopted, as follows:

*Immature Plant*—nonflowering medical marijuana (as defined below) plant that is no taller than eight inches produced from a cutting, clipping or seedling.

*Licensee*—as defined in La. R.S. 40:1046(H)(2)(a), the Louisiana State University Agricultural Center or the Southern University Agricultural Center.

*Louisiana Medical Marijuana Tracking System (LMMTS)*—the required seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the plant material is sold as a finished product to a licensed medical marijuana pharmacy or destroyed.

*Medical Marijuana*—any parts of the plant genus *Cannabis* and all derivatives of all strains of this genus, whether growing or not; the seeds thereof; the resin extracted therefrom; any compound, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC), cannabidiol (CBD), and all other naturally-occurring phytocannabinoids, whether produced directly or indirectly by extraction. This term does not include the mature stalks of such plant; fiber produced from such stalks; oil or cake made from the seeds of such plant; any other compound, salt, derivative, mixture, or preparation of such mature stalks (except for the resin extracted therefrom); fiber, oil, or cake; or sterilized seed incapable of germination.

*Medical Marijuana Waste*—medical marijuana that is unusable or that cannot be processed into a useable form.

*Permittee*—contractor employed by the licensee to grow, cultivate, process, transport, and distribute medical marijuana.

*Therapeutic Marijuana*—see *Medical Marijuana*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:



### **Chapter 3. Authority; Preemption**

#### **§301. Authority**

A. The rules specified in this Part are promulgated under the authority of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.).

B. In accordance with the provisions of 21 U.S.C. 812, medical marijuana remains classified as a Schedule I Controlled Dangerous Substance by the government of the United States. No Louisiana law or regulation may preempt or supersede federal law, and the products regulated in the rules described in this Part remain subject to such laws as are applicable to Schedule I substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### **Chapter 5. Licensure and Permitting**

#### **§501. Licensure of Authorized Entities**

A. The department shall issue a nontransferable license to the Louisiana State University Agricultural Center and to the Southern University Agricultural Center to produce medical marijuana. Such license shall be renewable annually on July 1. Requirements for renewal include the maintenance of a contractual relationship with a single permittee.

B. No other entity is authorized to receive a license for the production of medical marijuana.

C. Licensees shall comply with all applicable requirements of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.), including payment of all fees, allowance of all inspections, and provision of all information required thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **§503. Permitting**

A. Licensees shall contract with only one permittee, and this permittee shall apply to the department for an annual permit to engage in growing, cultivating, processing, transporting, and distributing medical marijuana.

B. Permits are nontransferable and subject to an application review process and a license fee of \$100,000.00. Permits expire on and shall be renewed annually on July 1.

C. Permittees shall comply with all applicable requirements of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.), including payment of all fees, allowance of all inspections, and provision of all information required thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **§505. Application Process**

A. Applications for permitting shall be made using documents supplied by the department for this purpose.

B. Applicants shall supply the following information as a condition of receiving a new permit:

1. detailed plans of the facility, including a site plan and plumbing, electrical, mechanical, HVAC, and drainage schedules as well as schedules of finishes for floors, walls, and ceilings in all areas;

2. plans including layouts and lists of equipment used for surveillance of the facility, including cameras, motion-sensing devices, locking mechanisms, points of secured entry and egress, and monitoring stations;

3. proposed hours of operation and approximate estimated staffing levels;

4. product safety plans, including the protocol for processing each kind of medical marijuana manufactured at the site, including procedures for identifying, monitoring, and controlling any relevant biological, physical, or chemical hazards reasonably likely to occur during the growth, cultivation and harvesting, and production and packaging phases of the operation;

5. lists of required per-batch production records used for the manufacture of medical marijuana, including relevant laboratory testing of raw materials, components, excipients, and other constituents;

6. a recall plan;

7. a document provided by the licensee affirming that all criminal background checks on contractor personnel required by R.S. 40:1047 have been completed to the licensee's satisfaction; and

8. any other information or plans required to be provided under R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.).

C. As a condition of renewal of a permit, the permittee shall supply the following additional information in writing to the department by January 10 of the renewal year:

1. the gross quantity of medical marijuana grown during the preceding calendar year;

2. a detailed report of associated production costs, including seed, fertilizer, labor, advisory services, construction and maintenance, and irrigation;

3. a detailed list of items for which subcontractors were employed and the associated costs for each service rendered by subcontractors;

4. the total quantity of medical marijuana generated as a finished product within that year and the quantity distributed to each licensed marijuana pharmacy;

5. costs paid to the licensee related to medical marijuana production; and

6. any other information or plans required to be provided under R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### **Chapter 7. Inspections and Operational Requirements**

#### **§701. Inspections**

A. Permittee facilities require a preoperational or initial inspection and this shall follow review and acceptance of the plans required in §505. Inspections are designed to ensure the following:

1. the facility is of solid construction and designed in such a way to secure the knowledge of the nature of its operations from a casual observer by means of odor control and secure enclosed spaces;

2. the facility, staff, and documents meet the necessary minimum standards to ensure the production of safe medical marijuana;

3. operational documents as described in §505.B are maintained on-premises;

4. the firm has current access to the Louisiana Medical Marijuana Tracking System (LMMTS);

5. the facility has adequate site and product security measures in place, including visitor logs and employee activity records;

6. the facility has an inventory tracking system as described in §703-§705 of this Chapter in place;

7. the facility has complete personnel records in place;

8. compliance with the requirements of §715 of this Part; and

9. the facility complies with all applicable requirements of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.).

B. As a condition of its permit, the permittee shall allow the State Health Officer or his/her designee(s) to review all records relevant to the operations and management of the permitted facility.

C. Routine inspections of permitted facilities to assess continued compliance shall occur no less frequently than twice per fiscal year. Complaint-based inspections may be conducted at any time during business hours and without prior notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### §703. Product and Site Security

A. Permittee facilities shall maintain an onsite security system that includes, at a minimum, the following components:

1. secured locks on doors throughout the facility;

2. audible alarms and a system of video and audio surveillance cameras with recording capabilities that meets the following additional requirements:

a. video surveillance shall cover all points of entry and exit and restricted-access areas;

b. video surveillance shall have accurate date and time stamps;

c. video surveillance recordings shall be maintained for at least 30 days.

3. a “panic” device with the ability to contact law enforcement;

4. a “duress” device capable of contacting law enforcement by means of a “silent alarm” and;

5. restricted access to sensitive areas (where medical marijuana products are cultivated, extracted, processed or stored).

B. Surveillance systems shall be monitored onsite between the hours of 8:00 and 17:00, but off-site monitoring may be provided during other hours.

C. Restricted-access areas shall be noted in the firm’s security plan and posted with suitable signage. These areas shall remain locked during all hours and access shall be controlled by means of employee badge scanners or similar devices.

D. Visitors shall be required to sign a log indicating their firm, purpose of visit, and date and time in and out of the facility. Visitors shall be allowed on the premises for official purposes only and shall be issued visitor badges for the duration of their visits. Visitors shall not remain in restricted-

access areas unaccompanied by an authorized staff member unless no medical marijuana is present in the area at the time of the visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### §705. Louisiana Medical Marijuana Tracking System

A. Permittee facilities shall possess and maintain required hardware and software to connect to the Louisiana Medical Marijuana Tracking System.

B. Each plant and medical marijuana product originating at the facility shall be assigned a unique tag and identification number for tracking purposes.

C. Within 24 hours of the occurrence of one of the following events, it shall be documented in the LMMTS:

1. purchase or other acquisition of marijuana plants or seeds, including immature plants and seedlings;

2. sale, transfer or transport of medical marijuana to another contractor, approved laboratory, or medical marijuana pharmacy;

3. disposal of medical marijuana waste.

D. All records relating to transactions referenced in Subsection C., above, must be maintained for at least the current calendar year as well as the three preceding calendar years (if applicable).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

### §707. Inventory Control

A. Permittee facilities shall maintain an inventory of medical marijuana, including medical marijuana waste, on their premises and update these records no less frequently than once per week.

B. Medical marijuana waste shall be tracked in the LMMTS and stored in a restricted-access area until it is incinerated or removed to a composting facility or landfill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Adopted by the Louisiana Department of Health, Office of Public Health, LR 48:

### §709. Toxic Chemical Use and Storage

A. Permittee facilities shall handle and store any chemicals for direct or indirect contact with medical marijuana in accordance with its written operations plan and the manufacturer’s directions.

B. Restricted-use pesticides shall only be handled by individuals with the required certifications.

C. Permittees shall maintain records of material safety data sheets (MSDS) for all chemicals currently in use at the facility.

D. When applying pesticides to a crop, the facility shall maintain the following records:

1. date and time of application;

2. name of the individual applying the pesticide;

3. batch numbers of all chemicals used; and

4. the amount and name of the chemicals used, including the EPA registration number, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§711. Transportation of Medical Marijuana**

A. Permittee facilities shall generate an inventory manifest prior to transporting any medical marijuana to a licensed marijuana pharmacy, laboratory, contractor or disposal site. The manifest shall include the following items:

1. name of the originating firm;
2. name of the receiving facility;
3. quantity expressed in terms of weight measure or unit of each type of medical marijuana comprising the shipment;
4. the date and approximate departure and arrival times of the shipment;
5. the identity of the agents involved in the transportation; and
6. the make, model, and license plate number of the transport vehicle.

B. Prior to initiating transport, the originating facility shall supply a copy of the inventory manifest referenced in Subsection A to the receiving facility.

C. Upon receipt, the receiving facility shall update the relevant records in the LMMTS, except that the shipment shall be refused if unaccompanied by a valid, unaltered LMMTS inventory-manifest document.

D. Shipments that are refused under the provisions of Subsection C shall be returned to the originating facility at its expense and the appropriate documentation shall be generated and provided to the transporter and the receiving facility prior to returning the materials to the receiver. Updates to the material records in the LMMTS shall be made as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§713. Sampling Requirements**

A. Permittees shall sample every batch of product to ensure compliance with the standards of quality outlined below. Permittees shall not release any batch of product for sale until the representative sample has been verified as compliant. Batches may be tested prior to portioning or packaging.

B. Sample verification shall be by means of the issuance of a certificate of analysis from the approved laboratory conducting the sample analysis issued to the Louisiana Department of Health and the originating facility no later than 24 hours after testing is complete.

C. Any batch with a sample failing one or more of the tests (by exceeding allowable limits for contaminants or residues) shall be remediated or destroyed, at the option of the permittee. A batch shall only be remediated once, and if subsequent sampling fails to correct the exceedance, the affected batch shall be destroyed.

D. Sample medical marijuana waste held at an approved laboratory shall be destroyed within 60 days of completion of testing.

E. Minimally-processed plant material shall be subject to all testing requirements below except testing for solvent residues.

F. Medical marijuana samples shall be required to meet the following standards of quality:

1. microbiological contaminants:
  - a. mold/yeast <10,000 CFU/g;

- b. pathogenic *Escherichia coli* and *Salmonella* spp. < 1CFU/g;
  - c. aflatoxins < 20 ppb;
  - d. ochratoxins < 20 ppb.
  2. solvent residues:
    - a. butanes < 800 ppm;
    - b. heptanes < 500 ppm;
    - c. benzene <1 ppm;
    - d. toluene <1 ppm;
    - e. hexanes < 10 ppm;
    - f. xylenes < 1ppm;
    - g. ethanol < 5,000 ppm.
  3. heavy-metal contaminants:
    - a. arsenic < 10 ppm;
    - b. cadmium < 4.1 ppm;
    - c. lead < 10 ppm;
    - d. mercury < 2 ppm.
  4. pesticide residues: see Table 1 for maximum contaminant levels for finished products; any pesticide not listed shall not have detectable residues in finished products.
  5. homogeneity: each aliquot shall have a variance of no more than plus or minus 15 percent of the total average result for THC content.
  6. potency: the product shall have a variance of no more than plus or minus 15 percent of the THC content specified on the product label.
- G. Table 1. Category I and II Pesticide Residue Maximum Contaminant Levels (MCL) in parts per million (ppm) by dosage form

Name	Ingested	Inhaled
Category I (includes aldicarb, carbofuran, chlorpyrifos, coumaphos, daminozide, dichlorvos, dimethoate, ethoprop(hos), etofenprox, fenoxycarb, imazalil, methocarb, methyl parathion, mevinphos, paclobutrazol, propoxur, spiroxamine, and thiacloprid)	0	0
Category II		
Abamectin	0.3	0.1
Acephate	5	0.1
Acetamiprid	5	0.1
Acequinocyl	4	0.1
Azoxystrobin	40	0.1
Bifentazate	5	0.1
Bifenthrin	0.5	3
Boscalid	10	0.1
Captan	5	0.7
Carbaryl	0.5	0.5
Chlorantraniliprole	40	10
Clofentezine	0.5	0.1
Cyfluthrin	1	2
Cypermethrin	1	1
Diazinon	0.2	0.1
Dimethomorph	20	2
Etoazole	1.5	0.1
Fenhexamid	10	0.1
Fenpyroximate	2	0.1
Flonicamid	2	0.1
Fludioxonil	30	0.1
Hexythiazox	2	0.1
Imidacloprid	3	5
Kresoxim-methyl	1	0.1
Malathion	5	0.5
Metalaxyl	15	2
Methomyl	0.1	1
Myclobutanil	9	0.1

Name	Ingested	Inhaled
Naled	0.5	0.1
Oxamyl	0.2	0.5
Pentachloronitrobenzene	0.2	0.1
Permethrin	20	0.5
Phosmet	0.2	0.1
Piperonylbutoxide	8	3
Prallethrin	0.4	0.1
Propiconazole	20	0.1
Pyrethrins	1	0.5
Pyradiben	3	0.1
Spinetoram	3	0.1
Spinosad	3	0.1
Spiromesifen	12	0.1
Spirotetramat	13	0.1
Tebuconazole	2	0.1
Thiamethoxam	4.5	5
Trifloxystrobin	30	0.1

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§715. Basic Facility Requirements**

A. Permittee facilities shall provide finishes to floors, walls, and ceilings that are durable, light in color, and easily cleanable.

B. Facilities shall be sufficient in size to allow space for the following:

1. orderly placement of equipment and materials to minimize the possibility of contamination;
2. receipt, storage, and withholding from use components pending sampling (if required), identification and release by quality assurance personnel;
3. holding of rejected components or finished products pending disposal or rework;
4. storage of containers, packaging and labeling;
5. manufacturing and processing operations;
6. packaging and labeling operations; and
7. storage of finished products.

C. Facilities shall provide lighting, ventilation, and screening as needed to do the following:

1. prevent contamination of products with extraneous adulterants;
2. minimize dissemination of microorganisms from one area to another.

D. Facilities shall provide locker rooms for storage of employee personal equipment and belongings.

E. Facilities shall provide a plumbing system designed and installed in accordance with the Louisiana State Uniform Construction Code. Additionally, the system shall include the following:

1. no cross-connections between any potable and non-potable water supply;
2. where all equipment is not clean-in-place, at least one three-compartment sink with compartments adequate in size to submerge the largest utensil used in manufacturing operations;
3. an adequate number of hand lavatories supplied with hot-and-cold running water through a mixer-type faucet and hand soap and paper towels located convenient to manufacturing operation areas;
4. at least one utility sink for the disposal of mop wastes;

5. adequate means of sanitary disposal of wastewater.

F. Facilities shall provide adequate means of conveyance, storage, and disposal of refuse and non-medical marijuana waste products so as to minimize the development of odors, prevent waste products from becoming an attractant to and harborage for vermin, and prevent contamination of components, finished products, facility surfaces, grounds or water supplies.

G. Facilities shall provide toilet rooms in accordance with the Louisiana State Uniform Construction Code. Additionally toilet rooms shall be maintained in proper working order and in a sanitary condition. Toilet rooms shall have self-closing doors and shall not open directly into manufacturing areas. Toilet rooms shall include signs directing employees to wash hands with soap and water after using the toilet.

H. Facilities shall be located on premises that are maintained free of the following:

1. disused equipment, waste, debris or other materials that may serve as harborage for or attractants to vermin;
2. overgrowth of vegetation;
3. poorly-drained areas; and
4. excessively-dusty areas.

I. Equipment used in manufacturing operations shall not be additive, reactive, or absorptive to any product or its components and shall be installed in such a manner as to facilitate cleaning and not to contribute to potential cross-contamination of finished products.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**Chapter 9. Approved Laboratories for Testing Medical Marijuana**

**§901. General Requirements**

A. Permittee facilities shall only utilize approved laboratories, as defined in this Section, for testing of medical marijuana.

B. Prior to testing medical marijuana to verify compliance, a laboratory shall apply for and receive a medical marijuana laboratory license from the Louisiana Department of Health.

C. A laboratory holding or seeking a medical marijuana laboratory license shall comply with all applicable requirements of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§903. Application Process**

A. Applications for initial licensure and renewal of licensure shall be made using documents supplied by the department for this purpose.

B. Applicants shall be required to supply the following documentation as part of the application process:

1. proof of accreditation through the National Institute on Drug Abuse (NIDA), the National Environmental Laboratory Accreditation Conference (NELAC), or the International Organization for Standardization (ISO); or proof of operation of a licensed or permitted medical marijuana testing laboratory in another

state for the previous 12 months, and accreditation or pending accreditation through ISO;

2. an affidavit that representatives of the State Health Officer shall be granted access to all areas of the facility utilized for medical marijuana testing upon request; and

3. documentation indicating that the firm is currently able to access and utilize the Louisiana Medical Marijuana Tracking System (LMMTS).

C. Approved medical marijuana testing laboratory licenses shall be renewable annually every December 31. Applications for renewal shall be submitted to the Louisiana Department of Health no later than October 31; applicants shall provide copies of current accreditation-verification and permit documents in order for a new license to be issued to the facility.

D. Failure to renew in a timely fashion shall trigger a requirement to destroy all medical marijuana located at the facility after midnight on December 31. Any product remaining on the premises at that time shall be subject to seizure under the provisions of La. R.S. 40:632 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **§905. Exemptions**

A. The Agricultural Chemistry Laboratory of the Louisiana Department of Agriculture and Forestry is exempt from the requirements of §901 and §903.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **§907. Records**

A. Laboratories shall maintain all records related to testing of medical marijuana for no less than three years. Such records shall be made available for review to representatives of the State Health Officer upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

#### **Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, October 25, 2022 at COB, 4:30 p.m., and should be addressed to Michael Vidrine, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing either 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 Monday, October 10, 2022. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9 a.m. on Tuesday, October 25, 2022, in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Joseph Kanter  
State Health Officer  
and  
Dr. Courtney N. Phillips  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Medical Marijuana Regulation**

**NOTICE OF INTENT**

**Department of Health  
Office of Public Health**

Registration of Foods, Drugs, Cosmetics  
and Prophylactic Devices—Hemp Products  
(LAC 49:I.Chapter 5)

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

Other than publication costs, the proposed rule will have no impact on overall state or local costs or savings. Implementation of the rule will shift the cost of regulating medical marijuana from the Department of Agriculture and Forestry (LDAF) to the Department of Health. Most of this cost shift include software licensing fees (approximately \$60,000) for the Louisiana Medical Marijuana Tracking System and the cost of travel associated with inspecting the facilities (approximately \$6,000).

In accordance with Acts 491 and 492 of the 2022 RLS, the proposed rule creates a regulatory framework for medical marijuana products within LDH. Specifically, this rule adds a new Part XXIX to Title 51 of the LAC and consists of five chapters detailing the various provisions of the regulation of medical marijuana. Chapter 1 explains definitions that are unique to this regulation. Chapter 3 specifies the enabling legislation and notes that the products to be regulated herein are subject to federal law. Chapter 5 describes the permitting process for contractors and the licensure process for the two statutorily-prescribed licensees. Chapter 7 lists the inspection requirements for medical marijuana facilities and the operational requirements for the facilities. Chapter 9 indicates the requirements for medical marijuana testing laboratories.

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

The proposed rule will have no impact on overall state collections.

This rule is anticipated to increase revenue collections for LDH by \$200,000 and decrease revenue collections by the Department of Agriculture and Forestry by the same amount. The source of revenue is licensing fees paid by LSU and Southern University Ag Centers to cultivate, extract, process, produce, and transport therapeutic marijuana.

NOTE: The annual licensing fee for each contractor permitted to cultivate, extract, process, produce, and transport therapeutic marijuana is \$100,000. Currently, there are two contractors, LSU and Southern University Ag Centers.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule is not anticipated to result in costs to or have economic impacts on directly affected persons, small businesses, or non-governmental groups. This rule sets up the regulatory framework within LDH for medical marijuana, which LDAF previously regulated. Under LDAF, producers paid for lab testing and background checks. This is anticipated to remain the same under LDH.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rule will not impact competition or employment.

Doris Gray Brown  
Assistant Secretary  
2209#038

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health, Office of Public Health (LDH-OPH), intends to reenact and amend certain sections of Chapter 5 (Registration of Foods, Drugs, Cosmetics and Prophylactic Devices) of Title 49 (*Public Health—Food, Drugs, and Cosmetics*) of the *Louisiana Administrative Code*. The LDH/OPH finds it necessary to make changes to the *Louisiana Administrative Code* as a consequence of changes made to hemp regulations under Act No. 498 of the 2022 Louisiana Legislature. The following changes will authorize the LDH/OPH the ability to properly register these items, inspect firms that manufacture such items for human consumption, and conduct oversight of labeling, which could affect the health of Louisiana’s citizens and visitors.

This Rule amends §501 and §§517-537 of Chapter 5. §§517, 519 are recodified with new requirement language and the original §§531-533 are relocated to §§535-537. New language is implemented in the current §§531-533 to enact new requirements from the 2022 legislation. Changes to §501 amend existing definitions and add new definitions.

**Title 49  
PUBLIC HEALTH—FOOD, DRUGS, AND  
COSMETICS**

**Part I. Regulations  
Chapter 5. Registration of Foods, Drugs, Cosmetics  
and Prophylactic Devices**

**§501. Definitions  
[Formerly 49:2.2100]**

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of Title 49, and all other Chapters of Title 49 which are adopted or may be adopted, are defined for the purposes thereof as follows.

\*\*\*

*Adult-Use Consumable Hemp Product*—any consumable hemp product that contains more than 0.5 milligrams of THC per package.

\*\*\*

*Package*—container or wrapping in which any consumer commodity is enclosed for the purposes of display or delivery to retail purchasers.

\*\*\*

*Serving*—total quantity of discrete units or of liquid in a package a processor recommends for consumption at one time.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1482(J), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the Louisiana State Board of Health, September 1968, amended by the Department of Health, Office of Public Health, LR 46:358 (March 2020), amended LR 47:479 (April 2021), amended LR 48:1290 (May 2022), amended LR 48:

**§517. Registration of Consumable Hemp Products**

A. - B. ...

C. In lieu of the annual examination and administration charge normally collected under R.S. 40:628(B), the applicant for a consumable hemp product registration must provide (both initially and on or before July 1 of each year) the department with an application form, a cashier’s check or money order made payable to the department in the amount of \$50 per each separate and distinct product, specimen copies of labeling in paper or electronic format, laboratory accreditation verification documentation, a copy of the current grower or processor’s license issued by the authority of competent jurisdiction for the firm responsible for hemp crop from which the products are derived, and a list of all products the applicant wishes to register with the department. If the packet meets these regulatory requirements, the department will issue to the applicant an FD-8a certificate of consumable hemp product registration and the application information will be entered into the consumable hemp products database.

D. No person is authorized to distribute any consumable hemp products in the state of Louisiana unless that person has first obtained a certificate of consumable hemp product registration from the department, except that if a firm submits product labeling and supporting documentation for review to the department and does not receive a response in writing within 15 business days of that initial submission, the product may be sold after the fifteenth business day by any permitted wholesaler or retailer until the submitting party receives notice in writing from the department that the product in question is accepted or rejected for registration.

E. Any firm may apply with the department for the designation of its products as “Louisiana hemp products,” provided that those products are produced from hemp grown in Louisiana and are processed at a Louisiana-based manufacturer. These items will be designated with a special mark on the department’s list of registered products once they have been registered with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended LR 47:479 (April 2021), amended LR 48:1290 (May 2022), amended LR 48:

**§519. Consumable Hemp Products Labeling Requirements: Certificate of Analysis**

A. Consumable hemp products must bear labeling that includes a scannable bar code, QR code, or a web address linked to a document or website containing the certificate of analysis for that product.

B. - C.4. ...

5. a cannabinoid profile listing all major phytocannabinoid constituents by percentage of dry weight;

6. serving size for the product, total THC (as defined in R.S. 3:1481) per serving, number of servings per package,

and total THC per package (expressed in terms of milligrams per gram);

7. the amount of any detected residual solvent in the product in the product in parts per million, except that this analyte will not be required for floral hemp material; detections may not meet or exceed the following amounts:

- a. butanes—800 ppm;
- b. heptanes—500 ppm;
- c. benzene—1 ppm;
- d. toluene—1 ppm;
- e. hexanes—10 ppm;
- f. xylenes—1 ppm;
- g. ethanol—5,000 ppm;

8. the amount of any detected pesticide residues in the product in parts per million; any detection above the limit of quantitation for a category I pesticide (see Table 1 of this Section) is defined as an exceedance and a basis for rejection of the product by the department; category II pesticides have maximum contaminant levels as defined in Table 1;

9. the amount of any microbiological contaminants in the product in appropriate units; total yeast/mold may not meet or exceed 10,000 colony-forming units per gram and total pathogenic *Escherichia coli* bacteria or *Salmonella* spp. may not meet or exceed 1 colony-forming unit per gram;

10. the amount of any detected heavy metal traces in the product in parts per million; detections may not meet or exceed the following amounts:

- a. arsenic (As)—10 ppm;
- b. cadmium (Cd)—4.1 ppm;
- c. lead (Pb)—10 ppm;
- d. mercury (Hg)—2 ppm.

D. No consumable hemp product may contain more than 0.3 percent delta-9 THC or one percent total THC on a dry-weight basis. Except for floral hemp material, no consumable hemp product may contain more than eight milligrams of total THC per serving. Products registered prior to the effective date of this rule exceeding the per-serving threshold may be sold until January 1, 2023.

E. Table 1: Category I and II Pesticides

Name	Maximum Contaminant Level (MCL) in ppm
Category I (includes aldicarb, carbofuran, chlorpyrifos, coumaphos, daminozide, dichlorvos, dimethoate, ethoprop(hos), etofenprox, fenoxycarb, imazalil, methocarb, methyl parathion, mevinphos, paclobutrazol, propoxur, spiromamine, and thiacloprid)	0
Category II	
Abamectin	0.3
Acephate	5
Acetamiprid	5
Acequinocyl	4
Azoxystrobin	40
Bifenazate	5
Bifenthrin	0.5
Boscalid	10
Captan	5
Carbaryl	0.5
Chlorantraniliprole	40
Clofentezine	0.5
Cyfluthrin	1
Cypermethrin	1
Diazinon	0.2
Dimethomorph	20

Name	Maximum Contaminant Level (MCL) in ppm
Etoazole	1.5
Fenhexamid	10
Fenpyroximate	2
Flonicamid	2
Hexythiazox	2
Fludioxonil	30
Imidacloprid	3
Kresoxim-methyl	1
Malathion	5
Metalaxyl	15
Methomyl	0.1
Myclobutanil	9
Naled	0.5
Oxamyl	0.2
Pentachloronitrobenzene	0.2
Permethrin	20
Phosmet	0.2
Piperonylbutoxide	8
Prallethrin	0.4
Propiconazole	20
Pyrethrins	1
Pyradiben	3
Spinetoram	3
Spinosad	3
Spiromesifen	12
Spirotetramat	13
Tebuconazole	2
Thiamethoxam	4.5
Trifloxystrobin	30

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended LR 47:480 (April 2021), amended LR 48:1290 (May 2022), amended LR 48:

**§531. Consumable Hemp Products Labeling Requirements: Adult-Use Products**

A. Any product meeting the definition of an “adult-use consumable hemp product” must bear a label statement to this effect.

B. Products registered prior to the effective date of this rule that do not bear the statement required by Subsection A may be sold until July 1, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483 and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§533. Consumable Hemp Products Labeling Requirements: Serving Sizes and THC Content**

A. Labeling must clearly indicate the amount of THC per serving in a product, the serving size, and the number of servings per package.

B. Serving sizes must be delineated by means of one of the following acceptable methods:

1. provision of a measuring device with the packaging;
2. markings on the label or package that indicate the amount of a serving;
3. use of discrete units (e.g., tablets, capsules, gummies, et cetera).

C. Products registered prior to the effective date of this rule that do not meet the requirements of this Section may be sold until July 1, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483 and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:

**§535. Penalties for Violations of Requirements to Register Consumable Hemp Products [Formerly §531]**

A. Any person who violates the provisions requiring registration of industrial-hemp-derived cannabidiol products is subject to the penalties provided for by R.S. 3:1484 and other sanctions as provided for by the State Food, Drug, and Cosmetic Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended by the Department of Health, Office of Public Health, LR 47:480 (April 2021), LR 48:1291 (May 2022), LR 48:

**§537. Exemptions [Formerly §533]**

A. Consumable hemp products that have been produced in accordance with R.S. 40: 1046 or that are Food and Drug Administration (FDA)-approved pharmaceuticals are not subject to the requirements of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended LR 47:480 (April 2021), LR 48:1291 (May 2022), LR 48:

**Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

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



the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Tuesday, October 25, 2022 at COB, 4:30 p.m., and should be addressed to Michael Vidrine, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

#### Public Hearing

Interested persons may submit a written request to conduct a public hearing either 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 Monday, October 10, 2022. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:00 a.m. on October 25, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after October 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Registration of Foods, Drugs, Cosmetics and Prophylactic Devices—Hemp Products

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

The Office of Public Health (OPH) will incur \$905 SGF in expenses associated with the publication of this proposed rule change.

This proposed rule amends Chapter 5 Registration of Foods, Drugs, Cosmetics and Prophylactic Devices of Title 49, PUBLIC HEALTH—FOOD, DRUGS, AND COSMETICS, in accordance with Act 498 of the 2022 RLS. Specifically, the rule:

- adds definitions for Adult-Use Consumable Hemp Product, Package and Serving,
- updates the documentation needed to register consumable hemp products to include the laboratory accreditation verification documentation and a copy of the current grower or processor's license,
- provides an exception that specifies when hemp can be distributed without a Certificate of consumable hemp product registration from the department,

- provides terms under which a firm may apply for the "Louisiana Hemp Products" designation,
- updates the labeling requirements for consumable hemp products; and
- updates the permissible amounts of pesticide residues, microbiological contaminants, and residual solvents that may be present in consumable hemp products.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that this proposed rule may have an economic cost to businesses associated with growing, processing, or selling consumable hemp products. To the extent that a business' existing product contains above the permissible amount of pesticide residues, microbiological contaminants, and residual solvent for consumable hemp products, then the product cannot be sold in Louisiana. Additionally, there may be costs associated with updating product labels to meet the revised labeling requirements.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not impact competition or employment.

Doris Gray Brown  
Assistant Secretary  
2209#039

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Revenue Policy Services Division

#### Election of Pass-Through Entities (LAC:61.I.1001)

Under the authority of R.S. 47:1511 and 287.732.2 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1001.

The primary purpose of the proposed regulation is to implement Act 396 of the 2021 regular session of the Louisiana Legislature as it concerns the repeal of the deduction for federal taxes paid and the amendment of rates for taxpayers making a pass-through entity election pursuant to R.S. 47:287.732.2.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of the Department of Revenue

#### Chapter 10. Income: Pass-Through Entities §1001. Election of Pass-Through Entities

##### A. ...

1. For taxable periods beginning on or before December 31, 2021, the income of entities that make the election under R.S. 47:287.732.2 shall be taxed at the following rates:

- a. 2 percent upon the first \$25,000 of Louisiana taxable income;

b. 4 percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and

c. 6 percent upon the amount of Louisiana taxable income above \$100,000.

2. For taxable periods beginning on or after January 1, 2022, the income of entities that make the election under LA R.S. 47:287.732.2 shall be taxed at the following rates:

a. 1.85 percent upon the first \$25,000 of Louisiana taxable income;

b. 3.5 percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and

c. 4.25 percent upon the amount of Louisiana taxable income above \$100,000.

B. - C.3. ...

a. A *pro forma* Federal Form 1120 completed as if the entity had filed as a C corporation for federal income tax purposes;

C.3.b. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.732.2 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:43 (January 2020), amended by the Department of Revenue, Policy Services Division, LR 48:

#### Family Impact Statement

The proposed amendment of LAC 61:I1123, regarding the repeal of the deduction for federal income taxes paid, 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 amendments and proposed regulation will have no impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

It is anticipated that the proposed amendments and proposed regulation 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 amendments and 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 the proposed amendments and/or regulation to Brad 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 4:00 p.m., Wednesday, October 26, 2022.

#### Public Hearing

A public hearing will be held on Thursday, October 27, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin J. Richard, CPA  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Election of Pass-Through Entities

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

The purpose of this proposed amendment is to amend LAC 61:I.1001 to implement the portion of Act 396 of the 2021 Regular Session related to personal income tax of pass-through entities. Act 396 repeals the deduction of federal income taxes ("FIT") paid and reduces income tax rates for personal income taxpayers, including those making a pass-through entity election as provided in R.S. 47:287.732.2. The proposed rule amendment standardizes the tax rates in the Administrative Code with those enacted into the Revised Statutes by Act 396. No material impacts on expenditures are anticipated due to this proposed rule change.

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

Act 396 reduces income tax rates for certain pass-through entities while removing a major deduction for federal income tax (FIT). The rate reduction would serve to reduce tax liabilities, and the repeal of the FIT deduction would serve to increase the tax base and thus liabilities. The effects of these provisions would offset to a varying extent for each entity, resulting in a net tax liability change that would also vary by entity.

The net state revenue impact of these changes for certain pass-through entities in particular is negligible. However, the aggregate effects of the 2021RS income tax reforms were designed to approximately be revenue neutral in the aggregate. The rule addressing pass-through entities are thus a component of a larger set of reforms that are approximately revenue-neutral as a whole, though may or may not be revenue neutral as a standalone. For informational purposes, at the end of FY 21, 202 eligible entities had made the election to file at the entity level, and 140 tax returns were filed by such entities for a total tax liability of \$6.6 million. As of August 18, 2022, 458 eligible entities had made the election. Personal income tax collections in FY 21 were \$4 billion. No impact on revenue collections of local governmental units is anticipated.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No material aggregate impacts on costs or economic benefits are anticipated for affected personal, small business or non-governmental groups due to this proposed rule change. The rate reductions and federal income tax (FIT) deduction would be in effect even in the absence of this proposed rule but are

considered in conjunction with Act 396 for purposes of this impact statement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated.

Kevin J. Richard  
Secretary  
2209#065

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Operations**

Weights and Standards (LAC 73:I.Chapters 1-30)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:380 through 388.1, R.S. 32:390, and R.S. 47:718, that the Department of Transportation and Development, Office of Operations, Weights and Standards Section, proposes to amend the Weights and Standards Part.

23 C.F.R. §657.5 requires the State to enforce vehicle size and weight laws. Pursuant to 23 C.F.R. §657.19, if such laws are not enforced, the state risks losing 10 percent of its federal transportation funding apportionment. This responsibility for enforcement at stationary scales was transferred to DOTD on July 1, 2022. This proposed Rule provides updated procedures for enforcement of vehicle size and weight laws, and provides for compliance with federal laws regarding vehicle size and weight laws. Consequently, there will be no significant adverse impact to the public, businesses, local or state governmental entities.

**Title 73**

**WEIGHTS, MEASURES AND STANDARDS**

**Part I. Weights and Standards**

**Chapter 1. Policy and Procedures for Weight Enforcement Field Personnel**

**§101. Field Procedures for Enforcing Weight and Size Limitations  
[Formerly §103]**

**A. Procedures for Enforcing the Weight Law**

1. Shifting the Load. Loads may be required to be shifted by Weights and Standards Stationary Scale Police Officer after weighing and before proceeding. Except as directed by a Weights and Standards Stationary Scale Police Officer, drivers will not be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount.

2. Vehicles in violation of weight, size or permit regulations shall be cited for the violation(s). The report will be transmitted on completion for review by the Supervisor for accuracy and fines attached and a notice of violation shall be sent to the violating party.

3. All loads that are not indivisible, perishable, or dangerous will be ticketed as required and may be permitted to proceed without reducing the load as stipulated herein.

4. All indivisible loads and all perishable products will be ticketed in accordance with R.S. 32:388, et seq., and permitted to proceed to a suitable place to reduce the load.

a. Perishable Products. Include the following, but may not be limited to these: All agricultural products; hot mix asphalt; concrete; all seafood; products requiring refrigeration or those transported in insulated vehicles; dairy products or poultry and associated products, meat, pork, livestock, live animals; and all other loads that would lose their value or be damaged to such a degree that they would not be suitable for their intended use in commerce if delayed in transit.

b. Indivisible Loads. Indivisible loads are those that cannot, without undue expense or risk of damage, be divided into two or more loads for the purpose of conveyance on a road. Indivisible loads include, but are not limited to, the following:

- i. all forest products;
- ii. flammable, dangerous or toxic liquids, solids and gases such as gasoline, naphtha, kerosene, acids, liquefied petroleum gas, containerized cargo; pipe;
- iii. prestressed or steel girders or large structural components or fabricated or unfabricated materials of indivisible nature that would require specialized equipment to unload or shift; or
- iv. any load that would create a traffic hazard or danger to either the motoring public or the surrounding area if unloaded adjacent to the highway.

5. Checking Tandem, Tridem, Quadrum and Quint Axles. The following criteria shall be used to determine uniform distribution.

a. Tandem Axles. Each individual axle of a tandem axle shall be considered compliant if the load on both axles does not exceed 34,000 pounds and neither individual axle carries more than 20,000 pounds on the interstate. On non-interstate highways a tandem axle may not exceed 37,000 pounds, and neither individual axle may carry more than 21,500 pounds. On permit loads neither axle shall carry more than 60 percent nor less than 40 percent of the load shown on the approved permit.

b. Tridum Axles. Each individual axle of a tridum axle shall be considered acceptable if the load on all three axles does not exceed 42,000 pounds and none of the axles carries more than 16,000 pounds on interstate highways. On non-interstate highways a tridum axle may not exceed 45,000 pounds, and neither individual axle may carry more than 17,000 pounds. On permit loads no axle shall carry more than 40 percent nor less than 25 percent of the load shown on the approved permit.

c. Quadrem Axles. Each individual axle of a quadrum axle shall be considered acceptable if the load on all four axles does not exceed 50,000 pounds and none of the axles carries more than 14,500 pounds on interstate highways. On non-interstate highways a quadrum axle may not exceed 53,000 pounds, and neither individual axle may carry more than 30 percent or less than 20 percent of the load shown on the approved permit.

d. Quint Axles. Each individual axle of a Five Axle Group shall be considered acceptable if the load on all five axles does not exceed 58,000 pounds and none of the axles carries more than 13,600 pounds on interstate highways. On non-interstate highways a Five Axle Group may not exceed 61,000 pounds, and neither individual axle may carry more than 25 percent or less than 15 percent of the load shown on the approved permit.

e. When these regulations are violated, a violation ticket shall be issued and a penalty of \$100 assessed, unless there are other violations, in which case the violation resulting in the highest fine will be used. The fines shall not be cumulative.

6. Whenever an officer stops a vehicle that is not entering into or completing a turn and an variable load suspension axles axle equipped with an air bag or hydraulic system is in the raised position and the axle load is within legal limits for the number of axles including the variable load suspension axles axle, the vehicle will be ticketed for improper distribution of the load and assessed a penalty of \$100. In the event the axle load exceeds the legal limitations for the configuration, including the variable load suspension axles axle, the vehicle will be ticketed for the excess weight over and above legal limits.

7. Posted Bridges. Whomever owns or operates any vehicle or combination vehicles in violation of any rule, regulation, directive, or requirement of the secretary adopted under R.S. 32:386 or in violation of R.S. 32:386 shall be assessed a penalty on such weight which exceeds the maximum permissible gross weight as defined by R.S. 32:386. Violation reports shall be issued only after the offense is committed. All overweight vehicles shall be directed to turn back when they are seen approaching a bridge posted with a regulatory weight limit.

8.a. All vehicles are required to stop at a DOTD stationary weight enforcement scales except the following:

- i. private passenger automobiles;
- ii. private passenger pickup trucks;
- iii. private passenger vans;
- iv. recreational vehicles;
- v. buses;
- vi. trucks which belong to law enforcement agencies and are not normally used for load-carrying purposes, fire trucks, and ambulances;
- vii. utility vehicles conveying to or from emergency services restoration due to a natural disaster
- viii. tow trucks, unless the tow truck has a gross vehicle weight rating in excess of twenty-six thousand pounds, or is hauling or carrying a vehicle not exempt from the provisions of this Section.

b. Each vehicle that is required to stop at a DOTD stationary weight enforcement scale location and that fails to stop shall be assessed the following penalty.

i. Vehicles with a gross vehicle weight rating of less than 26,000 pounds shall be fined \$100 for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fine which may be assessed for other violations.

ii. Vehicles with a gross vehicle weight rating of 26,000 pounds or more shall be fined \$500 for failure to stop at the department stationary weight scales. This fine shall be in addition to any other fines which may be assessed for other violations.

c. Any vehicle which inadvertently bypasses the department stationary weight scales and returns to the scales voluntarily without the directive of law enforcement shall not be assessed any penalty for bypassing the scales.

9. National Guard and Department of Defense Convoys. These may proceed without stopping at the stationary scales for weighing purposes, provided

overweight and oversize permits are obtained in advance for all vehicles requiring permits and that the lead vehicle stops at the weighing station and advises the supervisor in charge of the permit vehicles in the convoy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:28 (February 1979), amended by the Office of Weights, Measures and Standards, LR 24:1517 (August 1998), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§103. Registration and Licensing Requirements for Vehicles Operating in Louisiana** **[Formerly §105]**

A. Registration Requirements for Intrastate Haulers. A vehicle is operating intrastate when it is hauling any load which both originates and terminates in Louisiana. The vehicle must be either full plated for Louisiana or apportioned for Louisiana, or must have a 48-hour temporary permit. Even if the vehicle is owned and operated in Louisiana, it must be licensed and titled for Louisiana.

B. Reciprocity for Interstate Haulers. These vehicles, if lawfully owned and registered by a resident of one of the states with which Louisiana has a reciprocal agreement, are not required to have Louisiana plates to operate interstate in Louisiana (to pass through or to only originate or only terminate loads in Louisiana). These foreign plated trucks are allowed the Louisiana weight limits, provided the truck is registered for the maximum allowed gross weight for the single truck or combination vehicles. If the home state weight limits are greater than the Louisiana weight limits, then the vehicle will have to abide by the Louisiana weight limits.

C. Temporary 48-Hour Permits. A truck not licensed to operate in Louisiana may purchase a \$50 temporary 48-hour permit rather than a full plate or apportion with Louisiana. A temporary permit allows the vehicle to operate in Louisiana for a period of 48 continuous hours. Permit shall be purchased prior to entering Louisiana. Under no condition will a vehicle be allowed to operate within the state without either having Louisiana plates, or a temporary 48-hour permit, or being apportioned for Louisiana. Temporary 48-hour permits apply to these types of vehicles:

1. if a vehicle or combination vehicle from an FRP member jurisdiction and the motor vehicle has three or more axles;

2. if any of the vehicles alone or in combination weighs more than 26,000 pounds or the power unit is registered for more than 26,000 pounds; and

3. if a power unit having two axles and a gross weight or registered weight in excess of 26,000 pounds or is registered for more than 26,000 pounds.

D. Full Reciprocity Plan. Any single motor vehicle having three or more axles, regardless of weight, or any vehicle or combination vehicle weighing 26,000 pounds or more may be licensed under the Federal Registration Plan, if the home state is a member. A vehicle from a member state may operate interstate or intrastate in Louisiana if the cab card shows that the vehicle is apportioned for Louisiana. If the vehicle is not apportioned for Louisiana, the driver must obtain a temporary 48-hour permit to operate either interstate or intrastate. At all times this card or a copy must accompany the vehicle for which it was issued. If this card is

altered or defaced or used in any other vehicle except the one described thereon, it shall be considered null and void and the Louisiana registration license requirements shall apply. An apportioned license plate must also be displayed on the front of the vehicle, and the cab card must show the weights and the states for which the vehicle is apportioned.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:2 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:29 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§105. Procedures for Enforcing Vehicle Registration and Licensing Laws**  
**[Formerly §107]**

A. Louisiana Vehicles Which Are Improperly Licensed or Unlawfully Registered. This includes vehicles operating with the wrong class of license, pursuant to La. R.S. 47:462; a vehicle whose serial number does not match the serial number on the registration certificate; or a vehicle which exceeds its licensed weight, but does not exceed the legal weight for that type of vehicle.

1. Vehicles with registration issued by the state of Louisiana are allowed a 10 percent tolerance on licensed weight. If the vehicle is not more than 10 percent over its licensed weight and does not exceed the legal maximum allowable weight for that type of vehicle, no violation has occurred.

2. For those vehicles which exceed the 10 percent tolerance on licensed weight, the officer shall cite R.S. 47:516, and the penalty assessed will be the greater of the violations stated in R.S. 47:516.

3. When the driver appears at the Vehicle Registration Bureau to purchase the proper plates, he will be charged an additional 25 percent of the cost of the new plates as a penalty.

4. If a vehicle is improperly licensed and/or unlawfully registered, and also exceeds the legal weight limitations, the officer shall issue another violation ticket citing R.S. 32:386 and fine the vehicle for the weight in excess of the legal weight, according to the overweight penalty chart referenced in this document.

B. Louisiana Vehicles with an Expired License and Registration or No License and Registration

1. In these situations the officer shall write a "no fine" violation report citing R.S. 47:516, if the plate expired within the last 30 days. If the plate has been expired for over 30 days, the officer shall cite R.S. 47:516, and a fine of \$100 will be assessed.

2. If a vehicle in this situation also exceeds the legal weight limitations, the officer shall issue another violation ticket citing R.S. 32:386 and fine the vehicle for the weight in excess of the legal weight, according to the overweight penalty chart.

C. Out-of-State Vehicles with an Expired License and Registration or No License and Registration.

1. Out-of-State Vehicles with apportion plates not licensed in Louisiana shall not operate in Louisiana, neither interstate nor intrastate, without purchasing a temporary 48-hour permit prior to entering Louisiana. This does not apply to out-of-state vehicles from states with reciprocity agreements with Louisiana, or that are members of the FRP.

2. If a temporary 48-hour permit is not purchased prior to entering Louisiana, the driver will be required to purchase a temporary 48-hour permit, and a penalty of \$200 will be assessed, in addition to the cost of the permit.

D. Out-of-State Vehicles Which Are Improperly Licensed

1. If a vehicle domiciled outside Louisiana has a current license but the actual weight of the vehicle exceeds the weight for which it is licensed, the officer shall issue a violation report citing R.S. 32:388, and a penalty of \$100 will be assessed. This applies even if the actual weight does not exceed the legal weight for that type vehicle

2. If the vehicle exceeds both the licensed weight and the Louisiana legal weight for that type of vehicle, a penalty of \$100 will be assessed, or a penalty in accordance with the overweight penalty chart contained in this document, whichever penalty is greater. If the officer assesses a penalty in accordance with the overweight penalty chart, the officer shall cite R.S. 32:386.

E. Vehicles Which Require Temporary 48-Hour Permits

1. If a vehicle is required to have a temporary permit and does not possess one, the officer shall issue a violation report citing R.S. 47:511.1, and may require the operator to purchase a temporary permit. A penalty of \$200 shall be assessed in addition to the cost of purchasing a temporary permit.

2. A temporary 48-hour permit shall be valid for 48 continuous hours.

3. If a vehicle is stopped and found to exceed the time limit of a temporary permit, a penalty of \$200 shall be assessed and the driver shall be required to purchase another permit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:2 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:30 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§107. Procedures for Enforcing Fuel Tax Laws**  
**[Formerly §109]**

A. Authority of Weights and Standards Stationary Scale Police Force

1. Weights and Standards Stationary Scales Police Force shall assist the Department of Revenue and Taxation in enforcing fuel tax laws. The Department of Revenue and Taxation is the final authority on fuel tax laws.

2. Fuel Use. Weights and Standards Stationary Scale Police Force officers have the authority to enforce fuel tax laws only when the vehicle is not fully licensed in Louisiana and is domiciled outside Louisiana.

a. The state of domicile shall be determined by the name and address on the cab doors.

b. License plates from another state which are apportioned for Louisiana have not been fully licensed in Louisiana. Vehicles with these plates may be checked if the vehicle is domiciled outside Louisiana.

3. Bulk Transports. Weights and Standards Stationary Police Force officers have the authority to enforce fuel tax laws on all bulk transports of taxable fuels.

B. Motor Vehicles Using Gasoline for Fuel. Vehicles which are not fully licensed in Louisiana and are domiciled outside Louisiana shall be checked as they leave Louisiana

to insure that the driver has purchased enough gasoline in Louisiana to cover the miles traveled in Louisiana.

#### C. Motor Vehicles Using Special Fuels

1. Special fuels are all fuels used by motor vehicles except gasoline. Special fuels include distillate fuels (e.g., diesel or kerosene) and liquefied petroleum gases (e.g., butane or propane).

2. Vehicles using special fuels are required to have a working speedometer, odometer, or hub meter. Compare the speedometer, odometer, or hub meter reading with the reading on the special fuels invoice to determine if the mileage indicator is working properly.

3. Vehicles using special fuels are also required to have the name and address of the company on both cab doors in letters at least 2 inches high. The name and address must be legible for 25 feet.

4. Vehicles which are not fully licensed in Louisiana and are domiciled outside Louisiana shall be checked as they leave Louisiana to ensure that the driver has purchased enough fuel in Louisiana to cover the miles traveled in Louisiana.

a. At enforcement units which are not at points of exit from Louisiana, vehicles using special fuels shall not be checked for special fuels invoices or for working speedometers, odometers, or hub meters. Fuel tax assessment forms shall not be filled out. These vehicles shall be checked for the company's name and address on the cab doors.

b. If the company is on the list of "Bonded Special Fuels Users," vehicles shall not be checked for special fuels invoices or for working speedometers, odometers, or hub meters at any enforcement unit. Fuel tax assessment forms shall not be filled out. These vehicles may be checked for the company's name and address on the cab doors.

c. Vehicles which are exempt from licensing (such as farm equipment and off-road equipment) shall not be checked at any enforcement unit for special fuels invoices; working speedometers, odometers, or hub meters; or for the company's name and address on the cab doors. No fuel tax assessment form shall be filled out.

#### D. Bulk Gasoline Transports

1. The drivers of all bulk gasoline transports are required to have a currently dated invoice, bill of lading, or manifest showing the following information:

- a. the seller's and purchaser's names and addresses;
- b. the origin and destination of the gasoline;
- c. the authorized routes to be followed (this applies only to gasoline going to or coming from Texas);
- d. the quantity of gasoline.

2.a. Vehicles transporting bulk gasoline to or from Texas must have an authorization card issued by the Department of Revenue. This card may not be transferred from one company to another.

b. The name on the card shall agree with the name on the vehicle. The vehicle must be on a route specified on the authorization card.

3. Bulk fuel transports shall be checked at all enforcement units by Weights and Standards Stationary Scale Police Force officers.

a. Vehicles operated by common or contract carriers licensed by the Interstate Commerce Commission or the Louisiana Public Service Commission shall not be checked. They may be checked, however, for the fuel they use to operate.

b. Vehicles operated by companies on the list of "bonded gasoline jobbers" or "bonded gasoline dealers" shall be checked for the required information on the invoice, bill of lading, or manifest. If the gasoline is going to or coming from Texas, the vehicle shall be checked for the proper authorization card and proper route. These vehicles shall also be checked for the fuel they use to operate.

E. Bulk Special Fuels Transports. All vehicles transporting bulk special fuels shall be allowed to proceed. These vehicles shall, however, be checked for the fuel they use to operate.

#### F. Fuel Tax Violations

##### 1. Users of Gasoline and Special Fuels

a. If an unbonded gasoline or special fuels user has a proper fuel invoice, but has not purchased enough fuel to cover all the miles traveled in Louisiana, then the officer shall assess the fuel tax, but no violation ticket shall be written.

b. If an unbonded gasoline or special fuels user has an improper fuel invoice or no fuel invoice, then the officer shall issue a violation ticket and assess a fine of \$25. Fuel tax shall be assessed in addition to the fine.

c. If a user of special fuels does not have a working speedometer, odometer, or hub meter, the officer shall issue a violation ticket and assess a fine of \$25.

d. If a user of special fuels does not have the name and address of the company on both cab doors, the officer shall issue a violation ticket and assess a fine of \$25. If the company's name and address is on only one door, no violation ticket or fine will be assessed. The driver will receive a warning of the violation.

e. No ticket shall be issued on any new transient vehicles or any new vehicle with less than 2,000 miles on the mileage indicator.

f. Fuel tax violations are cumulative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:31 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§109. Procedures for Citing Violators [Formerly §111]**

##### A. Issuing Notice of Violations

1. When any carrier, transport vehicle, or driver is found to be in violation of any provision of this Chapter, the violating party shall receive a notice of violation, proposed finding and proposed civil penalty (hereinafter referred to as a "notice of violation") within 30 days of the violation.

2. Notices of violation shall provide specific information regarding the violation that is being cited. This information shall include the highway, parish, and the side (North, South, East, West) on which the citation is being issued. This information shall also include the specific

nature of the violation and the number of the statute that was violated.

Statute	Violation	Fine
32:380	Overwidth	\$100
32:381	Overheight	\$100
32:382	Overlength, Overhand, Twin Trailer Combination	\$100
32:383	Dropping, Shifting or Leaking Load	\$100
32:384	Trailer and Towed Vehicle Violations	\$100
32:385	Farm Vehicle and Equipment Violations	\$100
32:386	Over Legal Gross Vehicle Weight or Over Legal Axle Weight	(see chart)
32:386	Improper Distribution of Axle Weight	\$100
32:387	Over Permitted Weight	(see chart)
32:387	Violating Terms or Conditions of Permit Issuance—Other than Weight	\$100
32:387	Permit Not in Vehicle	\$ 25
32:388	Over Licensed Weight	\$100
32:388	Failure to Stop at Stationary Scale	\$100
47:511.1	No Temporary 48-Hour Permit	\$200
47:516	Improper, Expired or No License and Registration	(No fine by DOTD)
47:718	Nonpayment of Gasoline Tax	\$ 25
47:812A	Cargo Tank Connected to Carburetor	\$ 25
47:812B	Nonoperating Speedometer, Odometer, or Hub Meter	\$ 25
47:812C	Owner's Name and Address Not on Outside of Cab Doors	\$25
47:812D	Nonpayment of Special Fuels Tax (No Invoice)	\$ 25

3. Notices of violation shall clearly indicate if a monetary penalty is assessed, or if the notice of violation is only a warning. Notice of violation warning shall only apply to over axle weight violations. If a monetary penalty is assessed, the amount of such penalty shall be clearly indicated on the notice of violation. The fines for violations of Title 32 are not cumulative, but a violator may be assessed more than one fine for violations of Title 47 or for violating both Title 32 and Title 47.

4. If the vehicle was found to be overweight, the notice of violation shall clearly indicate the measured weights and the contents of the load/commodity type.

5. For a violation of R.S. 47:516 where a fine is not assessed, the driver shall be instructed to report to the nearest Vehicle Registration Bureau of the Department of Public Safety to secure the proper registration and license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:33 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§113. Procedures for Collecting Cash and Credit Card Payments**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:34 (February 1979), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§115. Forms for Supervisory Personnel**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 3. Oversize and Overweight Permit Laws and Regulations**

**§301. General Information**

**A. General Regulations**

1. An oversize or overweight permit must be obtained to operate a vehicle which exceeds the legal size or weight on the highway.

2. In general, oversize and overweight permits are issued only for indivisible vehicles and loads. Indivisible vehicles or loads are those that cannot, without undue expense or risk of damage, be divided into two (2) or more loads for the purpose of conveyance on a road.

3. The following vehicles transporting divisible loads are eligible to obtain permits:

a. vehicles transporting pipe loaded across a vehicle, rather than lengthwise, are eligible for overwidth permits as long as the width of the vehicle and load does not exceed 8 feet, 8 inches;

b. vehicles transporting up to three bundles of pre-packaged or strapped oil field pipe are eligible for overwidth permits if the load does not exceed 10 feet in width;

c. vehicles transporting pulpwood or plywood bolts loaded across a vehicle, rather than lengthwise, are eligible for forest product permits;

d. vehicles transporting farm products in their natural state are eligible for harvest season permits;

e. waste vehicle transporting divisible loads are eligible for waste vehicle permits and steering axle permits;

f. when all parts which have been or can be easily divided or dismantled from a shipment weigh, in aggregate, 500 pounds or less, these parts may be moved along with indivisible part of the shipment as one load.

4. Exceptions to Oversize and/or Overweight Permit Requirements

a. When all parts which have been or can be easily divided or dismantled from a shipment with an aggregate weight of 500 pounds or less, these parts may be moved along with the indivisible part of the shipment as one load.

b. Vehicles transporting an oversize/ overweight dozer will be allowed to remove its blade or sideboom and haul it on the same vehicle.

c. Vehicles transporting pipe loaded across a vehicle, rather than lengthwise, will be eligible for overwidth permits as long as the width of the vehicle and load does not exceed 8 feet 8 inches.

d. Vehicles transporting up to three bundles of prepackaged oil field pipe may not exceed 10 feet in width.

e. Vehicles transporting farm products in their natural state will be eligible for harvest season permits.

f. Vehicles transporting forest products in their natural state will be eligible for a natural forest product permit.

g. Vehicles transporting pulpwood or plywood bolts loaded across a vehicle, rather than lengthwise, will be eligible for forest product permits as long as the width does not exceed 9 feet.

h. Waste vehicle transporting divisible loads will be eligible for waste disposal truck permits.

i. Vehicles transporting oversize loads will only be allowed to create an over height dimension as long as there is at least one permitted dimension, and all the dimensions for the load are shown on the permit. Over width and over length dimensions may never be created.

j. Trucks transporting commodities from a port located on the Mississippi River via a bridge over the Mississippi River to a facility located in the same parish as the bridge.

5. Vehicles must be licensed for the statutory maximum allowable license weight in order to obtain an overweight permit.

6. All permits must be obtained before movement of an oversize or overweight vehicle or load begins, if intrastate, or before the vehicle enters Louisiana, if interstate.

7. The permit must be in the vehicle for which it was issued and must be available for inspect by proper authorities at all times.

B. Permit Authority. Permits are issued by the DOTD truck permit office. Officials at this office have final authority on which vehicles or loads will be granted permits. The truck permit office also has the final authority on the disposition of any vehicles or loads which have or require a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:35 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§303. Types of Permits**

A. Oversize Permits. These permits are for vehicles and loads which exceed the legal limitations on width, height, length, or projecting loads. The fee is \$10 for a single trip if the trip lasts less than one day or \$10 per single day if the trip lasts more than one day.

B. Overweight Permits. These permits are for vehicles and loads which exceed the legal limitations on axle weight or gross vehicle weight. They may be valid for vehicles or loads which are both oversize and overweight if the dimensions are noted on the permit. These permits are valid for a single trip, and the fee shall be based on weight and the distance to be traveled. If a vehicle and load are both oversize and overweight, only the overweight fee is charged.

C. Monthly Oversize Permits. These permits are for vehicles and loads that exceed the legal limitations on width, height, length, or projecting loads. These permits are not for vehicles and loads that do not exceed the legal weight limitations. Vehicles and loads may not be more than 12 feet wide; more than 14 feet, 4 inches high; or more than 90 feet long. Monthly oversize permits may be valid for as long as 12 months and may be issued for Monday through Friday only, Monday through Saturday only, or for every day of the week (except holidays when requested). The fee is \$10 for each day that the permit is valid.

D. Forest Product Permits. These permits are for vehicles transporting plywood bolts or pulp-wood which exceeds the legal limitations on width. The permits allow a maximum width of 9 feet when the pulpwood or plywood bolts are transported across the vehicle, rather than lengthwise. They are valid for a year, but may be used only on non-interstate

highways. The fee is \$10 a year. On interstate highways oversize permits must be purchased on a daily basis. Vehicles with forest product permits are permitted to travel during moderate weather, or on holidays, but they are prohibited from traveling at night.

E. Forest Management Equipment Permits. These permits are for forest management equipment that exceed the legal limitations on width. These permits will allow a maximum width of 10 feet. General construction equipment (bulldozers, draglines, graders, etc.) is excluded from this permit; included but not limited to are rubber-tired and tracktype skidders, tree shears, feller bunchers, tree planting equipment, log loaders, shredders, yarders, tractors, chippers, portable chippers, drum choppers, pre-haulers, and fire plows. These permits are valid for a year, and only on non-interstate highways. Oversize permits must be obtained for travel on interstate highways. The fee is \$10 a year. Vehicles with forest management equipment permits are permitted to travel during moderate weather. Vehicles with forest management equipment permits are prohibited from traveling at night.

F. Waste Vehicle Permits. These permits are for waste vehicles which have single axles on the rear and which exceed the legal limitations for axle weight on the rear axle. A waste vehicle permit will allow a maximum of 23,000 pounds on the rear axle. The overweight rear axle must be equipped with dual-mounted tires, and tires on the overweight axle must have a width of 10.00 or larger. These trucks must have been in actual use in Louisiana by January 1, 1977; trucks purchased after this date do not qualify and must meet the legal limitations. Waste vehicle permits are valid only on non-interstate highways. These vehicles must be of legal weight on interstate highways. These permits are valid for a year, and the fee is \$10 a year. Vehicles with waste vehicle permits are not prohibited from traveling at night, during moderate weather, or on holidays

G. Steering Axle Permits. These permits are for equipment which is primarily used off-road, which only occasionally uses the state-maintained highway system, and which exceeds the legal axle weight on the steering axle, due to its design. (Rig-up trucks may obtain a steering axle permit if their length does not exceed 45 feet and their width does not exceed 10 feet. No load may be carried by a rig-up truck with a steering axle permit, and another vehicle may not be towed by the truck). A vehicle with a steering axle permit must be equipped with tires of 10.00 width or larger. These permits are valid for a year, and only on non-interstate highways. Overweight permits for travel on interstate highways must be purchased on a single-trip basis. The fee is \$15 a year. If a waste vehicle requires both a waste vehicle permit and a steering axle permit, only the fee for the steering axle permit shall be charged. Vehicles with valid steering axle permits are not prohibited from traveling at night, during moderate weather or on holidays

#### **H. Harvest Season Permits**

1. These permits are for vehicles which haul farm products in their natural state and which exceed the legal limitations on gross vehicle weight or axle weight. (A 500-pound variance shall be added to the permitted axle weight as long as the permitted gross vehicle weight is not exceeded.)



2. On non-interstate highways the maximum weights are:

- a. gross vehicle weight—86,600 pounds;
- b. single axles—22,000 pounds (500 pounds variance = 21,200 pounds);
- c. tandem axles—37,000 pounds (500 pounds variance = 35,700 pounds).

3. On interstate highways the maximum weights are:

- a. gross vehicle weight—83,400 pounds;
- b. single axles—20,000 pounds (500 pounds variance = 35,200 pounds);
- c. tandem axles—35,200 pounds x 500 pounds variance = 35,700 pounds).

4. These permits are valid for a year, and the fee is \$10 a year. Vehicles with harvest season permits are not prohibited from traveling at night, during moderate rain or on holidays. These permits may be purchased either online, on a C-Form, or on a P-Form.

I. Oil Field Equipment Permits. These permits are for a combination vehicle which are designed to transport oil field equipment and which exceed the legal length and width limitations. These permits allow a combination vehicle to have a maximum length of 70 feet and a maximum width of 10 feet. Oil field equipment permits are valid on interstate highways at 70 feet long and 8 feet 6 inches wide, and on non-interstate highways, only when no load is being carried. Oversize or overweight permits must be obtained when the vehicle is carrying a load or when the vehicle is traveling on interstate highways. The fee is \$15 for a month. Vehicles with oil field equipment permits are permitted to travel on holidays, at night, or during moderate rain.

J. Vehicles Hauling Sugarcane. These permits are issued annually for vehicles hauling sugarcane at a gross weight not to exceed 100,000 pounds. The vehicle and trailer combination must meet all other Louisiana legal requirements and shall have a minimum of 18 wheels.

K. Special Permits for Transporting Hay

1. If there is a declaration of emergency or disaster in this state or another, for causes such as but not limited to severe and extended drought conditions, special permits may be issued by the secretary of DOTD for those vehicles transporting hay. The permit fee shall be \$10 and shall be valid for only as long as the emergency exists, not to exceed one year. In addition, the following restrictions shall apply.

a. The total length of the vehicle and trailer shall not exceed 65 feet on non-interstate routes and the load and trailer shall not exceed 59 feet 6 inches on Interstate routes. The total weight of the vehicle and trailer shall not exceed 80,000 pounds for a quint axle rig and 83,400 pounds for a 6 axle rig which also must include a tridum. Vehicles transporting hay bales loaded side by side across trailers shall not exceed 12 feet in width and 14 feet in height.

b. Travel is limited to daylight hours beginning at sunrise and ending at sunset and is limited by all no movement requirements on certain holidays.

c. Vehicles must travel with the required signs and flags properly placed and indicating that they carry oversized loads.

d. Vehicles must be equipped with mirrors that allow drivers to have a clear view of the highway to least 200 feet to the rear of the vehicle.

e. Loads must be securely bound to the transporting vehicles.

f. Carriers, owners and drivers of any vehicle being operated are responsible for verifying in advance that the actual dimensions and weights of the vehicles and loads are acceptable for all routes being traveled.

g. It is the responsibility of the carriers, owners and drivers to track the status of the declared emergencies. In the event the emergency expires prior to the one year period, the owner, carrier and driver shall be responsible for terminating use of the permit.

h. No vehicle shall exceed weight limits posted for bridges and similar 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.

L. Containerized Cargo

1. Class I (\$50 per year). These permits are for vehicles transporting ocean containers used in hauling prepackaged products for international trade originating from or destined to an intermodal facility. This permit allows for the transportation of ocean containers with a gross vehicle weight limitation not to exceed 80,000 pounds and axle group weight not to exceed 40,000 pounds per tandem axle.

2. Class II (\$375 Biannual). These permits are for vehicles transporting ocean containers used in hauling prepackaged products for international trade from or destined to an intermodal facility.

3. Liquid Bulk Container (\$200 per year). These permits are for vehicles transporting a liquid bulk container within a 50 mile radius of a statutorily defined port or harbor district. This permit will allow these vehicles a gross vehicle weight not to exceed 95,000 pounds and an axle weight not to exceed 20,000 pounds per axle provided the rear axle set is a tridum. Each vehicle shall be equipped with a standard intermodal drop-frame chassis with twist locks to secure the container to the chassis. Vehicles with valid liquid bulk container permits are allowed movement on interstate and non-interstate highways and are valid for one year, expiring each year on December 31.

4. Vehicles with containerized cargo permits are allowed movement on interstate and non-interstate highways. These vehicles may travel at night, during moderate weather, or on holidays.

M. Forest Management Equipment (\$10 per Year)

1. These permits are for forest management equipment which exceeds the legal limitations on width. It will allow a maximum width of 10 feet. General construction equipment (bulldozers, draglines, graders, etc.) are excluded from this permit.

a. Included are:

- i. rubber-tired and track-type skidders;
- ii. tree shears;
- iii. feller bunchers;
- iv. tree planting equipment;
- v. log loaders;
- vi. shredders;
- vii. yarders;
- viii. tractors;
- ix. chippers;

- x. portable chippers;
- xi. drum choppers;
- xii. prehaulers; and
- xiii. fire plows.

b. These permits are valid for one year, and only on non-interstate highways.

c. Oversize permits must be obtained for travel on interstate highways.

2. Vehicles with forest management equipment permits may travel on holidays, but are prohibited from traveling at night and during severe weather

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:36 (February 1979), amended by the Department of Transportation and Development, Office of Operations and the Department of Public Safety and Corrections, Office of State Police, LR 39:98 (January 2013), amended by the Department of Transportation and Development, Office of Operations, LR 40:1945 (October 2014), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§305. Maximum Permit Weights Allowed [Formerly §711]**

A. Road and structural design capacities dictate that, generally, the following weights will be the maximum weights for which overweight permits will be issued.

1. Off-Road Equipment

a. Each Single Axle—30,000 pounds.

b. Each Tandem Axle—60,000 pounds; however, any vehicle with a tandem axle weighing over 45,000 pounds must have removed all counterweights and other easily removable components.

c. Each Tridum Axle—66,000 pounds; however, any vehicle with a tridum axle weighing over 60,000 pounds must have removed all counterweights and other easily removable components.

2. All Other Vehicles

a. Each Single Axle—24,000 pounds if the gross vehicle weight is 120,000 pounds or less, but 20,000 pounds of the gross vehicle weight exceeds 120,000 pounds.

b. Each Tandem Axle—48,000 pounds if the gross vehicle weight is 120,000 pounds or less, but 40,000 pounds if the gross vehicle weight exceeds 120,000 pounds and the spread between axle groups is a minimum of 12 feet and the spread between tires in a group is a minimum of 4 feet.

c. Each Tridum Axle—60,000 pounds.

d. Each Tandem Trunion Axle Group (16 tires)—54,000 pounds.

3. Gross Vehicle Weight—232,000 pounds. Permit requests for gross vehicle weights exceeding 232,000 pounds require detailed information, and inquiries should be directed to the truck permit office well in advance of the movement. Since railroads and navigable waterways are adequate for the movement of loads in excess of 232,000 pounds, these facilities must be used instead of highways, except for the hauling necessary to move a load from its origin to the nearest railway or waterway and/or to move a load from the railway or waterway to its destination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§307. Permit Axle Weight Distribution [Formerly §713]**

A. If a tandem, tridum, quadrum, or quint axle group is permitted for a weight which is less than or equal to the legal axle weight, then the axle must comply with the legal axle weight distribution. If the axle group is permitted for a weight which exceeds the legal axle weight, then the axle must comply with the following.

1. Tandem axles on vehicles with permits are properly distributed if neither of the individual axles carries more than 60 percent or less than 40 percent of the total tandem weight shown on the permit.

2. Tridum axles on vehicles with permits are properly distributed if none of the individual axles carries more than 40 percent or less than 25 percent of the total tridum weight shown on the permit.

3. Quadrum axles on vehicles with permits are properly distributed if none of the individual axles carries more than 30 percent or less than 20 percent of the total quadrum weight shown on the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§311. Obtaining Permits [Formerly §307]**

A. There are five ways to obtain permits.

1. Walk-In Service. Permits may be purchased by appearing in person at the truck permit office in Baton Rouge. All information required on a permit form must be furnished at this time.

2. Mail

a. Applications for permits which are mailed must include all the information required on a permit form before the permit can be issued.

b. The application must be accompanied by an accepted form of payment.

c. The permit which is sent by return mail to the permittee must be carried at all times in the vehicle for which it was issued.

3. Wire Service

a. These companies will charge a permittee the Louisiana permit fee established by law and a service charge approved by the department.

b. All information required on a permit form must be provided by a phone call to the truck permit office or online before the permit will be issued.

4. Charge Accounts

a. A surety bond or an irrevocable letter of credit must be posted with the truck permit office to establish a permit charge account. The insurance agency must execute

the bond in the minimum amount of \$1,000 or in increments of \$1,000 to an amount equal to or exceeding the customer's monthly billing.

b. It is required that the original of the bond, a power of attorney for the principal, and a power of attorney for the insurance company be furnished to the truck permit office.

c. Customers who fail to pay the full invoice amount on a charge account within 30 days of the billing date may have further charging privileges revoked, and the department may revoke their charge account bond.

d. A control number permit form can be activated by filling it out completely in ink and then by either placing a telephone call to the truck permit office or submitting it online. The form is not valid without the permit number which is supplied by the DOTD permit issuing official at the time of activation.

e. Facsimile copies of valid charge account permits will be acceptable provided the copies are legible. The department reserves the right to refuse and/or discontinue the acceptance of facsimile copies.

#### 5. Prepaid Permits

a. Prepaid permit forms may be purchased for \$10 each at the truck permit office or by mail. These forms are for customers who do not have a charge account, but wish to purchase forms in advance of their use.

b. Prepaid permit forms can only be used for oversize permits and are valid for a single trip, if the trip lasts less than one day, and for a single day, if the trip lasts more than one day.

c. A prepaid permit form is activated by filling it out completely, and then by either placing a telephone call to the truck permit office or submitting it online. The form is not valid without the permit number which is supplied by the DOTD permit issuing official at the time of activation.

d. A blank oversize prepaid permit form shall be validated within 12 months from the date of purchase.

e. Facsimile copies of valid oversize prepaid permits will be acceptable provided the copies are legible. The department reserves the right to refuse and/or discontinue the acceptance of facsimile copies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:38 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§313. Permit Restrictions** **[Formerly §309]**

#### A. Enforcing Permit Restrictions

1. The truck permit office may place additional restrictions on a permit.

2. The Weight and Standards Stationary Scale Police Force officer shall see that all restrictions shown on the permit have been followed before a vehicle is allowed to proceed.

3. If an officer suspects that a normal restriction has been omitted from the permit (for example, a load 100 feet long without an escort), the truck permit office shall correct the permit. No violation report shall be issued for restrictions which were overlooked by the permit office; however, the

vehicle shall be delayed until necessary restrictions have been met.

4. The assistant district administrator of operations must approve all movements over 18 feet high and/or exceed 232,000 pounds. This may be done by a letter which grants permission for the movement or by sending a representative from the district office to escort the movement. Either the letter or the representative must be present before the movement can proceed.

#### B. Interstate Movement

1. Vehicles and loads with forest product permits, forest management equipment permits, oil field equipment permits, and steering axle permits are prohibited from moving on interstate highways.

2. Vehicles and loads over 16 feet wide require approval to move on interstate highways.

#### C. Night, Inclement Weather, and Holiday Movement

1. Most vehicles and loads requiring a permit will be prohibited from moving at night, in severe weather, and on certain designated holidays by the truck permit office.

2. Vehicles requiring oversize permits shall not be allowed to cross the Mississippi River Bridges in Baton Rouge nor New Orleans from 6:30 to 9 a.m. and from 3:30 to 6 p.m. Except in cases of emergencies, these vehicles may not be parked within 75 feet of the highway if they are within 2 miles of the bridges. Vehicles with valid utility vehicle permits are exempt from these restrictions if they are being operated by a public utility.

3. The following vehicles and loads may travel on holidays or at night:

a. vehicles with valid waste vehicle permits, steering axles permits, harvest season permits, utility vehicle permits, and oil field equipment permits;

b. vehicles with valid oversize and overweight permits:

i. if the load does not project beyond the boundaries of the vehicle;

ii. if the width of the vehicle and load does not exceed 8 feet 6 inches;

iii. if the height of the vehicle and load does not exceed 14 feet, 4 inches; and

iv. if the weight of the vehicle and load does not exceed 120,000 pounds.

4. The following vehicles and loads may travel on holidays, shall not travel at night:

a. vehicles with valid forest product permits or forest management equipment permits;

b. vehicles with valid oversize permits which are transporting pipe loaded across the vehicle (rather than lengthwise) and which do not exceed 8 feet, 8 inches in width (including the pipe).

5. Severe Weather. Vehicles and loads requiring a permit are prohibited from traveling during weather which is physically severe, such as extremely heavy rain, heavy fog, icy road conditions, heavy snow, or any continuous condition which creates low visibility for drivers or hazardous driving conditions. However, vehicles with valid utility vehicle permits may travel in severe weather.

6. Moderate Weather. In general, the following vehicles and loads are permitted by the truck permit office from traveling during moderate weather:

a. vehicles with valid forest product permits, forest management equipment permits, utility vehicle permits, waste disposal permits, steering axle permits, harvest season permits, and oil field equipment permits;

b. vehicles with valid oversize and overweight permits:

i. if the load does not project beyond the boundaries of the vehicle;

ii. if the width of the vehicle and load does not exceed 8 feet;

iii. if the height of the vehicle and load does not exceed 14 feet, 4 inches; and

iv. if the weight of the vehicle and load does not exceed 120,000 pounds;

c. vehicles with valid oversize permits which are transporting pipe loaded across the vehicle (rather than lengthwise) and which do not exceed 8 feet, 8 inches in width (including pipe).

7. Mild Weather. Wet pavement, light drizzle, and wind are not considered inclement weather for the purposes of permit movement. Vehicles and loads requiring a permit may travel during these milder weather conditions unless the movement would create a traffic hazard; for example, movement of a load 14 feet wide during rain or movement of mobile homes in wind.

8. If a vehicle that has been prohibited from moving in moderate or severe weather is underway when such weather occurs, the vehicle is required to proceed to a safe place off the roadway and park until the weather clears. During inclement weather officers at stationary scales locations shall delay such vehicles until the weather clears. Officers on mobile units shall escort such vehicles to a safe place for parking until the weather clears. If the vehicle is observed traveling after being directed to stop, a violation report shall be issued.

#### D. Red Warning Flags

1. In general, flags are required on vehicles and loads which exceed the legal width. There must be flags at the following points.

a. Four flags, two on the front edges and two on the rear edges, must be attached at the widest points on the part of the vehicle or load which exceeds the legal width.

b. If a load projects only to one side of a vehicle of legal width, one flag on the front edge of the load and one flag on the rear edge of the load will be sufficient.

c. If a projecting load does not exceed 3 feet from front to back, one flag on each side will be sufficient.

d. Flags must be attached on any other portion of the vehicle which is wider than the flagged front or rear edges.

2. Generally, red flags are also required on vehicles and loads which exceed the legal length or which have rear end overhang of more than 4 feet. However, if the overhang clears the pavement by 6 feet or more, red flags are not required. There must be flags at the following points.

a. If the overlength or projecting portion is 2 feet wide or less, one flag must be located at the extreme rear end of the load.

b. If the overlength or projection portion is wider than 2 feet, two flags at the extreme rear end of the load must be located to indicate maximum width.

3. All warning flags must be red and at least 18 inches square. Flags must either be securely fastened by at least one corner or securely mounted on a staff which keeps the flag upright.

#### E. Warning Signs

1. Vehicles and loads exceeding 10 feet in width must display two signs with the wording "OVERSIZE LOAD." One sign must be on the front of the vehicle. The other must be on the rear of the load; however, if the sign cannot be attached or clearly read in this position, then the sign must be on the rear of the vehicle itself.

2. Vehicles and loads exceeding 75 feet in length or the legal rear end overhang must display two signs with the wording "OVERSIZE LOAD." These signs must be on the sides of the overhanging part of the load; however, if the signs cannot be attached or clearly read in this position, then the signs must be on the sides of the vehicle. If the rear end overhang clears the pavement by 6 feet or more, no sign is required on the overhang.

3. Vehicles and loads exceeding the legal front end overhang must display one sign with the wording "OVERSIZE LOAD." This sign must be on the front of the vehicle. If the overhang clears the pavement by 6 feet or more, no sign is required.

4. All warning signs must be at least 7 feet long and 18 inches high. The background must be yellow and the lettering black. Letters must be at least 10 inches high with a 1 5/8 inch brush stroke.

#### F. Warning Lights

1. Lights are required at night and during inclement weather on vehicles and loads which exceed the legal width, in the following places.

a. Two amber lights must be attached at the widest points on the front edges of the overwidth part of the vehicle or load, and these lights must be visible from both the front and the side.

b. Two red lights must be attached at the widest points on the rear edges of the overwidth part of the vehicle or load and these lights must be visible from both the rear and the side.

c. An amber light must be attached on any part of the vehicle or load which is wider than the front or rear edges, and this light must be visible from the front, side and rear.

d. A single light on each side, visible from the front, side, and rear, may be used if the overwidth part of the vehicle or load does not exceed 3 feet from front to back. If the overwidth part is at or near the front of the vehicle, this light must be amber. If the overwidth part is at or near the rear of the vehicle, this light must be red.

2. Lights are required at night and during inclement weather on vehicles and loads which are overlength or have rear end overhangs of more than 4 feet, in the following places.

a. Two red lights, one on each side, must be visible from the side and indicate the extreme rear of the vehicle or load.

b. Two red lights, one on each side, and two red reflectors, one on each side, must be visible from the rear, must be located on the rear of the vehicle or load, and must indicate maximum width of the overlength or projecting

part. However, if the overlength or projecting part is 2 feet wide or less, one red light and one red reflector are sufficient.

3. Two or more lights may be combined if the resulting light still conforms to the requirements and its effectiveness is not reduced by the combinations.

4. All lights must be of types approved by state and federal law.

G. Speed Limits. Permit movements are limited to 55 miles per hour unless otherwise noted on the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:38 (February 1979), amended LR 18:508 (May 1992), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§315. Statewide—Loads Exceeding 16 Feet 5 Inches in Height**  
**[Formerly §716]**

A. All loads exceeding 16 feet 5 inches in height that are moving on state highways are required to notify the DOTD district office where the move originates. A district authorization number must be obtained from the district office, as well as all other subsequent district(s) that the load will travel through before application for an oversize/overweight permit is made along with notifying truck permits 48 hours in advance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§317. Loads Exceeding 18 Feet in Height**

A. Loads that exceed 18 feet in height must contact the DOTD district office where the move originates for procedures to be followed before a permit will be issued by the truck permit office.

B. The following procedures must be followed before final approval is given and the truck permit office notified that the oversize/overweight permit can be issued.

1. Utility companies and DOTD will not charge trucking companies for any adjustments required to move lines that are below the height approved by the department at the time of their installation. Old utility lines may be set at a lower vertical clearance than currently required, and in these cases the requirement at the time the line was installed will govern. In instances where the load being moved exceeds the required vertical clearance, the vehicle will be required to pay in advance for any adjustments or removal that is required.

2. If an estimate of cost is desired prior to movement, it will be necessary for DOTD and the utility companies to be given four working days notice, unless unusual conditions are involved, in order to have sufficient time to survey the route and prepare the estimate.

3. When proper notice is given, DOTD and the utility companies will not charge the trucker for checking the route and preparing a cost estimate. Only one free estimate will be given for each route approval requested.

4. Each cost estimate and final billing will be itemized. Escort fees will be shown as a separate charge on the itemized bill.

5. When moving loads over 18 feet in height, the trucker is to contact the district maintenance engineer requesting a district authorization number. The district maintenance engineer will maintain a list of contacts with each utility company having lines crossing the proposed route. The mover is to call each company, give them the district authorization number, and request clearance to move. When the utility company has completed its investigation of the route involved, it will call both the company requesting clearance and the district maintenance engineer and give their approval. When all the companies involved have given their approval, the district maintenance engineer will call the truck permit office giving the company name and authorization number signifying that all the proper approvals have been received. The truck permit office will issue the permit to use the state highways only after a call has been received from the district maintenance engineer or his representative.

6. At no time, unless unusual conditions are involved, such as the physical relocation of lines or emergencies, will the movement of any load be delayed more than seven days from the point of their first contact by the mover.

7. Utility companies will provide all District's Utility Specialist with the names of one authorized representative and one alternate who can approve routes for their companies.

8. The present procedure involving loads that exceed 18 feet in width will still apply even though the height is 18 feet or less.

9. If any trucker fails to follow the adopted procedures by falsifying dimensions to circumvent these procedures, the trucker will be fined if caught, and continual disregard of the policies may result in their being denied permits to move.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 48:

**§319. Loads Exceeding 18 Feet in Width**  
**[Formerly 715]**

A. The permission of parish and municipal authorities, utility companies, and private property owners may be secured before requesting a permit from the state.

B. Proper protection at railroad crossings must be secured by giving notice to the nearest station agent of the railroad, with a reasonable time allowed for preparation before the movement begins.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§321. Checking Permits**  
**[Formerly §311]**

A. General Procedures

1. A permit must be carried with the vehicle for which it was issued at all times. Any vehicle requiring a permit which does not have a permit with it shall be fined. A permit

may be carried in an escort vehicle as long as the escort vehicle is not separated from the vehicle requiring the permit.

a. Oversize permits are issued at \$10 per trip if the trip lasts less than one day and \$10 per day if the trip lasts more than one day. Vehicles observed making more than one trip per day with an oversize permit have an invalid permit for the second trip. Anytime the prepaid permit form is used, the permit is valid for only one day and one trip except mobile homes.

b. Monthly oversize permits are issued for Monday through Friday only, Monday through Saturday only, or for every day of the week. Holidays may be excluded. The monthly oversize permit may be used for more than one trip per day.

c. Overweight permits are issued for one trip. The number of days allowed for the trip will be indicated by the "date movement begins" and "date movement ends."

d. Waste vehicle permits, steering axle permits, forest product permits, and forest management equipment permits, which are issued for a year, must have a valid "expiration date."

e. Harvest season permits, which are issued for a year, must have a valid "expiration date."

f. Oil field equipment permits are issued for a month and must have a valid "expiration date."

2. The number of axles noted on the permit shall be compared to the number and type (tandem, etc.) on the vehicle. The axle weights and the gross vehicle weight on the permit shall be matched against the weights shown on the scales. The scale weights must be equal to or lower than the weights on the permit.

a. Prepaid permit forms may not be used for overweight loads.

b. Permits on regular forms, transmitted forms, and control forms that are for overweight are also valid for oversize if the dimensions are shown on the permit. This does not apply to waste vehicle permits or harvest season permits, which have been limited to vehicles and loads which are only overweight.

c. If the gross vehicle weight is under the weight shown on the permit, vehicles with harvest season permits shall be allowed a 500-pound variance on each single axle or axle group (tandem, tridum, quadrum, quint).

d. No load may be carried by vehicles with oil field equipment permits or by rig-up trucks with steering axle permits.

3. All dimensions on the vehicle or load (width, height, length, front and rear overhang) must be equal to or less than the dimensions listed on the permit.

4. The movement shall also be compared to the "restrictions" and "remarks" sections of the permit:

- a. night movement;
- b. inclement weather movement;
- c. holiday movement;
- d. warning flags;
- e. warning lights;
- f. warning signs;
- g. speed;
- h. escorts; and
- i. any other limitations added to the permit by the truck permit office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:40 (February 1979), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§323. Permit Violations**

#### **[Formerly §313]**

##### **A. General Procedures**

1. If a vehicle or load requires a permit and is operating without a valid permit or violating conditions of a permit, the officer shall issue a violation report for the violation that results in the greatest fine.

2. The axle variance on non-interstate highways shall be allowed for vehicles with oversize permits. Vehicles with overweight permits which have exceeded their permitted axle weight shall not be allowed any additional axle variance. However, vehicles with harvest season permits shall be allowed a 500-pound variance on each single axle or axle group (tandem, tridum, quadrum, or quint) if the gross vehicle weight is under the weight shown on the permit.

3. Drivers will not be given the opportunity to shift the load to reduce or eliminate oversize and overweight penalties.

4. Indivisible vehicles or indivisible loads exceeding the legal limitations without a permit or violating the restrictions of a permit will be issued a notice of violation.

5. No axle variance will be allowed for vehicles which exceed their permitted axle weight.

6. Penalties will be due immediately upon receipt of the notice of violation.

7. In case of multiple violations of size, weight and permits, the penalty assessed will be for the violation which gives the greatest penalty. However, multiple weight violations are susceptible to additional penalties.

##### **B. Handling Permit Violations**

1. No Permit, Oversize. If an indivisible vehicle or indivisible load exceeds the legal limitations or department regulations for width, height, length, or projecting loads and is operating without a valid permit when one is required the officer shall issue a violation report and assess a penalty of \$100.

2. No Permit, Overweight. If an indivisible vehicle or indivisible load exceeds the legal limitations or department regulations for axle weight or gross vehicle weight and is operating without a valid permit when one is required, a penalty shall be assessed from the overweight penalty chart referenced in this document. The fine must be based on either the number of pounds over legal gross weight or on the number of pounds over legal axle weight or on the number of pounds over legal axle weight on all overweight axles, whichever results in the greater fine.

3. With Permit, Oversize. If an indivisible vehicle or indivisible load exceeds the width, height, length, front end overhang, or rear end overhang allowed by a valid permit the officer shall issue a violation report and assess a fine of \$100.

##### **4. With Permit, Over Axle Weight Only**

a. If an indivisible vehicle or indivisible load exceeds the axle weight, but not the gross vehicle weight, allowed by a valid permit, then no ticket shall be issued

(except for harvest season permits, waste disposal truck permits, and steering axle permits).

b. If a vehicle or combination vehicle has a harvest season permit, waste vehicle permit, or steering axle permit, and exceeds the axle weight but not the gross vehicle weight allowed by a valid permit, then the officer shall issue a violation report and assess a penalty from the overweight penalty schedule contained in this document. The fine shall be based on all pounds in excess of the permit's axle weight.

5. With Permit, Over Gross and Axle Weights

a. If an indivisible vehicle or indivisible load exceeds both the axle weight and the gross vehicle weight allowed by a valid permit (except for harvest season permits, waste vehicle permits, and steering axle permits), the officer shall issue a violation report and assess a penalty on all pounds in excess of the permit's gross weight from the chart for assessing penalty for violation of weight limitations stated on an overweight permit. The permit fee charged shall be only for the difference between the fee already paid and the correct permit fee.

b. If a vehicle or combination vehicle has a harvest season permit, waste vehicle permit, or steering axle permit and exceeds both the axle weight and the gross vehicle weight allowed by a valid permit, the officer shall issue a violation report for the greater of the penalties from the chart on all pounds in excess of the permit's gross vehicle weight or a penalty from the overweight penalty schedule on all pounds in excess of the permit's axle weights, both of which charts are contained in this document.

6. Permit Restriction Violations

a. When restrictions have been written on a permit or when the truck permit office confirms that their master copy shows permit restrictions, then the officer shall issue a violation report and assess a fine of \$100. This procedure applies to vehicles operating without an escort; traveling on interstate highways, at night, during inclement weather, or on designated holidays; or violating any other permit restrictions except operating without red flags, warning signs, or warning lights.

b. When the above restrictions are not written on a permit and were overlooked or omitted by the truck permit office, no violation report shall be issued. The vehicle shall, however, be delayed until any restrictions required by the truck permit office have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:41 (February 1979), amended by the Office of Weights Measures and Standards, LR 20:463 (April 1994), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§325. Payment of Violation Penalties**  
**[Formerly §113]**

A. The following may be accepted as forms of payment of penalties: certified or cashier's checks or money orders made payable to Louisiana Department of Transportation and Development, or accepted credit card. Personal or company checks shall not be accepted, unless the violator has a posted bond. Payment of fines shall be made immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:34 (February 1979), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 5. Legal Limitations for Size and Weight**  
**§501. Definitions**

*Axle Group*—a combination of two or more consecutive axles considered together in determining their combined load effect on a highway (as tandem, tridum, or quadrum axle groups).

*Axle with Single-Mounted Tires*—any single or individual axle which is composed of one tire on each side of the vehicle (as opposed to dual-mounting).

*Department*—Louisiana Department of Transportation and Development (DOTD).

*Designated Truck Routes*—highways designated by the secretary of the department in accordance with the Surface Transportation Assistance Act of 1982 that includes provisions for truck-semi trailer-trailer combinations and maximum vehicle width of 8 feet 6 inches.

*Domicile*—the fixed, permanent, and principal residence for legal purposes.

*Dromedary Unit*—a load carrying compartment on a truck-tractor located between the cab and fifth wheel.

*Dummy Axle*—a single axle attached independently to the frame of a vehicle and so designed and placed as to indicate the appearance of and to carry a uniformly distributed load of a normal axle group.

*Envelope Vehicle*—a truck tractor/semitrailer combination or truck tractor manufactured housing combination that does not exceed the size and weight limits specified by the multi-state permit agreement.

*Gross Weight*—the weight of a vehicle and/or combination vehicle plus the weight of any load thereon.

*Individual Axle*—any of the two, three, or four axles which make up the tandem, tridum, or quadrum axle groups.

*Interstate Hauling*—vehicle movement between or through two or more jurisdictions.

*Intrastate Hauling*—movement of a vehicle from one point within a jurisdiction to another point within the same jurisdiction, regardless of routes traversed.

*Length*—the total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear and includes load-holding devices thereon.

*Mobile Home*—

1. a trailer or semi-trailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on highways; or

2. a trailer or semi-trailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Paragraph 1, but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

*Multi-State Permit Agreement*—an agreement entered into with other states who have established an envelope vehicle that can be permitted for travel by the use of one common

permit form through all member states that are a part of this consortium.

*Quadrum Axle*—any four consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A quadrum axle must be designed to equalize the load between the axles.

*Quint Axle*—any five consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. Quint axle must be designed to equalize the load between the axles.

*Semi-Trailer*—any single vehicle without motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load-carrying axles.

*Single Axle*—any single axle or any assembly of two or more axles whose centers are less than 40 inches apart.

*Stinger-Steered Combination*—a truck-tractor semi-trailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axles of the power unit.

*Tandem Axle*—any two consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tandem axle must be designed to equalize the load between the axles.

*Trailer*—any single vehicle without motive power designed for carrying property or passengers wholly on its own structure, drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels and having two or more load carrying axles.

*Tridum Axle*—any three consecutive axles whose centers are 40 or more inches but not more than 96 inches apart. A tridum axle must be designed to equalize the load between axles.

*Variable Load Suspension Axles*—axles which can be regulated by the driver of the vehicle either through the use of an in-cab valve or switch or by turning a valve on the outside of the truck. These axles are controlled by hydraulic and air suspension systems, mechanically, or by a combination of these methods.

*Vehicle*—any device by which a person or things may be transported upon a public highway or bridge. A trailer or semi-trailer shall be a separate vehicle.

*Width*—the total outside transverse dimension of a vehicle including any load or load holding devices thereon, but, excluding approved safety devices and tire bulge due to load.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:410 (August 1981), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§503. Legal Limitations**

#### **A. Weights**

1. The maximum legal axle weights on interstate highways are:

- a. single axles—20,000 pounds;
- b. tandem axles—34,000 pounds;
- c. tridem axles—42,000 pounds;

d. quadrum axles—50,000 pounds.

2.a. Axle variances of 2,000 pounds for single axles and 3,000 pounds for tandem, tridum, quadrum and Quint Axles are allowed on non-interstate highways. Therefore, the maximum legal weights on non-interstate highways are:

- i. single axles—22,000 pounds;
- ii. tandem axles—37,000 pounds;
- iii. tridum axles—45,000 pounds;
- iv. quadrum axles—53,000 pounds.
- v. Quint Axles—61,000 pounds

b. Exception. Weight limits for vehicles with tandem axles carrying forest products in their natural state shall be 40,000 pounds.

3. The maximum legal weight on a tire is 650 pounds per inch width of tire.

4. The sum of the legal axle weights on a vehicle or combination vehicle is its legal gross weight. But regardless of the number and type of axles, the maximum legal gross weight of any vehicle or combination vehicle (except a combination with a tridum or quadrum axle) is 80,000 pounds.

5. Regardless of the number and type of axles, the maximum legal gross weight of any combination vehicle which has a tridum or quadrum axle is 83,400 pounds interstate highways, 88,000 pounds non-interstate highways.

6. Vehicles may not exceed their licensed gross weight. Maximum licensed gross weight is equal to the maximum legal gross weight.

#### **B. Bridge Formula**

1.a. The vehicle weight limitations set forth in 23 U.S.C. 127 and in R.S. 32:386 applies to all vehicles except:

- i. Type 6 (five axle configurations with one single axle and two sets of tandem axles) carrying one of the commodities listed in §503.B.2.b;
- ii. Type 8 (six axle configuration with one single axle, and one tridum axle) carrying one of the commodities listed in §503.B.2.b;
- iii. Type 10 (double-bottom) carrying one of the commodities listed in §503.B.2.b.

b. The above types of vehicles must be carrying the following commodities in their bulk or natural state:

- i. forest products;
- ii. sand;
- iii. gravel;
- iv. agriculture products; or
- v. lumber.

#### **C. Width**

1. The maximum width of any vehicle except a bus is 96 inches.

2. Vehicles between 96-102 inches shall have reasonable access, not to exceed 10 miles, from designated highways or the interstate system, to be allowed to facilities for food, fuel, repairs, and rest, unless otherwise prohibited.

3. The maximum legal width of a bus is 8 feet 6 inches.

4. The load on any vehicle shall not project more than 12 inches beyond the width of its body. The overall width of vehicle and load shall not exceed the legal dimensions as described above.

D. Height. The maximum legal height of a vehicle is 13 feet 6 inches on non-interstate highways and 14 feet on interstate.



#### E. Length

1. The maximum legal length of any single vehicle is 40 feet.
2. The maximum legal length of a combination vehicle on highways other than the designated truck route shall be 65 feet.
3. The maximum legal length of a semi-trailer on the designated truck route shall be 59 feet 6 inches.
4. The maximum legal length of any trailer, semi-trailer portion of a combination vehicle shall not exceed 30 feet.
5. Semi-trailer or trailer components that exceed 30 feet (exclusive of all legal overhang) must obtain an oversize permit, but are restricted to designated truck routes.
6. Exception. The maximum legal combination length of specialized equipment (i.e., auto transporters, boat transporters, dromedary units) is 90 feet.
7. Exception. The maximum legal length of the load carried by a combination vehicle transporting forest products in their natural or treated state is 65 feet plus 1 foot additional tolerance in length. However, these vehicles may operate only during daylight hours and must display a 1 foot square red flag on the rear of the load.
8. Exception. Sportsmen coaches or vehicles used solely for recreational purposes and registered therefore, may tow a combination of no more than two vehicles and shall not exceed 70 feet in total length.

#### F. Projecting Loads

1. Equipment that is permanently attached to and cannot be readily removed from a vehicle is not considered a load if the vehicle meets state safety standards and is licensed for use on state highways, and if any projection beyond the vehicle is at least 6 feet above the surface of the highways.
2. A vehicle or combination vehicle with a projecting load cannot exceed the total length limitations for that vehicle or combination vehicle. In addition:
  - a. a load cannot project more than 4 feet beyond the front of a single vehicle or 4 feet in front of the foremost vehicle of a combination vehicle;
  - b. a load cannot project more than 8 feet beyond the rear of the bed or body of a single vehicle or the rear vehicle of a combination vehicle.
3. Exception. The load on the rear vehicle of a combination vehicle transporting forest products in their natural state cannot project more than 20 feet beyond the rear of the bed or the back of the rear tire of the vehicle, whichever is further from the cab, and the load must clear the pavement by at least 2 feet. When the rear projection is more than 15 feet, the vehicle may operate only during daylight hours and must display a red flag at least 1 foot square on the rear of the projection.
4. Exception. Vehicles transporting poles or piling cannot project more than 15 feet and must clear the pavement by at least 2 feet.

#### G. Twin Trailer Combinations

1. A combination vehicle cannot consist of more than two vehicles.
  - a. Exceptions:
    - i. combinations of a truck-tractor and two trailers;
    - ii. truck-tractor and two semi-trailers; or

#### iii. truck-tractor, semi-trailer, and trailer.

2. These twin trailer combinations are subject to route limitations.
  - a. They may operate only over the interstate system and the designated truck routes within a reasonable access of 10 miles.
  3. Household goods carriers shall have unrestricted access for loading and unloading purposes only, unless otherwise prohibited.
  4. No combination vehicle operated on any parish road shall consist of more than two vehicles.

#### a. Exceptions

- i. A vehicle having no more than two axles may tow any combination of two vehicles, provided the combination vehicle does not exceed 65 feet.
- ii. A vehicle having no more than two axles and owned and/or operated by a manufacturer or dealer of boats may tow two boat trailers.

#### H. Trailers and Towed Vehicles

1. Drawbars and other connections must be strong enough to pull all the towed weight and cannot exceed 15 feet between vehicles.
2. Exception. The connection between any two vehicles transporting poles, pipe, machinery, or other objects of a structural nature which cannot be readily dismembered may exceed 15 feet.
3. If the connection between a vehicle and a towed vehicle is a chain, rope, or cable, then a red flag, at least 1 foot square, must be displayed on the connection between sunrise and sunset, and a red light visible under ordinary atmospheric conditions for at least 500 feet must be displayed on the connection between sunset and sunrise.
4. Exception. Truck-tractors being transported by the triple saddle mount method.

- a. The combination vehicle must be equipped with the necessary lights and signals in accordance with state and federal laws and regulations.

- b. The rear wheels of the second, third, and fourth truck-tractors must be equipped with adequate splash guards or mud flaps.

#### I. Farm Vehicles and Equipment

1. Farm vehicles and equipment, except draglines and bulldozers, being operated and/or transported for bona fide agricultural purposes or the transportation of farm vehicles and equipment to be used for normal farm purposes by persons transporting such farm equipment or machinery for distances not to exceed 50 miles from the point of origin shall be exempt from the requirements for width, height, length, and for trailers and towed vehicles.

2. Such farm vehicles may use any public highways other than those designated as part of the National System of Interstate and Defense Highways during daylight hours without obtaining a special permit from the secretary, or from any other agency or department of the state or political subdivisions, provided that such machinery or equipment being shipped by persons to be used for normal farm purposes shall be equipped with front and rear reflector lights and with a blinking hazard light clearly visible from the front and rear.

#### J. Care of Vehicle Load

1. The load on a vehicle cannot drop, leak, or otherwise escape from the vehicle. The load must be

securely fastened so as to prevent the load or any covering from becoming loose, detached, or in any manner a hazard to other users of the highway.

2. Any load of loose material as defined above being transported by a commercial hauler shall be covered in such a manner as to prevent the load from blowing, spilling, or dropping from the vehicle.

a. Loose Material shall include the following: dirt, sand, gravel, or other material that is capable of blowing or spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather, but shall not include agricultural products in their natural state or wood chips.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 7:410 (August 1981), amended LR 9:254 (April 1983), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§505. Department Regulations [Formerly §504]**

#### **A. Posted Bridges**

1. Violation reports will be issued for vehicles crossing bridges posted with regulatory weight limit signs that are in excess of the posted limit.

2. If a vehicle or combination vehicle is observed crossing a bridge which has regulatory weight limits and the vehicle or combination vehicle exceeds the posted weight limit on the bridge, a \$100 penalty will be assessed.

3. Neither the state of Louisiana nor the Department of Transportation and Development shall incur any liability from any injury or property damage caused by the crossing of a posted bridge with a load in excess of posted advisory or regulatory weight limits.

B. Axle Weight Distribution. The law requires reasonable distribution of axle weight on tandem, tridum, quadrum, and quint axle groups. Those vehicles and loads with permits that exceed the legal axle weight must comply with the axle weight distribution as herein in §711. All other vehicles and loads must comply with the following.

#### **1. Tandem Axles**

a. On interstate highways a tandem axle group is properly distributed if neither of the individual axles carries more than 20,000 pounds.

b. On non-interstate highways a tandem axle group is properly distributed if neither of the individual axles carries more than 21,500 pounds.

#### **2. Tridum Axles**

a. On interstate highways a tridum axle group is properly distributed if none of the individual axles carries more than 16,000 pounds.

b. On non-interstate highways a tridum axle group is properly distributed if none of the individual axles carries more than 17,000 pounds.

#### **3. Quadrum Axles**

a. On interstate highways a quadrum axle group is properly distributed if none of the individual axles carries more than 14,500 pounds.

b. On non-interstate highways a quadrum axle group is properly distributed if none of the individual axles carries more than 15,500 pounds.

#### **4. Quint Axles**

a. On interstate highways a quint axle group is properly distributed if none of the individual axles carries more than 13,600 pounds.

b. On non-interstate highways a quint axle group is properly distributed if none of the individual axles carries more than 14,200 pounds.

C. Variable Load Suspension Axles. When "Variable Load Suspension" axles are used they must provide for reasonable distribution of axle weight as described in the previous §504.B.1-4. In addition, the regulator that controls the pressure for these axles must be outside the cab. The only control that may be in the cab is that necessary to activate mechanism. The suspension used by these axles may be either hydraulic, air or a combination thereof.

D. Treated Utility Poles. All vehicles or combination vehicles utilizing a balance type utility trailer or a fifth-wheel type utility trailer engaged in the transportation of treated utility poles do not need a special permit for the transportation of utility poles by a utility, its representative, or its contractor for use in the normal operation of its facilities to provide service to the area it serves. No load consisting of such poles shall extend more than 35 feet past the rear of the vehicle and must maintain a minimum clearance of 1 1/2 feet above the ground. All escort requirements will apply for loads exceeding 90 feet in overall length.

E. Tunnels. Hazardous material, flammable material, combustible material, oversize and/or overweight permit loads are specifically prohibited from using any tunnel in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

## **Chapter 7. Laws and Regulations Enforced with Other Agencies**

### **§701. Vehicle Registration and Licensing [Formerly §901]**

#### **A. General Information**

1. Commercial vehicle owners who need license plates which are full-plated for Louisiana and noncommercial vehicle owners may obtain license plates at any district office of the Vehicle Registration Bureau (of the Office of Motor Vehicles, Department of Public Safety). If additional detailed information is needed, it may be obtained from the Title Support and Information Section, Vehicle Registration Bureau, Department of Public Safety, Box 64886, Baton Rouge, LA 70896; (225) 925-6278.

2. Commercial vehicle owners who need license plates which are apportioned for other states may obtain applications for apportioned plates at any district office of the Vehicle Registration Bureau of the Office of Motor Vehicles, Department of Public Safety. Applications must be mailed to Baton Rouge, and additional information can be obtained from the Prorate Section, Vehicle Registration Bureau, Department of Public Safety, Box 64886, Baton Rouge, LA 70896; (225) 925-6270.

3. Common and contract carriers must purchase CCT plates; however, they must first be licensed with the Louisiana Public Service Commission.

4. The following vehicles are exempt from vehicle registration and licensing:

a. farm tractors, self-propelled farm equipment, and two-and four-wheeled, rubber-tired farm wagons or trailers of up to 2-ton capacity if the vehicles are used only in farming;

b. trackless trolley coaches, buses or passenger coaches or passenger carrying trailers or semi-trailers which are operated only within the corporate limits of a municipality, of two adjoining municipalities or up to 1/2 mile from the corporate limits;

c. oversize or overweight self-propelled motor cranes used only for heavy construction by the building and utility industries;

d. oversize or overweight self-propelled oil well or gas well pulling units used only for servicing oil or gas wells on off-road property;

e. road rollers and road machinery only temporarily moved on highways;

f. log loaders used only for loading logs.

5. A vehicle must have Louisiana plates or Louisiana apportioned plates if the residence or employment or the owner or lessee is in Louisiana.

6. Nonresidents regularly employed or regularly operating a business in Louisiana for 30 days or more must obtain Louisiana plates or plates apportioned for Louisiana on all vehicles used or based in Louisiana unless the vehicles are being operated under reciprocal agreements between Louisiana and the nonresident's home state.

7. All commercial trucks and all trucks licensed for more than 3,500 pounds must have the owner's name and address on the outside of both truck doors.

8. Louisiana license plates must be attached to the front of a vehicle. The plate may not swing and must be clearly readable, and the bottom of the plate must be at least 12 inches from the ground.

9. The registration certificate issued to a vehicle must at all times be carried in the vehicle and be subject to inspection by a state police officer, weights and standards police officer, or Department of Public Safety motor vehicle enforcement officer.

#### 10. Mobile Homes

a. A mobile home being moved from a point of origin in Louisiana or any other point, whether in Louisiana or out-of-state, must have a valid Louisiana registration certificate.

b. Mobile homes traveling to or through Louisiana are exempt from Louisiana registration if they are properly registered in their home state.

c. Mobile homes being delivered by manufacturers to dealers are not required to be licensed, but an "in transit" sign must be displayed on the mobile homes.

#### B. Louisiana Plates

1. Louisiana issues six classes of license plates for trucks, tandem trucks, truck-tractors, semi-trailers, and trailers.

a. Class 1. Those carrying or transporting freight, merchandise, or other property exclusively for their owners or used to transport actual employees of the owner of such

vehicle, except those included in Class 5 in §901.B.1.e, shall be Class 1.

b. Class 2. Those carrying or transporting passengers, freight, merchandise, or other property as common or contract carriers, including trackless street or trolley cars and excepting only those vehicles owned or operated by any person engaged in the business of operating upon rails or upon stationary tracks and operated thereon, except those included in Class 5 in §901.B.1.e, shall be in Class 2.

c. Class 3. Those carrying and transporting products of the forest in their natural state, including, but not limited to logs, debarked logs, untreated ties, stave bolts, plywood bolts, pulpwood billets, wood chips, stumps, sawdust, moss, bark and wood shavings, and property used in the production thereof, including bulldozers which do not exceed 8 feet in width, and used to transport actual employees of the owner of such vehicle to and from the place of employment, and those carrying and transporting sugarcane which are not in Class 6, shall be Class 3.

d. Class 4. Those used exclusively in carrying and transporting gravel shall be Class 4.

#### e. Class 5

i. Those operated exclusively within the corporate limits of the incorporated city, town, or village in which said vehicle was domiciled at the time of its registration, and where said city, town, or village has a population of less than 500,000 within territory contiguous to the domicile thereof and not exceeding 13 miles distance from the corporate limits thereof, and where said city, town, or village has population in excess of 500,000 within territory contiguous to the domicile thereof and not exceeding 13 miles from the corporate limits thereof, those operated exclusively within the limits of an unincorporated urban area having a population in excess of 135,000, as determined by the United States Bureau of the Census, in which said vehicle was domiciled at the time of registration, or within territory contiguous thereto not exceeding 13 miles distance from the limits of such unincorporated area, said limits to be those used by the United State Bureau of the Census in reporting the population thereof; those operated exclusively in transportation between a municipality and its airport, when supplemental to transportation by aircraft, shall be Class 5. At the time vehicles in this class are registered, the domicile of the vehicle so registered shall be shown on the registration certificate.

ii. A motor vehicle bearing a Class 5, city use license shall be entitled to operate within the confines of any city, town, village and territory contiguous thereto as followed herein for Class 5 licenses, and in any unincorporated urban area which has limits determined by the United States Bureau of the Census, without transferring its domicile or obtaining a different class of license; provided that city use truck is not authorized to carry any cargo or goods from one city or such unincorporated urban area to another. A motor vehicle bearing a Class 5 city use license is authorized to travel on the highways of this state outside of a city, town, village or such unincorporated urban area provided that it carries absolutely no cargo or goods.

#### f. Class 6

i. Those owned by persons engaged in the business of actual farming and by them used primarily but

not exclusively in carrying farm produce raised on their farms from such farms to market, or returning therefrom carrying goods and merchandise back to their farms, this individually or cooperatively, but not for hire, shall be Class 6.

ii. Farm produce shall include, but not be limited to, fruits vegetables, livestock, fish, and shellfish.

iii. Those owned by persons engaged exclusively in the business of hauling milk and milk products for dairy cooperatives or any other milk plant also shall be Class 6.

#### C. Apportioned Plates

1. If a vehicle has plates apportioned for Louisiana, that vehicle will be allowed to operate both interstate and intrastate in Louisiana. If a Louisiana vehicle has Louisiana apportioned plates, that vehicle may travel to other states which are members of the IRP or which have reciprocity agreements with Louisiana and operate both interstate and intrastate in those states for which the vehicle is apportioned.

2. The owner of any motor vehicle having three or more axles or any vehicle which alone or in combination weighs more than 26,000 pounds when loaded may purchase apportioned plates if the owner's home state is a member of the international registration plan or has a bilateral proportional registration reciprocity agreement with Louisiana. Two-axle motor vehicles or vehicles which alone or in combination weigh 26,000 pounds or less when loaded may be proportionally registered at the option of the owner.

3. The original cab card must accompany the vehicle for which it was issued at all times. If the card is defaced or used in any vehicle except the one described on it, it is considered void.

4. Vehicles with plates apportioned for Louisiana cannot exceed the licensed weight for Louisiana shown on the cab card.

#### D. Temporary 48-Hour Trip Permits (Out-of-State Vehicles Only)

1. Out-of-state vehicles, eligible for apportioned registration but not registered as such, will be required to purchase a 48-hour trip permit for a fee of \$25 before proceeding through Louisiana. The permit allows for interstate and intrastate movement.

2. Temporary 48-hour trip permits apply to two types of vehicles.

a. A vehicle which is properly registered in a state which belongs to the IRP (or has a bilateral proportional registration reciprocity agreement with Louisiana), but the vehicle is not apportioned for Louisiana. A temporary 48-hour trip permit is required before the vehicle may operate either interstate or intrastate in Louisiana.

b. A vehicle which is properly registered in a state which does not belong to the FRP (or has a bilateral proportional registration reciprocity agreement with Louisiana), but which does have a reciprocal agreement with Louisiana. A temporary 48-hour trip permit is required before the vehicle may operate intrastate in Louisiana.

3. A temporary 48-hour trip permit allows a vehicle to operate in Louisiana for 48 continuous hours.

4. Temporary 48-hour trip permits must be purchased prior to entering Louisiana. A driver may only purchase a temporary 48-hour if the vehicle or load is not in violation of any other sections of this Title.

5. A temporary 48-hour trip permit must be in the cab of the vehicle for which it was issued from the time the vehicle enters Louisiana.

6. A temporary 48-hour trip permit will allow haulers to carry the Louisiana weight limits.

#### E. Interstate and Intrastate Operation

1. If a vehicle or combination vehicle is from an IRP member state (or a state which has a bilateral proportional registration reciprocity agreement with Louisiana) and the motor vehicle has three or more axles or any of the vehicles alone or the combination weighs more than 26,000 pounds, then the motor vehicle must have Louisiana plates, plates which are apportioned for Louisiana, or a temporary 48-hour trip permit in order to operate either interstate or intrastate in Louisiana.

2. If a vehicle or combination vehicle is from a non-IRP member state (or a state which does not have a bilateral proportional registration reciprocity agreement with Louisiana), but the state has a reciprocal agreement with Louisiana, then the motor vehicle must have a temporary 48-hour trip permit in order to operate intrastate in Louisiana. If the vehicle's home state has a reciprocal agreement with Louisiana, the vehicle or vehicle combination may operate interstate in Louisiana without purchasing a temporary 48-hour trip permit.

3. Any state's semi-trailer or trailer license plate is honored by Louisiana if the pulling unit is properly registered and licensed.

4. Farm, forest product, public, or any other restricted plates are honored by Louisiana if the vehicles are properly registered and licensed in their home state and are not hauling for hire.

#### F. Vehicles Using Gasoline

1. Gasoline tax is \$0.20 per gallon.

2. Interstate users domiciled outside Louisiana may pay the fuel tax by either of two methods.

a. If the user opts to purchase enough fuel in Louisiana to cover the miles traveled in Louisiana, then the driver must obtain fuel invoices when purchasing fuel in Louisiana. These invoices must be legitimate service station purchase invoices and must show the gallons of fuel purchased. The invoices must be kept so that they can be shown to enforcement officers. If any additional tax is due, it will be collected by enforcement officers before a vehicle leaves Louisiana.

b. If the user opts to post a surety bond with the Department of Revenue and Taxation, then any additional fuel tax due can be paid on a monthly basis. If fuel has been purchased in Louisiana, drivers must have a fuel invoice in their possession when leaving Louisiana.

#### G. Vehicles Using Special Fuels

1. Special fuels are all fuels used for motor vehicles except gasoline. Special fuels include distillate fuels, such as diesel and kerosene, and also liquefied petroleum gases, such as butane and propane.

2. Special fuels tax is \$0.20 per gallon.

3. All users of taxable special fuels whose vehicles are licensed and domiciled in Louisiana must meet the following requirements.

a. The vehicles must be licensed for special fuels with the Department of Revenue and Taxation.

b. Non-IFTA must have a current special fuels invoice in their possession at all times.

c. Vehicles must have a working odometer, speedometer, or hub meter.

d. Vehicles must have the company's name and address on both cab doors in letters at least 2 inches high or adequate identification. The name and address must be legible at a distance of 25 feet in daylight hours. ICC-regulated carriers are allowed company or trade name only.

4. An interstate user of special fuels may determine an average number of miles per gallon of fuel by dividing the total miles traveled by the number of gallons consumed in the entire operation of all their vehicles. The average number of miles per gallon shall not exceed 5 miles per gallon of fuel unless adequate proof is furnished.

5. If the user has no proof of the average number of miles per gallon, the secretary of the Department of Revenue and Taxation will determine the rate to be applied.

6. All interstate users of taxable special fuels whose vehicles are not domiciled in Louisiana must meet the following requirements.

a. Users must post a surety bond with the Department of Revenue and Taxation. Users may then file quarterly reports paying the special fuels tax based on the miles traveled in Louisiana.

b. Exception. Those interstate users who only occasionally travel through Louisiana may not be required to post a surety bond with the Department of Revenue and Taxation. These users must purchase enough fuel in Louisiana to cover the miles traveled in Louisiana, and the driver must have a currently dated special fuels invoice with appropriate information listed thereon before leaving Louisiana.

c. Vehicles must have a working odometer, speedometer, or hub meter.

d. Vehicles must have the company's name and address on both cab doors in letters at least 2 inches high or adequate identification. The name and address must be readable at a distance of 25 feet. ICC-regulated carriers are allowed company or trade name only.

7. A Louisiana special fuels invoice:

- a. must be serially numbered;
- b. must be printed or rubber-stamped with the name and address of the seller;
- c. must include name and address of the purchaser (user);
- d. must indicate date of delivery;
- e. must show license plate number of the motor vehicle;
- f. must show mileage on the odometer, speedometer, or hub meter;
- g. must show number of gallons and kind of special fuel purchased;
- h. may type, print or rubber stamp fuels invoice;
- i. must indicate price of fuel showing tax paid.

8. January 1, 1994, Louisiana became a member of the International Fuel Tax Agreement (IFTA). IFTA is a base-state agreement designed to simplify the administration of state fuel use tax for interstate motor carriers.

9. Carriers based in Louisiana that operate one or more qualified motor vehicles in at least one other IFTA

state must be licensed with the Department of Revenue and Taxation. Exceptions are as follows:

a. option to purchase fuel covering the total miles traveled if travel is seldom in Louisiana; or

b. if engaged in lease operations, one may be exempt from the licensing requirements of IFTA depending on the terms of the lease.

10. A carrier's base state is any state where the carrier meets the following requirements:

a. where the carrier has qualified motor vehicles registered;

b. where operational control and operational records are maintained;

c. where motor vehicles that accrue mileage in their base state and another IFTA member state.

11. In Louisiana, there is a one-time application fee of \$35 and a decal fee of \$1 each. The agreement requires two decals for each qualified vehicle.

12. If applicable or additional information is needed, please contact the Louisiana Department of Revenue and Taxation, Excise Tax Section at (225) 925-7656.

#### H. Vehicles Transporting Gasoline in Bulk

1. To properly identify any gasoline being imported or exported on Louisiana highways, the driver must have a currently dated invoice, bill of lading, or manifest showing the following information:

- a. the seller's and purchaser's names and addresses;
- b. the origin and destination of the gasoline;
- c. the authorized routes to be followed when exporting or importing (border crossing only);
- d. the quantity of each type of gasoline;
- e. who will assume the Louisiana tax liability.

2. Anyone who transports any gasoline from or into Louisiana from or into a state which has a lower tax rate than Louisiana may use only routes authorized by the secretary of the Department of Revenue and Taxation. An authorization card will be issued by the Department of Revenue and Taxation for each vehicle. This card must be kept in the vehicle and is not transferable.

3. Exception. Common or contract carriers licensed by the Interstate Commerce Commission or the Louisiana Public Service Commission.

#### I. Vehicles Transporting Special Fuels in Bulk

1. Any vehicle transporting bulk special fuels into Louisiana must belong to a supplier who is bonded with the Department of Revenue and Taxation.

2. Exception. Common and contract carriers who are licensed to transport bulk special fuels by the Louisiana Public Service Commission.

3. A vehicle transporting bulk special fuels cannot have the cargo tank connected to the carburetor of the motor vehicle or to the fuel supply tank which feeds the carburetor of the motor vehicle.

J. Litter. No person, firm, or corporation shall intentionally dump, leave, or deposit any glass or metallic objects, trash, refuse, or garbage on any property without permission of the owner of said property, or on any highway or roadside park, or on any lands adjacent thereto. Whoever violates the provisions in respect to private property, highways, or roadside parks, or any lands adjacent thereto, shall be punished in accordance with the Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 20:318 (March 1994), amended LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§705. Property Damage Bond**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§707. Federal, State, and Local Government Agencies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§709. Check Weights**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§711. Maximum Permit Weights Allowed**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§713. Permit Axle Weight Distribution**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§715. Loads Exceeding 18 Feet in Width**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§716. Statewide—Loads Exceeding 16 Feet 5 Inches in Height**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§717. Houses or Buildings Exceeding 18 Feet in Height**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§719. Exceptional Loads Exceeding 18 Feet in Height in the New Orleans Area**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§721. Methods of Obtaining Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

#### **§723. Types of Permits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights and Standards, LR 22:120 (February 1996), LR 32:1251 (July 2006), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

### **Chapter 9. Enforcement Procedures and Penalties**

#### **§901. General Procedures**

##### **[Formerly §1101]**

A. All vehicles, rated 1 ton or over, are required to stop at DOTD stationary scales, except the following:

1. automobiles, including those towing another vehicle;
2. pickup trucks under one ton, if they are not towing another vehicle;
3. vans, if they have less than one-ton capacity;
4. recreational vehicles, if they are not oversize or overweight;
5. buses;
6. wreckers towing a vehicle which would not be required to stop at the scales.

B. A penalty of \$100 will be assessed to vehicles that fail to stop at stationary scales, or disregard the mobile unit's efforts to stop a vehicle or combination vehicle.

C. Any owner or driver who disagrees with a penalty or the enforcement of these laws must pay the penalty assessed and give the officer notice at the time of payment of his or her intention to file suit for its recovery. Any owner or

operator has 90 days to file suit against the Department of Transportation and Development in the State district court located either in the parish in which the violation occurred, in the parish of domicile of the vehicle, or in East Baton Rouge Parish. No court may restrain the collection of any penalty assessed by DOTD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§903. Legal Limitation Violations  
[Formerly §1103]**

A. Drivers will not be allowed to shift the loads carried by their vehicles after being weighed in order to qualify for a second weighing and a lesser fine amount. The loads may be required to be shifted by weight enforcement police after weighing and before proceeding.

**B. Notice of Violation**

1. The secretary of DOTD, or his designee, shall send the responsible party a notice of violation, proposed finding and proposed civil penalty within 30 calendar days of the violation. However, the commissioner or secretary shall be granted an additional 60 calendar days to send the notice of violation only in the case of a data system failure due to either an act of God, or an intentional sabotage.

2. Each notice of violation shall state whether or not a monetary penalty is assessed, or if the notice of violation serves only as a warning.

3. When a monetary penalty is assessed, each notice of violation, shall be sent to the responsible party by certified mail. The responsible party shall have 45 calendar days from the date of the notice of violation to either pay the fine, or to request in writing an administrative hearing to review the notice of violation. If the amount of the fine has been negotiated between the secretary of DOTD, or his designee, and the responsible party, the responsible party shall be notified within 30 calendar days from the final negotiation date.

4. After the administrative hearing, if requested, has occurred and findings have been made by the hearing officer, any appeal of the findings of the hearing officer shall be filed in a state district court with jurisdiction over the matter.

5. The responsible party shall pay all fees and fines by not later than 45 calendar days after the issuance of the notice of violation, or not later than 30 calendar days after receiving a notice of final judgment from the administrative law judge following the hearing on the matter.

6. Fines may be paid by certified check, money order, or credit card. Payment made by credit card will be deemed received by the secretary of DOTD when tendered and an approval code is received from the credit card company or processor.

7. If the responsible party fails to timely pay the assessed fine in the prescribed time, the secretary shall transmit the driver's license number to the Office of Motor Vehicles, upon receipt of which the Office of Motor Vehicle shall immediately notify the driver by first class mail that his driver's license shall be suspended for 30 calendar days after

the date of the mailing of the notice until such time as all fines assessed by the notice of violation, or the final judgment of the administrative law judge, are paid in full, with an additional \$50 fee, payable to the Office of Motor Vehicles, in order to cover its administrative costs.

C. Twin Trailer Combinations, Trailer and Towed Vehicles, Farm Vehicles and Equipment, and Care of Vehicle Loads. If a vehicle, combination vehicle, or load violates Louisiana law or DOTD regulations for twin trailer combinations, trailers and towed vehicles, farm vehicles and equipment, or care of vehicle loads, a \$100 penalty will be assessed and the driver must correct the violation.

D. Oversize. If a vehicle and divisible load exceeds the legal limitations or DOTD regulations for width, height, length, or projecting loads, a \$100 penalty will be assessed and then the driver shall reduce the load to the legal size.

E. Overweight. The amount assessed for an overweight penalty will be for the violation with the greatest dollar value, whether based on gross vehicle weight, axle weight(s), or bridge formula. A \$10 penalty will be assessed for each lesser violation(s).

**1. Gross Vehicle Weight or Axle Weight**

a. If a vehicle and divisible load exceeds the legal limitations or DOTD regulations for axle weight or gross vehicle weight, these schedules will be used.

Overweight Pounds	Over Gross Weight	Over Axle Weight(s) Only
0 to 3,000	\$0.02 per pound	\$0.01 per pound
3,001 to 5,000	\$0.03 per pound	\$0.015 per pound
5,001 to 10,000	\$0.04 per pound	\$0.02 per pound
10,001 and over	\$100.00 plus \$0.05 per pound	\$100.00 plus \$0.05 per pound

b. If a vehicle exceeds the legal maximum gross weight but not the legal maximum axle weight, the over gross weight schedule is used to assess the penalty.

c. If a vehicle does not exceed the legal maximum gross weight, but exceeds the legal maximum axle weights for any axle or axle groups, the penalties are then computed separately for each axle or group, the sum amount of which is the penalty assessed.

d. If a vehicle exceeds both the legal maximum gross weight and the legal maximum axle weight, both penalties are computed from the over gross weight schedule, and the greater of the two is assessed as the penalty. When two or more single axle or axle groups are overweight, the sum of the penalties of the overweight axles is compared to the penalty on the gross weight, and the greater of the two will be assessed. A \$10 penalty will be assessed for the lesser violation.

2. Bridge Formula. If the owner or driver of a vehicle or combination vehicle is in violation of the bridge formula axle spacing requirements, a \$50 penalty will be assessed.

3. Stationary Poles. If a combination vehicle transporting forest products in their natural state is not equipped with stationary vertical retaining poles on the driver's side of the trailer portion, a \$100 penalty will be assessed.

**4. Variable Load Suspension Axles**

a. If vehicles equipped with VLS axles are observed to have the regulator for these axles installed in the cab, a \$100 penalty will be assessed.

b. If vehicles equipped with VLS axles are observed operating with axles in the up position when not entering or leaving a turn, the vehicle will be cited as the type represented by the number of axles on the ground. The penalty will be calculated from the appropriate overweight chart.

F. Oversize. If an indivisible vehicle or indivisible load exceeds the legal limitations or DOTD regulations for width, height, length, or projecting loads and is operating without a permit or exceeding the size allowed by a valid permit; the penalty will be: \$100, plus the cost of an oversize permit, if a permit was not previously purchased. In addition, any restrictions imposed by DOTD must be met.

#### G. Overweight

##### 1. No Permit for Weight

a. If a vehicle, vehicle combination, or vehicle/indivisible load combination exceeds the legal limitations or DOTD regulations for axle weight or gross vehicle weight and is operating without a permit, an overweight permit must be purchased and any restrictions imposed by DOTD must be met.

b. If a vehicle exceeds the legal gross weight but not the legal axle weight, a penalty will be assessed from the over gross weight schedule on all pounds in excess of the legal gross vehicle weight.

c. If a vehicle exceeds the legal axle weight but not the legal gross vehicle weight, a penalty will be assessed from the over axle weight only schedule on all pounds in excess of the legal axle weight. When two or more single axles or axle groups are overweight, the penalty will be figured for each overweight single axle or axle group; then all the penalties will be added together.

d. If a vehicle exceeds both the legal gross vehicle weight and the legal axle weight, one penalty will be figured using the pounds in excess of the legal gross vehicle weight and one penalty using the pounds in excess of the legal axle weight. Both penalties will be figured using the over gross weight schedule, and the greater of the penalties will be assessed. When two or more single axles or axle groups are overweight, the sum of the penalties on the overweight axles will be compared to the penalty on the gross weight; then the greater of the two will be assessed plus \$10 penalty for the lesser violation.

##### 2. Over Permitted Axle Weight Only

a. If a vehicle, vehicle combination, or vehicle/indivisible load combination exceeds the axle weight but not the gross vehicle weight allowed by its permit, then no penalty will be assessed (except for harvest season permits, natural forest product permits, waste vehicle permits, and steering axle permits). However, DOTD may require either additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or to its point of origin in Louisiana.

b. If a vehicle or combination vehicle has a harvest season permit or natural forest product permit and exceeds the axle weight but not the gross vehicle weight allowed by the permit, then a penalty will be assessed on all pounds in excess of the permit's axle weights according to the over axle weight only schedule. When two or more single axles or axle groups are overweight, the penalty will be figured for each over-weight single axle or axle group; then all the penalties will be added together. In addition, these vehicles

may be required to proceed to the nearest suitable place to off-load to the permitted axle weights at the owner's expense.

c. If a vehicle has a waste vehicle permit or steering axle permit and exceeds the axle weight but not the gross vehicle weight allowed by the permit, a penalty will be assessed from the over axle weight only schedule. The penalty will be based on all pounds in excess of the permit's axle weight.

i. Vehicles with waste vehicle permits may be required to proceed to the nearest suitable place to off-load to the permitted axle weight at the owner's expense.

ii. Vehicles with steering axle permits must increase the permit's weight to the weight being carried.

##### 3. Over Permitted Gross Weight Only

a. If a vehicle, vehicle combination, or vehicle/load combination exceeds the gross vehicle weight but not the axle weight allowed by a valid permit, a penalty will be assessed from the over gross weight schedule. The penalty will be based on all pounds in excess of the permit's gross vehicle weight.

b. Vehicles with overweight permits will be required to increase the permit's weight to the weight being carried, and the driver will be charged for the difference between the fee already paid and the correct permit fee. DOTD may also require additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or its point of origin in Louisiana.

c. Vehicles with harvest season or natural forest product permits may be required to proceed to the nearest suitable place to off-load to the permitted gross vehicle weight at the owner's expense.

##### 4. Over Permitted Gross and Axle Weights

a. If a vehicle, vehicle combination, or vehicle/load combination exceeds both the gross vehicle weight and the axle weight allowed by a valid permit, one penalty shall be figured using the pounds in excess of the permit's maximum allowable gross vehicle weight.

b. Vehicles with overweight permits will be required to increase the permit's weight to the weight being carried, and the driver will be charged for the difference between the fee already paid and the correct permit fee. DOTD may also require additional dismantling of the load, modification of the hauling equipment, or return of the movement to the state of origin or its point of origin in Louisiana.

c. Vehicles with harvest season or natural forest product permits may be required to proceed to the nearest suitable place to off-load to the permitted weights at the owner's expense.

#### H. International Trade Container Permits

1. Containerized Cargo Permit. If a vehicle combination exceeds the permitted maximum allowable weight on tandem axles the minimum, a \$100 penalty will be assessed for violating the terms of the permit. If the vehicle combination also exceeds its maximum gross weight, the penalty will be figured from the appropriate chart and the greater of the two penalties will be assessed plus \$10 penalty for the lesser violation.

2. Liquid Bulk Container Permit. If a vehicle combination exceeds the permitted maximum allowable



weight on tandem axles the minimum, a \$100 penalty will be assessed for violating the terms of the permit. If the vehicle combination also exceeds its maximum gross weight, the penalty will be figured from the appropriate chart and the greater of the two penalties will be assessed plus \$10 penalty for the lesser violation.

#### I. Permit Restrictions

1. If a vehicle is operating without an escort, warning flags, warning signs, or warning lights when they are required by its permit; is traveling at night, during inclement weather, or on a designated holiday when prohibited by its permit; is exceeding the permitted speed limit; or is violating any other permit restrictions, the a \$100 penalty will be assessed and the driver must comply with all permit restrictions.

2. If it is verified that a vehicle has a valid permit, but fails to have the permit in the vehicle for which it was issued, a \$25 penalty will be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 24:1517 (August 1998), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§905. Vehicle Registration and Licensing Violations [Formerly §1105]**

#### A. Improper License or Registration

1. If a vehicle domiciled in Louisiana is operating with an improper Louisiana license or registration (full or apportioned), the penalty will be 25 percent of the annual cost of the proper license. The driver will be required to purchase the proper Louisiana license from the Office of Motor Vehicles. The cost of the Louisiana license on the vehicle will be credited toward the cost of the proper license.

2. Vehicles domiciled in Louisiana that have improper Louisiana license plates (full or apportioned) or an unlawful Louisiana registration will be issued a notice of violation in accordance with the provisions of this Title.

3. If a vehicle is domiciled outside Louisiana, but exceeds its licensed gross weight, a \$100 penalty will be assessed.

B. Expired or No License or Registration. If a vehicle domiciled in Louisiana is operating with an expired Louisiana license or registration or no Louisiana license or registration, the penalty will be 25 percent of the annual cost of the proper license.

C. No Temporary 48-Hour Trip Permit. If a vehicle is operating without a temporary 48-hour trip permit when one is required, \$200 penalty shall be assessed, and the driver will also be required to purchase a temporary 48-hour trip permit for \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§907. Fuel Tax Violations [Formerly §1107]**

A. Penalties will be due immediately upon receipt of the ticket.

#### B. Vehicles Using Gasoline

1. If the driver of a vehicle which operates on gasoline has a valid fuel invoice, but additional tax is due, no penalty will be assessed. However, the additional tax must be paid.

2. If the driver of a vehicle which operates on gasoline has no fuel invoice or has an improper fuel invoice, a \$50 penalty will be assessed, in addition to the amount of fuel tax assessed.

#### C. Vehicles Using Special Fuels

1. If the driver of a vehicle which operates on special fuels has a valid special fuels invoice, but additional tax is due, no penalty will be assessed. However, the additional tax must be paid.

2. If the driver of a vehicle which operates on special fuels has no special fuels invoice or has an improper special fuels invoice, a \$50 penalty will be assessed, plus the amount of fuel tax assessed.

3. If a vehicle which operates on special fuels does not have either a working odometer, speedometer, or hub meter, a \$50 penalty will be assessed.

4. If a vehicle which operates on special fuels does not have the true owner's name and address or adequate identification on both cab doors, a \$50 penalty will be assessed.

5. Vehicles operating with special fuels which have nonworking odometers, speedometers, or hub meters or which do not have the true owner's name and address on both cab doors shall be issued a notice of violation

#### D. Vehicles Transporting Bulk Gasoline

1. Vehicles transporting bulk gasoline into or out of Louisiana from or into any state which has a lower tax rate than Louisiana must have an approved route card issued by the Department of Revenue and Taxation.

2. The driver is required to have the card in his possession at all times.

3. The driver must also carry, at all times, one of the following: a bill of lading, a manifest, or a dated invoice indicating:

- a.i. both seller's and purchaser's name and address;
- ii. origin of gasoline being transported;
- iii. destination or destinations of gasoline being transported;
- iv. quantities of each type of gasoline being transported.

#### b. Exceptions

i. Vehicles belonging to common and contract carriers who are licensed by the Interstate Commerce Commission who are required to file monthly reports under Louisiana law.

ii. Vehicles belonging to farmers who are registered for refunds who move gasoline within the state, in quantities of 500 gallons or less, from one location to another within the scope of their farming activities.

iii. Vehicles transporting gasoline not for resale and the quantity being transported does not exceed 150 gallons.

iv. Delivery trucks commonly known as bobtails or tank wagons with a total capacity of 2,500 gallons or less when such deliveries originate in Louisiana and have a Louisiana destination.

4. If any person transporting bulk gasoline is traveling on other than the approved route or not carrying the above information as required, the fine shall be:

- a. \$300 for the first offense;
- b. \$600 for the second offense;
- c. \$1,200-\$2,000 for the third and succeeding offenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26

(February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**§911. Overweight Permit Fee Schedule**

A. First Overweight Permit Fee Schedule. This schedule is for three types of vehicles:

- 1. vehicles and combinations of vehicles which do not exceed their legal gross weight, but do exceed the legal axle weight on one to three axles or axle groups\* (including steering axles);
- 2. vehicles or combinations of vehicles which have two or three axles\*\* total and which exceed both their legal gross weight and legal axle weight;
- 3. all two-to-four axle\*\* off-road equipment.

First Overweight Permit Fee Schedule					
Excess Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
0-10,000	\$ 30.00	\$ 45.00	\$ 52.50	\$ 67.50	\$ 82.50
10,001-20,000	52.50	97.50	135.00	172.50	210.00
20,001-30,000	82.50	150.00	210.00	277.50	345.00
30,001-40,000	105.00	202.50	292.50	382.50	345.00
40,001-50,000	135.00	255.00	367.50	487.50	607.50
50,001-60,000	157.50	307.50	450.00	592.50	607.50
Over 60,000	\$15 plus \$0.10 per ton-mile				
*Axle groups are tandem, tridum, and quadrum axles.					
***"Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridum axle groups as three axles.					

B. Second Overweight Permit Fee Schedule. This schedule is for combinations of vehicles with four axles\* (including the steering axle).

Second Overweight Permit Fee Schedule					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
66,001-80,000	\$30.00	\$52.50	\$ 67.50	\$ 90.00	\$ 105.00
80,001-90,000	67.50	112.50	165.00	217.50	262.50
*"Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridum axle groups as three axles.					

C. Third Overweight Permit Fee Schedule. This schedule is for combinations of vehicles with five or more axles\* (including the steering axle) when the gross weight exceeds 80,000 pounds.

1. Notwithstanding any other provision of law to the contrary, any combination vehicle with a gross weight

greater than 212,000 pounds, but not in excess of 254,000 pounds shall be authorized a maximum tandem axle weight of 45,000 pounds and a maximum steering axle weight of 13,000 pounds, provided the spread between axle groups is a minimum of 12 feet and the spread between tires in a group is a minimum of 4 feet.

Third Overweight Permit Fee Schedule					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
80,001-100,000	\$ 45.00	\$ 67.50	\$ 97.50	\$ 120.00	\$ 150.00
100,001-108,000	75.00	142.50	202.50	270.00	330.00
108,001-120,000	105.00	195.00	285.00	375.00	465.00
120,001-132,000	135.00	255.00	375.00	495.00	622.50
132,001-152,000	180.00	337.50	502.50	667.50	832.50
152,001-172,000	232.50	442.50	660.00	877.50	1095.00
172,001-192,000	285.00	547.50	817.50	1087.50	1357.00
192,001-212,000	337.50	652.50	975.00	1297.50	1620.00
212,001-232,000	390.00	757.50	1132.50	1507.50	1875.00
232,001-254,000	442.50	862.50	1290.00	1717.50	2130.00

Third Overweight Permit Fee Schedule					
Gross Weight (in pounds)	Distance (in miles)				
	0-50	51-100	101-150	151-200	over 200
over 254000	\$ 15.00—plus \$0.75 per ton-mile of weight in excess of 80,000 pounds, plus a fee for structural evaluation based on the following schedule: \$187.50—for evaluation of treated timber, concrete slab, and precast concrete slab bridges \$1,275.00—for evaluation of truss, continuous span, and movable bridges and for all Mississippi River structures \$750—for all other structures				
Price of fuel showing tax paid "Axle" here refers to single or individual axles. Tandem axle groups will be counted as two axles and tridum axle groups as three axles.					

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 11. Enforcement Procedures and Penalties**

**§1101. General Procedures**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1103. Legal Limitation Violations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 and 32:386.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 24:1517 (August 1998), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1105. Vehicle Registration and Licensing Violations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1107. Fuel Tax Violations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 12. Violation Ticket Review Committee**

**§1201. Composition of Violation Ticket Review Committee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), LR 33:863 (May 2007), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1203. Tickets Subject to Review**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1205. Time Limitations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1207. Duties of the DOTD Weights and Standards Administrator**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:522 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1209. Authorized Action**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1211. Rights of Protesting Party**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002).

**§1213. Prescription**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March

2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1215. Reconsideration by Violation Ticket Review Committee**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1216. Consideration by Review Panel**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389 (D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), LR 33:863 (May 2007), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1217. Record-Keeping**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:389.D.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Weights, Measures and Standards, LR 22:372 (May 1996), amended LR 28:523 (March 2002), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 13. Laws and Regulations Enforced by Other Agencies**

**§1301. Explosives, Flammable Liquids**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1303. Operating Authority**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1305. Powers of Parish and Municipal Authorities**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measure, and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1307. Utility Companies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and

Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**§1309. Private Property Owners**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979) amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 15. Guideline for Submitting Overweight Vehicle Configurations—Exceeding 232,000 Pounds**

**§1501. Necessary Requirements Accompanying the Permit**

A. Map. Submit a map showing the proposed route and any alternate proposed routes in order of preference.

B. In the event there is one or more parallel, alternate modes of transportation that cannot accommodate the load, such as a navigable waterway of a railroad, but substantially reduces the length of haul on the state highway system, evidence of the physical and/or regulatory impasse(s) must be submitted with the permit request. This evidence must be a written response from the facility's authorities or offices stating the nature of the impasse which will not accommodate the load.

C. Statement from the owner of the load certifying its gross weight.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

**Chapter 17. Requirements for Permitting Off-Road Equipment**

**§1701. Off-Road Equipment on State-Maintained Highways**

A. It will be the policy of the department to follow the ensuing requirements governing the permitting of off-road equipment on the state-maintained highway system.

B. The department will generally authorize a permit for the use of off-road equipment on the state maintained highway system provided it conforms to the provisions herein. Application for an off-road equipment permit and its authorization will be through the truck permit office of the department.

C. Off-road equipment shall be considered as any self-propelled or combination vehicle adaptable to the highway environment which is not intended for normal operation on the highway due to its weight, size, and/or configuration. This equipment will also be classified as either non-critical or critical. Noncritical off-road equipment is not expected to produce excessive stresses in common highway bridges when operated. Critical off-road equipment, however, can produce stresses in excess of the capacity of common highway bridges if its permit requirements are not carefully met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§1703. Noncritical Off-Road Equipment**

A. Noncritical off-road equipment is defined as:

1. vehicles or combinations of vehicles without booster units;
2. vehicles with a single-single, single-tandem, single-triple, or tandem-tandem axle configuration in which no single axle is in excess of 30,000 pounds nor tandem or triple axles in excess of 54,000 pounds;
3. vehicles or combinations of vehicles without booster units which are determined to be acceptable in this classification by the department's evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Office of Operations, LR 40:1116 (June 2014), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§1705. Critical Off-Road Equipment**

A. Critical off-road equipment is defined as:

1. vehicles not covered by the noncritical off-road equipment as defined in §1703 above;
2. vehicles or combinations of vehicles with booster units;
3. vehicles or combination vehicle which are determined to be acceptable in this classification by the department's evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§1707. General Permit Requirements**

A. The traveling configuration of each piece of equipment will be subject to the initial approval of the department and the approved configuration will be required on all subsequent permits.

B. The proposed route for each permit will be subject to the approval of the department relative to operation on the state-maintained highway system.

C. Off-road equipment will not be generally subject to the conditions of the critical off-road equipment permit requirements unless it is so classified.

D. Restrictions will be specified on the permit issued by the truck permit office as required. Failure to comply will result in a penalty being assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), amended by the Department of Transportation and Development, Office of Operations, LR 48:

### **§1709. Critical Off-Road Equipment Permit Requirements**

A. An overweight permit with an approved route is to be obtained for each move.

B. The owner shall provide escort service during the move in accordance with the department's escort procedures and regulations to control traffic with the following exception.

1. Equipment classified as critical off-road equipment in which no single axle is in excess of 30,000 pounds, no tandem axles are in excess of 60,000 pounds and no tridum axles are in excess of 66,000 pounds shall be exempt from the escort requirement.

C. Warning Lights

1. Vehicles which exceed 54,000 pounds on a tandem axle and 60,000 pounds on a tridum axle will be required to have warning lights on the off-road equipment.

2. The vehicle shall display an approved 360 degree emergency warning lamp. The lamp is approved if it appears on a list of certified safety devices furnished to the Department of Transportation and Development by the Department of Public Safety and Corrections. This list includes bar, strobe, revolving and stationary lamps.

D. Bridge Crossing Requirements on Highways Other than Interstate

1. Bridge roadway shall be cleared of traffic on two-lane two-way traffic bridges. The vehicle shall straddle the centerline of the cleared bridge roadway. This requirement is waived for bridges of this type over 300 feet in length.

2. The vehicle shall straddle the outside and adjacent lane of a roadway with two or more traffic lanes in the same direction. Traffic shall be kept out of the adjacent lane within 100 feet of the equipment. This requirement is waived for bridges of this type over 1,000 feet in length.

3. A speed of 5 mph shall be maintained without braking, accelerating, or changing gears with no exceptions.

E. Bridge Crossing Requirements on Interstate Highways

1. Commercial vehicles shall be prevented from traveling adjacent to and within 100 feet of the equipment. This requirement is waived for bridges over 1,000 feet in length.

2. The vehicle shall occupy the outside traffic lane.

3. A speed not in excess of 45 mph shall be maintained on bridge structures.

F. Booster axles, when permitted, shall be activated during the entire move on the state-maintained highway system.

G. A letter of approval must be issued by the DOTD permits manager.

H. A copy of this letter is to be placed in this equipment to insure that the above conditions are adhered to on each move.

I. This letter of approval does not grant any authority for this equipment to cross any posted bridge(s) or for the use of any highway or road not on the state maintained highway system.

J. Counterweights are to be removed for cranes with tandem axles exceeding 48,000 pounds, or for these with tridum axles exceeding 60,000 pounds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32.2, et seq. and R. S. 32:386-389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 28:1601 (July 2002), LR 30:2079 (September 2004), amended by the Department of Transportation and Development, Office of Operations, LR 48:

## **Chapter 19. Escort Requirements for Oversize and/or Overweight Vehicles or Loads**

### **§1901. Provision Enforcement**

A. The Department of Transportation and Development is authorized to administer this policy and to enforce its provisions, including the issuance of the necessary permits and decals for properly equipped escort vehicles.

B. Escort vehicles may be furnished by the permittee or by private escort service, provided the following regulations are complied with.

1. An oversize and/or overweight permit is required for each escort movement. The driver of the escort vehicle shall make certain that a permit has been issued and shall familiarize himself with and abide by requirements of the issued permit. The Department of Transportation and Development has authority to require and to regulate escorts under the provisions of R.S. 32:327.C and R.S. 32:387.B(3).

2. The escorting vehicle shall be registered in accordance with Louisiana Revised Statutes or reciprocal agreement. Closed vans, buses, campers, motor homes, and motor driven cycles are not acceptable. Louisiana based automobiles used as escort vehicles are no longer considered private passenger vehicles and, therefore, must carry commercial plates. If the escort vehicle is domiciled outside the state of Louisiana, a 48-hour trip permit is required for intrastate movements, otherwise escorting is limited to interstate movement only.

3. At no time may an escort vehicle pull a trailer or tow another vehicle.

4. Each company which operates an escort service in this state and which is domiciled in another state shall register annually with the secretary in accordance with rules and regulations adopted by the secretary. Proof is required that each vehicle operated in this state by the applicant is insured in the same amount as is required for escort companies domiciled in this state. Each driver of an escort vehicle must have a valid operator's license issued by a state or territory of the U.S. The fee for each application for registration is \$10. A 48-hour trip permit is required for intrastate movements, otherwise escorting is limited to interstate movement only.

5. All statutory provisions must be complied with; except those waived by the permit or "Escorting Procedures" stipulated herein.

6. All applicants for escort vehicles shall provide proof to the Department of Transportation and Development Weights and Standards officer of insurance for not less than \$50,000 for bodily injury to or death of one person in any one accident, \$100,000 for bodily injury to or death of two or more persons in any one accident, and \$50,000 for injury to or destruction of property to others in any one accident. Applicant shall sign an affidavit that said coverage of insurance will remain effective for the duration of the permits.

7. An escort driver, domiciled in Louisiana, must be licensed with an appropriate "D" or "E" license.

8. The driver of the escorting vehicle is responsible for the movement and shall ensure that the escorted vehicle is operated in a manner consistent with these provisions and all provisions on the permit. In the event the driver of the escorted vehicle does not, or refuses to operate in accordance with these stipulations, the driver of the escort vehicle shall terminate the movement and report this action to the proper company officials or local police authority or to the Department of Transportation and Development Weights and Standards Police Headquarters.

9. It shall be the responsibility of the driver of the escort vehicle to operate as a warning vehicle only. The driver shall not run traffic lights, fail to stop at stop signs, improperly pass, etc. His authorization to warn motorists of danger shall not imply that the vehicle is or should be used as a police and/or emergency vehicle.

10. All costs incidental to escorts shall be borne by the escort or permittee.

11. The equipment and permit required on escort vehicles shall be available for inspection on demand of proper authorities.

12. Payment for escort service shall be determined by the escort and the permittee.

13. Self or private escorts shall not escort any movement in excess of 16 feet wide on two-lane highways or multi-lane highways. Escorts must be furnished for all movements in excess of 12 feet in width or in excess of 90 feet in length and for any other movement when so designated by the Department of Transportation and Development or the Office of State Police.

14. No current full-time employee of the Department of Transportation and Development shall be used for or engage in self or private escort service. Under the existing policy of the Department of Public Safety, Office of State Police, an off-duty trooper or DPS police officer working in uniform may serve as escort for movements of oversize and/or overweight loads.

15. In the event a state police escort is required, the permittee shall pay the escort fee, or any portion thereof, in addition to pay of the off-duty trooper or DPS police officer.

16. Escorts of house movements, overweight loads when required by the Department of Transportation and Development, and other loads needing police authority during movement, shall be escorted by the Office of State Police, unless made within a city's limits where the authority may be the city police.

17. The owner and/or operator of the escort vehicle agrees to hold harmless the Department of Transportation and Development and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the authority to escort an oversize load.

18. The Department of Transportation and Development Weights and Standards Police of the Office of State Police, will determine that proper escort procedures are complied with and shall have full authority to enforce all provisions of the permit and escort regulations. The authority to revoke the escort vehicle permit shall rest with the Department of Transportation and Development.

### C. Equipment Required

1. In accordance with the requirements of R.S. 32:327, the escort vehicle shall display an approved 360° "Emergency Warning Lamp." Approval is gained from a list of certified safety devices furnished to the Department of Transportation and Development by the Department of Public Safety. This partial list includes bar, strobe, revolving, and stationary lamps. The warning lamp shall be amber in color and shall meet SAE J845 and SAE J595 "Standard and Specifications for Use and Performance," however a dome type lamp must have a lens (amber portion) of not less than 9 inches in diameter and 4 inches in vertical height to meet escort vehicle permit equipment requirements for the state of Louisiana. The base of the warning lamp (amber portion) shall be mounted at a point atop the vehicle at a minimum of 60 inches from the roadway.

2. There shall be two solid red/fluorescent orange flags, 18 inches square, mounted other than vertical or horizontal atop the escort vehicle (at approximately a 45 degree angle). These flags are not to extend more than 6 inches on either side of the vehicle and shall in no event exceed 8 feet 0 inches in width. Flags shall be mounted in line with the warning lamp(s).

3. The escort vehicle must have the name and address or telephone number and city of the company/owner of the escort vehicle on each front door of the vehicle, plainly legible and visible to the motoring public. Well known company logos are acceptable.

4. The escorting vehicle shall be equipped with two rear view mirrors, one on each side, so as to provide vision to the rear to ensure movement is progressing safely.

5. Headlights and rear lights on the escort vehicle and the vehicle being escorted shall be lighted during movement.

6. The escort and towing vehicle shall be equipped with radios such that communication between vehicles is possible. The escort vehicle will be responsible for advising the towing vehicle of any conditions arising that may require cautionary action such as reducing speed, pulling off the roadway, etc.

7. The escorting vehicle shall be equipped and have readily accessible a 10-pound BC dry or equivalent chemical type fire extinguisher, four 15-minute burning flares and two red/fluorescent orange hand held flags. In addition, the vehicle must have available four red/fluorescent orange flags that are 18 inches square and two signs with the wording "oversize load." These signs must be 18 inches high and 7 feet in length. The lettering must be black on a yellow background and is to be 10 inches high with 1 5/8 inch brush stroke.

8. For all overheight loads it is strongly recommended that a clearance bar of some design be attached to the escort vehicle to warn of clearance problems of the load being escorted.

### D. Permit Restrictions for Escorts

1. Private escorts are required for all vehicles and loads:

- a. over 12 feet wide and up to 16 feet wide;
- b. over 90 feet long and up to 125 feet long.

2. State police escorts are may be required for vehicles and loads:

- a. over 16 feet in width;

b. over 125 feet in length;  
c. on any vehicle or load deemed necessary by the department.

3. An escort vehicle may escort two overlength vehicles or loads, but only one overwidth vehicle or load.

4. An escort vehicle must be behind overlength vehicles and loads. On a multilane highway it must be behind an overwidth vehicle or load and on a two-lane highway it must be in front of an overwidth vehicle or load.

### E. Registration and Licensing for Escort Vehicles

a. Escort vehicles must be registered in accordance with Louisiana Revised Statutes or reciprocal agreements.

b. Louisiana domiciled automobiles used as escort vehicles must carry a \$10 commercial plate.

c. Registrations for escort vehicles which are properly registered in other states will be accepted by Louisiana through reciprocal agreement.

d. Companies domiciled outside Louisiana must pay \$10 annual fee for escort permit and decal.

### F. Escorting Procedures

1. Speed limit for the escort load is to be determined by the issuing authority, and in any event shall not exceed 45 mph.

2. Movement shall be made on only those highways designated on the permit. Alternate routes shall not be used unless approved by the issuing authority.

3. Restricted permit movement hours must be adhered to on specifically designated sections of the Interstate System and the Greater New Orleans area bridges.

4. Movement shall be made only on dates and/or during times shown on the permit. No movement shall be made during hours of darkness unless prior approval is obtained from the issuing authority and the Office of State Police.

5. An escorted movement approaching any bridge structure which cannot be traversed safely because of inability to distinguish potential hazards by sight shall be parked (off the roadway where possible) and the escort vehicle shall proceed across said bridge (hill or incline). Adequate time shall be allotted to allow the escort vehicle to stop oncoming traffic before the oversize movement traverses said bridge, hill, or incline.

6. Escorted movements will not impede the normal flow of traffic whenever possible. Whenever vehicular traffic to the rear becomes congested, it is required that the escort driver cause the movement to be halted onto the shoulder or safe location. The movement shall remain off the main-traveled portion of the roadway until traffic has cleared. Movement may then continue until congestion reoccurs.

7. Movement shall not be made during severe inclement weather (heavy rain, fog, etc.). When the movement is in progress and severe inclement weather occurs, it shall be the responsibility of the escort driver to have the oversize load removed from the traveled portion of the highway to a safe location.

8. The operator of the escort vehicle will ensure that the oversize movement is not allowed to park on the main-traveled portion of the highway unless absolutely necessary or in case of extreme emergency. Anytime the combination

is parked on the highway right-of-way, it shall be adequately protected by flares, flags, flagmen, etc.

9. The escort vehicle shall travel to the rear of the overwidth movement on multi-lane highways and in front of the escorted load on two-lane highways. The escort must be behind overlength vehicles and loads. All escort vehicles must cross the Department of Transportation and Development's stationary scales along with the escorted load.

10. The oversize load shall travel as near to the right side of the roadway as is safely possible to insure that traffic will be able to pass safely. The escort and escorted load shall not infringe upon the opposite bound lane whenever possible.

11. A single escort may be used to escort one or two over length loads in one movement.

12. An escort will be required for each overwidth load exceeding 12 feet in width.

13. The number of escort vehicles needed for overweight escort loads and "critical off-road" equipment will be stipulated by the Department of Transportation and Development in their authorization to move the load, as well as any additional restrictions.

14. The escort vehicle shall maintain a sufficient distance from the movement to warn oncoming traffic of the potential danger, but not so far as to hinder control over the movement.

15. Violators of these provisions or requirements shall be subject to all penalties provided by law and may have any and all escort permits revoked.

G. Checklist for Equipment Required for "Louisiana Approved Escort Vehicle"

1. Before any escort vehicle permit and decal can be issued, the following requirements must be met.

a. License. Truck tag or t-tag; commercial plate on all Louisiana domiciled automobiles; reciprocal agreement on all others.

b. Proof of insurance with policy number:

i. liability—\$100,000;

ii. property damage—\$50,000.

c. Class "D" or "E" Operator's License. (Louisiana residents only) (Department of Public Safety required).

d. Lights:

i. amber in color;

ii. dome—360 degrees visibility;

iii. lens—9 inches in diameter, 4-inch vertical clearance (8 inch x 5 inch acceptable);

iv. bar lights—strobe OK;

v. base (lens) of all lights must be 60 inches from roadway;

vi. all lights front and rear must be operable.

e. Two 18-inch square red/fluorescent orange flags, 40-70 degree angle, atop vehicle on mast—not over 6-inch overhang of vehicle or exceed eight feet in width—must be in line with light(s).

f. Door signs:

i. name and complete address or name, city, state, and telephone number;

ii. well known company logo acceptable (permanent or semi-permanent).

g. Two Rear View Side Mirrors

h. Radio Communication with Load

i.i. Ten pounds dry chemical fire extinguisher or equivalent;

ii. four 15-minute burning flares (no substitutes, i.e., hazard markers);

iii. two red/fluorescent orange hand-held flags.

j.i. Four red/fluorescent orange 18 inch square flags;

ii. two "Oversize Load" signs, 18 inches x 7 feet, with black lettering on yellow background—lettering to be 10 inches by 1 5/8 must read "Oversize Load."

k. Information signs, in addition to the above requirements, are acceptable.

l. Closed vans (step side), buses, campers, motor homes, and motor driven cycles are not acceptable as escort vehicles.

m. A vehicle that has all of the above listed equipment (in proper working order) may escort until which time he crosses a stationary scale or is stopped by a mobile unit. At that time the escort will be inspected and issued the permit and decal without being assessed a penalty.

n. At no time may the escort vehicle pull a trailer or tow another vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), LR 30:1490 (July 2004), amended by the Department of Public Safety and Corrections, Office of State Police, LR 42:1302 (August 2016), amended by the Department of Transportation and Development, Office of Operations, LR 48:

## Chapter 30. Legal Limitations

### §3001. Figures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 5:26 (February 1979), amended by the Office of Weights, Measures and Standards, LR 22:120 (February 1996), repealed by the Department of Transportation and Development, Office of Operations, LR 48:

### Family Impact Statement

Implementation of this proposed Rule 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:

1. The implementation of this proposed rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed rule will have no known or foreseeable effect on the family earnings and family budget.

5. The implementation of this proposed rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.



### Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security.

2. The implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.

3. The implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development.

4. The implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Analysis

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the rule on small businesses.

### Provider Impact Statement

The implementation of this proposed Rule does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed Rule does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The implementation of this proposed Rule does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The implementation of this proposed Rule does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

### Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this notice of intent to Nick Fagerburg, Weights and Standards Engineer Administrator, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245. Telephone (225) 379-1795.

Shawn D. Wilson, Ph.D.  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: **Weights and Standards**

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

There are no estimated implementation costs or savings to state or local governmental units associated with the proposed rule revision. The proposed rule makes technical changes and updates to Title 73, Weights, Measures and Standards, as well as codifying the existing fee structures, penalties and allowable weight loads on the state's transportation infrastructure.

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

The proposed changes shall have no impact on state or local government units on revenue collections.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are not anticipated to create cost impacts or economic benefits to directly affected persons, small businesses, or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes shall have no effect on competition and/or employment.

Eric Kalivoda  
Deputy Secretary  
2209#014

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

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

#### Commercial Menhaden Reporting Requirements (LAC 76:VII.308)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a new Rule (LAC 76:VII.308) requiring reporting of harvest and length data as a result of and pursuant to Act 759 of the 2022 regular session of the Louisiana Legislature. Currently, the commercial menhaden reduction fishery reports landings data to the Department of Wildlife and Fisheries (LDWF) through monthly trip tickets and to NOAA Fisheries through Captain's Daily Fishing Reports (CDFRs). This new Rule would require the commercial menhaden reduction fishery to report data monthly, beginning in May of 2023, to LDWF for each purse seine set. Reported data shall include location, estimated volume of harvest, and length measurements in a manner specified by LDWF. The Rule further establishes compliance with confidentiality of those data submitted to comply with federal procedures set forth by the Department of Commerce regarding confidentiality of fishing statistics. Furthermore, the rule requires that, beginning on February 10, 2024, LDWF report annually to the Senate Committee on Natural Resources and the House Committee on Natural Resources and the Environment the commercial menhaden harvest from the prior year.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of

the commission to promulgate and effectuate this Notice of Intent, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and compiling public comments and submissions for the commission's review and consideration. In the absence of any further action by the commission following an opportunity to consider all public comments regarding the proposed Rule, the secretary is authorized and directed to prepare and transmit a summary report to the legislative oversight committees and file the final Rule.

#### **Title 76**

### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic Life**

#### **Chapter 3. Saltwater Sport and Commercial Fishery**

#### **§308. Commercial Menhaden Reporting Requirements**

##### **A. Reporting**

1. Companies taking menhaden by vessels equipped with purse seines for the purpose of reduction fishing shall report monthly, beginning in May 2023, commercial menhaden harvest reports. Reports for the previous month shall be due to the Department of Wildlife and Fisheries (LDWF) by the tenth of the following month (the first report shall be due May 10, 2023 for the month of April 2023).

2. Monthly Reporting shall include the following data for each set:

a. year, date, set number, vessel, plant, set start time, and set end time;

b. location data in degrees, minutes, and seconds with a defined datum determined by global positioning satellite (GPS) navigational instrument reading;

c. estimated volume of harvest in 1,000s of fish;

d. length measurements, in millimeters fork length, of 15 randomly selected menhaden (5 from the beginning of set pump out, 5 from the middle of set pump out, and 5 from the end of set pump out);

e. Reports shall be provided in electronic form to LDWF in an electronic spreadsheet as specified by LDWF and containing the elements outlined above in this Section.

3. Beginning February 10, 2024, LDWF shall annually report to the Senate Committee on Natural Resources and the House Committee on Natural Resources and the Environment the commercial harvest from the prior year based upon aggregated data from the monthly reports.

##### **B. Definitions**

*Fork Length*—measurement of a fish from the tip of its snout to the fork of the tail.

*Set*—for the purposes of this rule, a “set” is defined as when a purse seine is deployed and encircles a school of menhaden, regardless of whether those fish are reduced to possession by transferring to the mother ship or steamer.

##### **C. Confidentiality**

1. Any data provided to LDWF under the provisions of this Rule shall comply with confidentiality provisions set forth in LAC 76:I.Chapter 3, Subchapter F. Any information LDWF provides to the public shall not indicate the captain, vessel or company.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:325.5.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 48:

#### **Family Impact Statement**

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issue its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

#### **Provider Impact Statement**

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

#### **Public Comments**

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to noon on Thursday, November 3, 2022.

Joe McPherson  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Commercial Menhaden Reporting Requirements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is expected to increase expenditures for the Louisiana Department of Wildlife and Fisheries (LDWF) by approximately \$2,000 in FY 22-23 to make adjustments to the Fisheries Data Management System.

The proposed rule change implements Act 759 of the 2022 Regular Session of the Louisiana legislature that adopted monthly reporting requirements for commercial fishing vessels that use purse seines to harvest menhaden. Act 759 defines the sampling procedure for estimating length measurements for each set: millimeter fork lengths of 15 fish drawn from different portions of each pump out; requires the submission of monthly reports in electronic form; and requires the department to report the commercial menhaden harvest annually to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment.

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

The proposed rule change is not anticipated to have an effect on revenue collections of the LDWF or other state or local government units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes may have a positive effect on stakeholders in Louisiana's commercial and recreational fisheries by facilitating the collection, analysis, and

dissemination of information about commercial fishing activities in the menhaden industry.

The sampling procedure described in the proposed rule change may increase the cost of complying with reporting requirements. Commercial vessels will be required to record the fork lengths of 15 fish from each set: five from the beginning, five from the middle, and five from the end of each set. Estimates of the expected increases in labor and reporting costs are unavailable.

The requirement to submit monthly menhaden harvest reports electronically may impose additional costs on commercial fishing vessels that do not currently have the means to record and transmit data in that form. Any increase in costs will depend on how many vessels will need

to purchase computer equipment. Estimates of the number of vessels with or without computers is unknown.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Byron McClinton  
Undersecretary  
2209#061

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Workforce Commission Office of Unemployment Insurance Administration

#### Background Check for Access to Federal Tax Information (LAC 40:IV.379)

Pursuant to the authority granted by R.S. 15:587.5, 23:1657.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Workforce Commission proposes to amend LAC 40:IV.379(C)(2). The purpose of the amendment of this Rule is to allow the frequency of conducting criminal history records checks for access to federal tax information to be dependent upon the requirements in Internal Revenue Service's Pub. 1075.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part IV. Employment Security

#### Subpart 1. Board of Review

#### Chapter 3. Employment Security Law

#### §379. Criminal History Background Check for Access to Federal Tax Information

A. - B.1.c. ...

C. General Provisions for Criminal History Background Checks

1. ...

2. Criminal history background checks will be completed at the frequency required by the Internal Revenue Service's Pub. 1075.

C.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.5 and R.S. 23:1657.1.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 44:2026 (November 2018), amended LR 48:

#### Family Impact Statement

Implementation of the proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B).

#### Poverty Impact Statement

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

The proposed Rule's impact on small businesses has been considered in accordance with R.S. 49:978.4 and 978.5, and it is estimated that the proposed action will have negligible impact on small businesses as defined in the Regulatory Flexibility Act. Therefore, a Small Business Economic Impact Statement has not been prepared.

#### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, it is anticipated that this proposed Rule will have no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### Public Comments

All interested parties are invited to submit views, arguments, information, or comments on the proposed Rule amendment via U.S. mail to: Robert Wooley, Assistant Secretary, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9094. All written comments are required to be signed by the person submitting the comments, dated, and received on or before 4 p.m. on October 10, 2022.

#### Public Hearing

A request pursuant to R.S. 49:953(A)(2)(a) for oral presentation, argument, or a public hearing must be in writing and received by the Louisiana Workforce Commission no later than October 10, 2022. The request should be submitted by U.S. mail to: Louisiana Workforce Commission, ATTN: Robert Wooley, Assistant Secretary, P.O. Box 94094, Baton Rouge, LA 70804-9094.

Ava Cates  
Secretary

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Background Check for Access to Federal Tax Information

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

The purpose of this proposed amendment to LAC 40:IV.379 is to allow the frequency at which criminal background checks are repeated to follow the precedent of federal code set by the Internal Revenue Service (IRS) publication 1075, "Tax Information Security Guidelines for Federal, State and Local Agencies." The IRS recently updated the frequency requirement of background checks from every ten years to every five years. By referencing the IRS publication rather than specifying the timeframe within state administrative code, the Louisiana Workforce Commission (LWC) hopes to avoid future rule changes and associated expenses when/if the IRS changes the requirement again. Minor implementation costs of about \$707 will be included in FY24 LWC budget request as administrative costs related to the Unemployment Insurance Trust Fund in the same manner as the current background checks for the 11 employees that are expected to require the service. The services will be provided by LA State Police for federal and state background checks (estimated at \$542) and fingerprinting who will appropriate the funds by Statutory Dedication through the Criminal Identification and Information Fund and with local authorities for local background checks (estimated at \$165).

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

Because the expenses are administrative costs related to the Unemployment Insurance Trust Fund, they qualify for federal funding. The LWC will draw down the federal funds through the Office of Unemployment Insurance Administration Program, then transfer the funds by IAT to LA State Police, who will classify the funds into the Criminal Identification and Information Fund. The remaining federal draw will fund the payments to local authorities.

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

No material impacts on costs or economic benefits are anticipated for affected personal or non-governmental groups due to this proposed rule change. No private agencies are used in the processing of background checks or fingerprinting by LWC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposed rule change.

Ava Cates  
Secretary  
2209#033

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Workforce Commission  
Office of Workers' Compensation**

Hearing Rules—Required Form to Track  
Written Reasons for Contempt  
(LAC 40:I.5537)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 3, Hearing Rules, Chapter 55, Subchapter F, regarding power and authority. The purpose of this amendment is to promulgate a required form to track written reasons for contempt. This Rule is promulgated by the authority delegated to the deputy assistant secretary by R.S. 36:304(B) and vested in the assistant secretary of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.7.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 3. Hearing Rules**

**Chapter 55. General Provisions**

**Subchapter F. Power and Authority**

**§5537. Procedure**

A. ...

B. Form for Judges to Report Contempt Findings

<b>WORKERS' COMPENSATION CONTEMPT FINDINGS FORM</b>	
<b>Note:</b> Form due to Assistant Secretary within 30 days of ruling per La. R.S. 23:1310.7	
<b>SECTION I: DOCKET CASE INFORMATION (print please)</b>	
<b>1. Plaintiff Party Name</b>	<b>1a. Attorney (if any)</b>
<b>2. Defendant Party Name</b>	<b>2a. Attorney (if any)</b>
<b>3. Judge's Name</b>	<b>4. Date of Event/Hearing</b>
<b>5. District #</b>	<b>6. City</b>
<b>SECTION II: FACTS</b>	
<b>1. Name of Party in Contempt</b>	
<b>2. Parties to the claim and their relationship (ex: John Brown, claimant) :</b>	
<b>3. Code of Civil Procedure Violation (check all that apply):</b>	
<input type="checkbox"/> Article 222- Direct Contempt # of violations _____ Total amount of civil fines assessed \$ _____ Summarize actions used to discourage behavior: _____ _____ _____	
<input type="checkbox"/> Article 224- Constructive Contempt # of violations _____ Total amount of civil fines assessed \$ _____ Summarize actions used to discourage behavior: _____ _____ _____	
<b>4. Attach written reasons issued with ruling</b>	
<b>Signature of Judge</b> _____	<b>Date</b> _____
<b>Signature of Chief Judge</b> _____	<b>Date</b> _____
<b>Signature of Assistant Secretary</b> _____	<b>Date</b> _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:266 (February 1999), amended LR 25:1861 (October 1999), LR 33:653 (April 2007), amended, LR 48:

**Family Impact Statement**

This amendment to Title 40 should have no impact on families.

**Poverty Impact Statement**

This amendment to Title 40 should have no impact on poverty or family income.

**Small Business Analysis**

This amendment to Title 40 should have no direct impact on small or local businesses.

**Provider Impact Statement**

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.

2. This Rule should create no additional cost to providers or payers.

3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

**Public Comments**

All interested persons are invited to submit written comments or hearing request on the proposed Rule. Such comments or request should be sent to Tavares Walker, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be received by 5 pm on October 10, 2022.

Ava Cates  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Hearing Rules—Required Form to  
Track Written Reasons for Contempt**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed rule creates a form required by LA R.S. 23:1310.7. The proposed rule has no material fiscal impact on state or local governmental units outside of the associated publication fees which can be absorbed within the agency’s budget.

- LA R.S. 23:1310.7 requires the Office of Workers’ Compensation Administration (OWCA) Assistant Secretary to promulgate a form that allows workers’ compensation judges to report contempt findings. Contempt can either be direct as defined in Louisiana Code of Civil Procedure Article 222 or constructive as defined in Louisiana Code of Civil Procedure Article 224.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
Implementation of the proposed rule change has no material 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 has no material economic cost or benefit to stakeholders or small businesses.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule change has no known effect on competition and employment.

Tavares A. Walker  
Deputy Assistant Secretary  
2209#021

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### 2022 Annual Quarantine List

In accordance with LAC 7:XV.107 and 109, the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences is hereby publishing the annual quarantine.

#### 1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

#### 2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

##### Arizona

(1) Generally infested area: the entire state.

##### California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

##### New Mexico

(1) Generally infested area: The entire state.

##### Texas

(1) Generally infested area: The entire state.

#### 3.0 Phytophagous Snails

The states of Arizona and California.

#### 4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

#### 5.0 Lethal Yellowing

The state of Florida.

#### 6.0 Lethal Bronzing (formerly Texas Phoenix Decline)

The states of Texas and Florida.

#### 7.0 Tristeza, Xyloporosis, Psorosis, Exocortis

All citrus growing areas of the United States.

#### 8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

#### 9.0 Oak Wilt (*Ceratocystis fagacearum*)

##### Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

##### Illinois

Entire state.

##### Indiana

Entire state.

##### Iowa

Entire state.

##### Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

##### Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

##### Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

##### Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

##### Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

##### Missouri

Entire state.

##### Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties: all counties except Tucker and Webster.

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (*Xanthomonas citri subsp. citri*)

Louisiana

Infested parishes: Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John and a portion of St. Martin.

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Citrus Greening (*Candidatus Liberibacter asiaticus*)

Louisiana

Infested parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

13.0 Asian Citrus Psyllid (*Diaphorina citri Kuwayama*)

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0 Emerald Ash Borer (*Agrilus planipennis*)

Louisiana

Infested parishes: Bienville, Bossier, Caddo, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster.

15.0 Roseau Cane Scale (*Nipponaclerda biwakoensis*)

Louisiana

Infested parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary,



St. Tammany, Tangipahoa, Vernon, Washington, and West Feliciana.

**17.0 Guava root knot nematode (*Meloidogyne enterolobii*)**

The entire states of Florida, North Carolina, and South Carolina.

Mike Strain DVM  
Commissioner

2209#026

**POTPOURRI**

**Board of Elementary and Secondary Education**

Notice of Public Hearing for Changes to  
Proposed Rule—Bulletin 746—Louisiana Standards  
for State Certification of School Personnel

In June of 2022, the State Board of Elementary and Secondary Education approved, as Notice of Intent, revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. House Bill 546 of the 2022 Regular Legislative Session amended and reenacted R.S. 17:7(6)(b)(i)(aa) and repealed R.S. 17:7.1(A)(7). To align with current statute, additional revisions were made to §507. Professional Level Certificates that necessitate the repeal and reestablishment of the Section and require the revisions be adopted as both Notice of Intent and Declaration of Emergency. Therefore, the June 2022 NOI will be adopted as Rule for all Sections except §507. Professional Level Certificates, as replaced by the August 2022 revisions.

**Public Hearing**

A public hearing will be held on October 20, 2022, at 9 a.m. in the Claiborne Building, Room 1-100 (The Louisiana Purchase Room), 1201 North Third Street, Baton Rouge, LA 70802. Interested persons are invited to attend.

Shan N. Davis  
Executive Director

2209#016

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

Public Hearing Notice of Substantive Changes  
to Proposed Rule—X-Rays in the Healing Arts  
(LAC 33:XV.602, 603, and 610)(RP068S)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to proposed regulation (LAC 33:XV.602, 603, and 610) (Log #RP068S), which was originally noticed as RP068 in the January 20, 2022, issue of the *Louisiana Register*. (2209Pot2)

The department has proposed substantive changes to address comments received during the public comment period of proposed rule RP068. In the interest of clarity and

transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulation in question. The department is also providing an interim response to comments received on the initial regulation proposal.

A ~~strikeout/underline/shaded~~ version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available on the department's website under Rules and Regulations at <http://deq.louisiana.gov/page/rules-regulations>.

The following changes are to be incorporated into the Notice of Intent:

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XV. Radiation Protection**

**Chapter 6. X-Rays in the Healing Arts**

**§602. Definitions**

A. ...  
\* \* \*

*Qualified Expert*—an individual who meets one of the following criteria:

- a. ...
- b. not board certified in the required subspecialty but with a graduate degree in medical physics, radiologic physics, physics, or other relevant physical science or engineering discipline from an accredited institution, and formal coursework in the biological sciences with at least one course in biology or radiation biology and one course in anatomy, physiology, or similar topics related to the practice of medical physics and three years of documented experience in a clinical CT environment (for purposes of CT evaluations), three years of documented experience in fluoroscopic environment (for purposes of fluoroscopic evaluations), or three years of documented experience in general radiographic environment (for purposes of general radiographic evaluations);
- c. - d. ...  
\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 23:1139 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2362 (November 2007), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

**§603. General and Administrative Requirements**

- A. - A.7. ...
  - a. all individuals shall be positioned such that no part of the body will be struck by the useful beam unless protected by not less than 0.5 millimeter lead equivalent;
  - A.7.b. - F.1.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:976 (October 1996), LR 23:1139

(September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2585 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 33:2184 (October 2007), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

**§610. Computed Tomography X-Ray Systems**

A. - E. ...

F. PET CT and SPECT CT Systems. CT systems solely used to calculate attenuation coefficients in nuclear medicine studies shall meet the requirements in Subsections A – D of this Section, unless the following criteria are met.

1. - 2. ...

3. Accreditation. Unless otherwise authorized by the department, all diagnostic CT x-ray systems for human use shall be accredited by a department-recognized accredited organization.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 48:

**Public Hearing**

A public hearing on the substantive changes will be held via Zoom on October 27, 2022, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/9373792954> or by telephone by dialing 636-651-3182 using the conference code 725573. Interested persons are invited to attend and submit oral comments on the substantive changes. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as RP068S. Such comments must be received no later than October 27, 2022, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or emailed to [DEQ.Reg.Dev.Comments@la.gov](mailto:DEQ.Reg.Dev.Comments@la.gov). The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP068S. These proposed regulations are available on the internet at <http://deq.louisiana.gov/page/rules-regulations>.

These substantive changes to RP068S are available for inspection at the following LDEQ office locations from 8:00 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria

Street, Lockport, LA 70374; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette  
Executive Counsel

2209#027

**POTPOURRI**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division**

**Report of Findings for the 2021 Triennial Review  
of Louisiana Water Quality Standards**

The Louisiana Department of Environmental Quality has completed its review of Louisiana’s Water Quality Standards (WQS), which can be found in LAC 33:IX.Chapter 11. This review was conducted to evaluate the need to update or revise the WQS in order to remain consistent with federal and state law in relation to the Triennial Review process. A Report of Findings document was drafted to enumerate the agency’s findings. This report can be found at: <https://www.deq.louisiana.gov/page/triennial-review>. (2209Pot1)

The review identified multiple items requiring clarity and necessitating rulemaking. A notice of intent for the proposed rule is anticipated to be published in the Louisiana Register on or before the March 2023 edition. Tracking number WQ111 has been assigned for this rulemaking effort.

Please e-mail [WQ.Standards@la.gov](mailto:WQ.Standards@la.gov) if you have any questions related to the triennial review.

Courtney J. Burdette  
Executive Counsel

2209#028

**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
Anglo-Dutch Energy, LLC	Bon Air, North	L	V ra sua; Fuselier Trust	001	248625
Anglo-Dutch Energy, LLC	Bon Air	L	Murry Farms	001	248626
Crow-Sklar	Pool Lake	M	Lucille B Gillis Estate	001	72185

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Harrell su772; FBKS Real Est	054	102434
David L. Whittington Inc	Monroe	M	Thatcher	001	138550
David L. Whittington Inc	Monroe	M	Thatcher	002	138551
David L. Whittington Inc	Monroe	M	Thatcher	003	138552
David L. Whittington Inc	Monroe	M	Thatcher	004	138553
David L. Whittington Inc	Monroe	M	Thatcher	006	138555
David L. Whittington Inc	Monroe	M	Cities Service	001	138994
David L. Whittington Inc	Monroe	M	Cities Service	002	138995
David L. Whittington Inc	Monroe	M	Cities Service	003	138996
David L. Whittington Inc	Monroe	M	Cities Service	004	138997
David L. Whittington Inc	Monroe	M	Cities Service	005	138998
David L. Whittington Inc	Monroe	M	Cities Service	006	138999
David L. Whittington Inc	Monroe	M	Cities Service	007	139000
David L. Whittington Inc	Monroe	M	Cities Service	012	139050
David L. Whittington Inc	Monroe	M	Cities Service	015	139053
David L. Whittington Inc	Monroe	M	Navarro	005	139201
David L. Whittington Inc	Monroe	M	Navarro	007	139203
David L. Whittington Inc	Monroe	M	Navarro	008	139204

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Navarro	009	139205
David L. Whittington Inc	Monroe	M	Navarro	017	139824
David L. Whittington Inc	Monroe	M	Navarro	018	139825
David L. Whittington Inc	Monroe	M	Navarro	019	139826
David L. Whittington Inc	Monroe	M	Navarro	020	139827
David L. Whittington Inc	Monroe	M	Navarro	021	139828
David L. Whittington Inc	Monroe	M	Navarro	022	139829
David L. Whittington Inc	Monroe	M	Navarro	023	139830
David L. Whittington Inc	Monroe	M	Navarro	024	139831
David L. Whittington Inc	Monroe	M	Navarro	010	139904
David L. Whittington Inc	Monroe	M	Navarro	012	139906
David L. Whittington Inc	Monroe	M	Navarro	013	139907
David L. Whittington Inc	Monroe	M	Navarro	014	139908
David L. Whittington Inc	Monroe	M	Navarro	015	139909
David L. Whittington Inc	Monroe	M	Navarro	016	139910
David L. Whittington Inc	Monroe	M	Navarro	025	140672
David L. Whittington Inc	Monroe	M	Navarro	026	140673
David L. Whittington Inc	Monroe	M	Navarro	027	140674

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Navarro	028	140675
David L. Whittington Inc	Monroe	M	Navarro	030	140677
David L. Whittington Inc	Monroe	M	Navarro	031	140678
David L. Whittington Inc	Monroe	M	Navarro	032	140679
David L. Whittington Inc	Monroe	M	75-B Program	001	152227
David L. Whittington Inc	Monroe	M	75-B Program	002	152228
David L. Whittington Inc	Monroe	M	75-B Program	003	152229
David L. Whittington Inc	Monroe	M	75-B Program	004	152230
David L. Whittington Inc	Monroe	M	75-B Program	005	152231
David L. Whittington Inc	Monroe	M	75-B Program	006	152232
David L. Whittington Inc	Monroe	M	Mga-76-1	001	152301
David L. Whittington Inc	Monroe	M	Mga-76-1	002	152302
David L. Whittington Inc	Monroe	M	Mga-76-1	003	152303
David L. Whittington Inc	Monroe	M	Mga-76-1	004	152304
David L. Whittington Inc	Monroe	M	Mga-76-1	005	152305
David L. Whittington Inc	Monroe	M	Mga-76-1	006	152306
David L. Whittington Inc	Monroe	M	Mga-76-1	007	152307
David L. Whittington Inc	Monroe	M	Mga-76-1	058	152703

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Mga-76-1	022	152750
David L. Whittington Inc	Monroe	M	Mga-76-1	023	152751
David L. Whittington Inc	Monroe	M	Mga-76-1	024	152752
David L. Whittington Inc	Monroe	M	Mga-76-1	025	152753
David L. Whittington Inc	Monroe	M	Mga-76-1	055	152756
David L. Whittington Inc	Monroe	M	Mga-76-1	056	152757
David L. Whittington Inc	Monroe	M	Mga-76-1	057	152758
David L. Whittington Inc	Monroe	M	Mga-76-1	059	152759
David L. Whittington Inc	Monroe	M	Mga-76-1	051	152836
David L. Whittington Inc	Monroe	M	Mga-76-1	047	152837
David L. Whittington Inc	Monroe	M	Mga-76-1	046	152838
David L. Whittington Inc	Monroe	M	Mga-76-1	052	152839
David L. Whittington Inc	Monroe	M	Mga-76-1	054	152840
David L. Whittington Inc	Monroe	M	Mga-76-1	028	152907
David L. Whittington Inc	Monroe	M	Mga-76-1	029	152908
David L. Whittington Inc	Monroe	M	Mga-76-1	030	152909
David L. Whittington Inc	Monroe	M	Mga-76-1	032	152911
David L. Whittington Inc	Monroe	M	Mga-76-1	033	152912

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Mga-76-1	034	152913
David L. Whittington Inc	Monroe	M	Mga-76-1	035	152914
David L. Whittington Inc	Monroe	M	Mga-76-1	036	152915
David L. Whittington Inc	Monroe	M	Mga-76-1	037	152916
David L. Whittington Inc	Monroe	M	Mga-76-1	038	152917
David L. Whittington Inc	Monroe	M	Mga-76-1	039	152918
David L. Whittington Inc	Monroe	M	Mga-76-1	040	152919
David L. Whittington Inc	Monroe	M	Mga-76-1	041	152920
David L. Whittington Inc	Monroe	M	Mga-76-1	042	152921
David L. Whittington Inc	Monroe	M	Mga-76-1	043	152922
David L. Whittington Inc	Monroe	M	Mga-76-1	044	152923
David L. Whittington Inc	Monroe	M	Mga-76-1	045	152924
David L. Whittington Inc	Monroe	M	Mga-76-1	048	152925
David L. Whittington Inc	Monroe	M	Mga-76-1	049	152926
David L. Whittington Inc	Monroe	M	Mga-76-1	050	152927
David L. Whittington Inc	Monroe	M	Mga-76-1	061	152928
David L. Whittington Inc	Monroe	M	Mga-76-1	062	152929
David L. Whittington Inc	Monroe	M	Mga-76-1	063	152930

Operator	Field	District	Well Name	Well Number	Serial Number
David L. Whittington Inc	Monroe	M	Mga-76-1	064	152931
David L. Whittington Inc	Monroe	M	Mga-76-1	065	152932
David L. Whittington Inc	Monroe	M	Mga-76-1	070	152937
David L. Whittington Inc	Monroe	M	75-B Program	008	153589
David L. Whittington Inc	Monroe	M	75-B Program	009	153590
David L. Whittington Inc	Monroe	M	Exxon	001	157237
David L. Whittington Inc	Monroe	M	Exxon	002	157238
David L. Whittington Inc	Monroe	M	Exxon	003	157239
David L. Whittington Inc	Monroe	M	Camp-Hargiss	001	181493
David L. Whittington Inc	Monroe	M	Camp-Hargiss	002	181494
David L. Whittington Inc	Monroe	M	Camp-Hargiss	003	181495
David L. Whittington Inc	Monroe	M	Exxon	004	181504
David L. Whittington Inc	Monroe	M	Ditta-Hargiss	001	187217
David L. Whittington Inc	Monroe	M	Ditta-Hargiss	002	187218
David L. Whittington Inc	Monroe	M	Ditta-Hargiss	003	187270
David L. Whittington Inc	Monroe	M	Hargiss	001	187271
David L. Whittington Inc	Monroe	M	Harrell su692;Cities Service	016	204763
David L. Whittington Inc	Monroe	M	Linville School	002	210130

Operator	Field	District	Well Name	Well Number	Serial Number
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	012	68087
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	013	68617
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	014	69453
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	007	70622
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	008	70715
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	010	70879
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	009	70880
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	001	71527
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	004	71528
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	003	71529
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	002	71530
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	005	72061
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	006	72062
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B swd	015	77061
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Wappler B	011	120522
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Rod Hill suw; Atkins et al	001	149501
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Rod Hill suw; W B Hudson	002-ALT	151406
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Rod Hill ra sui; Simpson	001	156858

Operator	Field	District	Well Name	Well Number	Serial Number
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	J W Hudson et al swd	001	166358
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Sui; A Williams	001	166415
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Sug; N Soniat	001	168979
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Sue; J W Hudson et al	003	171850
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Sui; M Brumble	001-ALT	189948
Eagle Oil Management Co., LLC	Longwood	S	Hoss ra su69; Waskom	001	190769
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Querbes	001	197393
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Querbes	003	199222
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Suu; Querbes	001	208940
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Suk; Robert T Edgar B	001	209096
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy su68; Atkins et al	003	210228
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy Sul; H Edgar	004	220661
Eagle Oil Management Co., LLC	Greenwood-Waskom	S	Pxy su68; Shelby	001-ALT	226020
Goldenrod Oil Company	Wildcat-No La Shreveport Dist	S	Nettie O Hampton	A-1	11103
Huntlyn Operating, LLC	Shuteston	L	3600 ra sub; Brinkhaus	001	120923
Huntlyn Operating, LLC	Shuteston	L	Armand Brinkhaus	002	126849
Huntlyn Operating, LLC	Shuteston	L	C D Boagni	001	161220
Huntlyn Operating, LLC	Shuteston	L	Armand Brinkhaus	003	163523

Operator	Field	District	Well Name	Well Number	Serial Number
Huntlyn Operating, LLC	Shuteston	L	C D Boagni	004	178145
Huntlyn Operating, LLC	Cankton, North	L	Boagni Belmont Properties	001	246636
Huntlyn Operating, LLC	Shuteston	L	A Begnaud swd	001	970810
J.B. Harkham Production Company	Caddo Pine Island	S	Mrs R C Christian	001	35044
Kepco Operating, Inc.	Nebo-Hemphill	M	R C Girlinghouse	002	27518
Kepco Operating, Inc.	Nebo-Hemphill	M	A J Ward et al swd	001	27612
Kepco Operating, Inc.	Summerville	M	Mccartney swd	001	76080
Kepco Operating, Inc.	Olla	M	Hanson U swd	001	100612
Kepco Operating, Inc.	Olla	M	Wx G1 ra su547; Hanson	004	156703
Kepco Operating, Inc.	Nebo-Hemphill	M	Wx C Rb su37a; R C Girlinghouse	001	173370
Kepco Operating, Inc.	Olla	M	Wx G1 ra su548;Hanson	006	174166
Kepco Operating, Inc.	Nebo-Hemphill	M	R C Girlinghouse swd	003	176183
Kepco Operating, Inc.	Nebo-Hemphill	M	Hailey	001	203135
Kepco Operating, Inc.	Catahoula Lake	M	Griffing et al swd	001	203150
Kepco Operating, Inc.	Searcy	M	Wx C ra sui;Greer	001	205373
Kepco Operating, Inc.	Searcy	M	Wx B ra sui; Greer	003	207311
Kepco Operating, Inc.	Olla	M	Hanson	034	207574
Kepco Operating, Inc.	Olla	M	Wx F2 ra su547;Hanson	031	207599

Operator	Field	District	Well Name	Well Number	Serial Number
Kepco Operating, Inc.	Summerville	M	Wx C Rd Suo; Cavenham 26	001	208685
Kepco Operating, Inc.	Summerville	M	Fitzgerald swd	001	209021
Kepco Operating, Inc.	Searcy	M	Greer swd	001	212514
Kepco Operating, Inc.	Nebo-Hemphill	M	Wx D Rb su37a;R C Girlinghouse	004-ALT	215745
Kepco Operating, Inc.	Nebo-Hemphill	M	Wx A Rd Sul;Windham-Bodcaw	001	216777
Kepco Operating, Inc.	Summerville	M	Wx D Rd suo;Hanson	061	218639
Kepco Operating, Inc.	Nebo-Hemphill	M	Wx E Rb su76b;Hailey	002	226245
Kepco Operating, Inc.	Summerville	M	Wx D Rd Sun; Groves 26-11	003	231482
Kepco Operating, Inc.	Catahoula Lake	M	Wx D Rc su4;SI 18951	001	238545
Kepco Operating, Inc.	Catahoula Lake	M	Wx A Rc su5;SI 18951	002	242543
Kepco Operating, Inc.	Nebo-Hemphill	M	Shirley swd	001	973960
Mcgoldrick Oil Co.	Caddo Pine Island	S	Gamm "F"	F5	62418
Mcgoldrick Oil Co.	Caddo Pine Island	S	Gamm "F"	F6	65298
Nemours Corporation And John Franks	Caddo Pine Island	S	Mceachern	001	77443
R C Operating LLC	Sandy Lake	M	T M Cater swd	001	102654
R C Operating LLC	Sandy Lake	M	Cater-Ajk	001	188254
R C Operating LLC	Sandy Lake	M	Cater-Ajk	002	188255
R C Operating LLC	Sandy Lake	M	Cater-Ajk	007	189574

Operator	Field	District	Well Name	Well Number	Serial Number
R C Operating LLC	Sandy Lake	M	Cater-Ajk	009	189575
Reunion Titan, Inc.	Gillis-English Bayou	L	Cal Drew Mts et al	003	58318
The Tec Company	Golden Meadow	L	Delgrandile	001	67717

Richard P. Ieyoub  
Commissioner

2209#064

## POTPOURRI

### Department of Revenue Policy Services Division

#### Notice of Public Hearing for Changes to Proposed Rule—Mobile Workforce Exemption (LAC 61:I.1923)

The Department of Revenue published a Notice of Intent to promulgate LAC 61:I.1923, Mobile Workforce Exemption in the July 20, 2022 edition of the *Louisiana Register* (LR 48:2019-2020). One written comment was received and no one appeared at the public hearing held on August 25, 2022. Based on this written comment, the Department of Revenue is amending the proposed Rule to remove a procedural element previously required in §1923.C.

As amended, the proposed rule no longer requires nonresident employees to file Form L-4E, *Exemption from Withholding Louisiana Income Tax* with their employer for their employer to refrain from withholding Louisiana income tax from their wages.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

#### §1923. Mobile Workforce Exemption

##### A. General Description

1. The mobile workforce exemption allows certain nonresident mobile workers to exclude wages from Louisiana tax table income. The exemption further relieves employers of such nonresident employees of the requirement to withhold Louisiana individual income tax on the nonresident employee's wages.

2. To be eligible for the exemption, all of the following requirements must be met.

a. The compensation is paid for employment duties performed by the nonresident individual in this state for 25 or fewer days in the calendar year.

b. The nonresident individual performed employment duties in more than one state during the calendar year.

c. The wages are not paid for employment duties performed by the nonresident individual in the individual's

capacity as a professional athlete, staff member of a professional athletic team, professional entertainer, public figure, or qualified production employee.

d. The nonresident individual's income is exempt from taxation by this state under the United States Constitution or federal statute or the nonresident individual's state of residence either provides a substantially similar exemption or does not impose an individual income tax.

e. The nonresident individual did not have any other income derived from sources within the state during the taxable year.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed therein.

*Department*—the Louisiana Department of Revenue.

*Day*—an employee is considered present and performing employment duties within Louisiana for a day if the employee performs more of his or her duties within Louisiana than any other taxing jurisdiction for that day. Where an employee is present and performing more employment duties in Louisiana than another taxing jurisdiction on the same day, the employee will be considered to have performed the preponderance of his or her duties for that day in Louisiana. The portion of a day that an employee spends in Louisiana while in transit is not considered in determining whether he or she performed employment duties.

*Employee*—as defined in R.S. 47:111(A), with the exception of a professional athlete, staff member of a professional athletic team, professional entertainer, public figure, or qualified production employee.

*Employer*—as defined in R.S. 47:111(B).

*Time and Attendance System*—a system through which an employee is required, on a contemporaneous basis, to record the employee's work location for every day worked outside the state where the employee's employment duties are primarily performed and that is designed to allow the employer to allocate the employee's compensation for income tax purposes among all states in which the employee performs employment duties for the employer.

#### C. Filing Requirements

##### 1. Employees

a. Nonresident employees seeking to claim the exemption for income earned while performing employment duties within the state for less than 25 days are not required to file a Louisiana individual income tax return. If the nonresident employee has other income from Louisiana sources, the nonresident employee does not qualify for this exemption and thus all Louisiana income must be reported on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, *Louisiana Nonresident and Part-Year Resident Income Tax Return*.

b. Nonresident employees that exceeds the twenty-five-day threshold must complete a Form L-4, *Employee Withholding Exemption Certificate*:

i. within 10 days from the twenty-sixth day of performing employment duties within the state;

ii. within 10 days from the day you anticipate you will incur Louisiana income tax liability for the current year; or

iii. by the first day of the last month of your current taxable year if you anticipate you will incur Louisiana income tax liability for the following year.



2. Employers. If a nonresident employee performs employment duties in excess of 25 days within the state, the employer must begin withholding income tax for every day worked in that calendar year, including the first 25 days, and report such tax on Form L-1, *Employer's Quarterly Return of Louisiana Withholding Tax* beginning in the period in which the twenty-sixth day fell within.

D. Penalty for Failure to Deduct or Withhold Income Tax

1. The department shall not require the payment of penalties or interest for failing to deduct and withhold income tax for a nonresident employee who does not qualify for the exemption, if the employer meets any of the following conditions.

a. The employer at its sole discretion maintained a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which the employee performs employment duties for the employer, and the employer relied on data from that system.

b. The employer did not maintain a time and attendance system, and the employer relied on either:

i. its own records, maintained in the regular course of business, of the employee's location;

ii. the employee's reasonable determination of the time the employee expected to spend performing employment duties in this state provided the employer did not have actual knowledge of fraud on the part of the employee in making the determination and provided that the

employer and the employee did not collude to evade taxation in making the determination.

2. The department shall require the payment of penalties or interest for failing to deduct and withhold income tax if the employer fails to meet either of the conditions of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112.2, R.S. 47:242(1)(ii), R.S. 47:248, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 48:

**Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, 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 4:00 p.m., Monday, November, 28, 2022.

**Public Hearing**

A public hearing will be held on Tuesday, November, 29, 2022, at 2:30 p.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin J. Richard, CPA  
Secretary

2209#007

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