§3107. Serious Mental Illness

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1981 (October 2017), repealed LR 44:2008 (November 2018).

Jamie S. Doming
Executive Director

1811#007

RULE

Department of Insurance
Office of the Commissioner

Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)

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 78—Policy Form Filing Requirements.

The regulation has been amended to provide uniform and consistent procedures regarding the withdrawal of a previously approved policy form filing and the filing fee associated with the change of a company's name, logo, address or officers.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 101. Regulation 78—Policy Form Filing Requirements

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. - I.1 …

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

I.2. - K.2 …

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007), LR 42:1947 (November 2016), amended LR 44:2008 (November 2018).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. - I.1. …

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

I.2. - K.3 …

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December 2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016), amended LR 44:2008 (November 2018).

§10119. Effective Date
[Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016), repromulgated LR 44:2008 (November 2018).

James J. Donelon
Commissioner

1811#008

matter how many different types of coverages, LLHIGA shall not be liable to expend more than $500,000 in the aggregate with respect to any one individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

§909. Exhibit B—Notice of Noncoverage

A. When an insurer or agent delivers a policy or contract described in R.S. 22:2083(B)(1) that is excluded from coverage by R.S. 22:2083(B)(2), then prior to or at the time of such delivery, the following notice shall be given separately to the policy or contract holder:

> The Policy Or Contract You Are Purchasing Is Not Covered By The Louisiana Life And Health Insurance Guaranty Association.
>
> Coverage is specifically excluded by law for the type of policy or contract you are purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1940 (November 2016).

§911. Severability

A. If any Section or provision of Regulation 40 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 40 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 40 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:1940 (November 2016).

James J. Donelon
Commissioner

1611#014

RULE

Department of Insurance
Office of the Commissioner

Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)

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 78, Policy Form Filing Requirements.

The purpose of amending Regulation 78 is to provide a more streamlined and cost-effective means for insurance companies to file policy forms, amendments and associated documents with the Department of Insurance; to provide uniform procedures for filing among the states; and to bring this regulation into compliance with the Affordable Care Act.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 101. Regulation 78—Policy Form Filing Requirements

§10101. Purpose

A. The purpose of this regulation is:

1. to provide for the uniform and practicable administration of the form filing, review and approval requirements of the *Louisiana Insurance Code*;

2. to clarify the provisions of R.S. 22:861(B);

3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and

4. to assist all insurers doing business in the state of Louisiana in complying with the form filing, review and approval requirements of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861, R.S. 22:862 and R.S 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10103. Authority

A. This regulation is adopted pursuant to R.S. 22:11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and Directive 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002)., amended LR 42:1940 (November 2016).

§10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Association—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:1000 A(1)(a)(iv), or R.S. 22:1061(5)(b), or R.S. 22:1184(4), whichever is applicable.

Benchmark Plan—a basic insurance policy form establishing the essential health benefits required of every plan sold in Louisiana under the Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education and Reconciliation Act of 2010

(Pub. L. 111-152), together referred to as the Affordable Care Act.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10). As used in this Section, *insurer* shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the internet.

Optional Endorsement or *Rider*—a form used to permit policyholders, certificate holders, or enrollees to obtain supplemental benefits.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department, detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an employer, two or more employers in the same industry, one or more labor unions, an association, multiple associations, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:1000. All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance product type for which the filing is being made, and the method of marketing to be used for the product. For non-electronic paper filings, this description must be satisfied by the submission of a completed transmittal document.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, “Time Periods and Requirements for Certified Approval of Policy Form Filings.” A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the

insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, “Exceptions,” only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. application form;

v. rider or endorsement forms;

vi. copies of any sample identification card intended for issue to covered persons;

vii. initial premium rates, classification of risks, and actuarial memoranda; and

viii. self-addressed, stamped envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Filings of policy forms for one or more standardized Medicare supplement insurance plans, or one or more standardized Medicare select insurance plans, shall be considered a filing of one insurance product per insurer. Such filings must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. required filing fee for premium rates, rating schedule and supporting documentation; and required filing fee for advertisements;

iii. statement of compliance for said product;

iv. policy forms filed for approval;

v. outline of coverage;

vi. application form;

vii. replacement notice;

viii. rider or endorsement forms;

ix. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare select insurance plans;

x. premium rates, rating schedule, and supporting documentation;

xi. any new related advertising as defined in rule 3A, Section 105, including any required filing fee for said advertising.

c. Filings of policy forms for long-term care insurance must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. outline of coverage;

v. application form;

vi. replacement notice;

vii. rider or endorsement forms;

viii. premium rates and classification of risks;

ix. personal worksheet, as per Regulation 46, Appendix B;

x. disclosure, as per Regulation 46, Appendix C;

xi. suitability letter, as per Regulation 46, Appendix D;

xii. any new related advertising as defined in rule 3, Section 1305; and

xiii. if not filed electronically, a stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed.

d. Filings of all group insurance products must include the group master contract, individual certificates or subscriber agreements or other statements of coverage, group application, individual enrollment forms, and any conversion insurance policy and application for conversion, if offered under the group master contract.

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by one or more employers, trusts established by one or more labor unions, a trust established by an association, a multiple association trust established by an insurer on behalf of participating associations, or a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association or a multiple association trust, the filing must include the information described in Subparagraph C.2.e hereof.

g. When a new benchmark plan is selected for implementation in Louisiana pursuant to applicable federal regulations, a complete product filing is required of each health insurance issuer that offers health insurance plans that are required to provide the essential health benefits categories.

h. Any insurer choosing to include variable material or information in any policy form must attempt to set forth the range of variable material or information in the policy form itself. Each section of a policy form that is variable must be identified as variable and shall be enclosed in square brackets. Whether the variable material or information be varying language, text, data, and/or ranges of values, the variable portion of the form filing must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all possible specific alternatives.

i. If it is necessary to provide an explanation of or additional information regarding the range of variability contained in the form, then a separate Statement of Variability that complies with the following regarding form,

content and submission must be submitted. the statement of variability must provide an explanation of all permissible variations of material or information that could be used in an insurance plan or policy form offered to policyholders or enrollees that is derived from the product filing. Whether the variable material or information be varying language, text, data, and/or ranges of values, the statement of variability must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all possible specific alternatives.

j. Use of any material or information that does not reflect the variable material or information bracketed in the policy form and/or described in the statement of variability constitutes use of an unapproved policy form.

k. After approval of a policy form containing variable material or information, an insurer may not submit an "informational filing" changing its variable material or information or the Statement of Variability as this constitutes changing a form without approval. Because the variable material or information and/or statement of variability alters the contents of the policy forms, changes to a statement of variability must be submitted as an amendatory filing and reviewed.

l. Any insurer that uses variable material or information in its policy form and/or that uses a Statement of Variability must ensure the following.

i. The final form issued to the consumer will not contain variable material or information in brackets.

ii. Any variable material or information included in the policy forms or in the statement of variability will be effective only for policy forms issued or amended after the approval of such variable material or information.

iii. The use of variable material or information will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination.

iv. Only material or information included in the policy form or explained in the statement of variability will be allowed to be used on the referenced forms received by consumers.

v. Any changes to variable material or information in the product form filing must be submitted for approval prior to implementation.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used, and the application form or enrollment form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings.

2. Identification Cards. No filing fees will be required for these filings.

3. Medicare Supplement Advertising. Such filings must include statutory filing fees.

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders, endorsements, or optional endorsements or riders are permitted where the insurance product to be altered was originally certified or granted affirmative approval in SERFF.

a. Such filings must include:

i. specimen copies of the pertinent previously approved or certified forms with the specific terms and provisions being amended, underlined in red or similarly emphasized;

ii. the state tracking number assigned by the department and/or the SERFF tracking number for each of the previously approved or certified forms;

iii. the date of approval of each previously approved or certified forms;

iv. the form number for each previously approved policy form to which the amendatory filing applies;

v. a statement of variability if the previously approved or certified forms contains variable material or information. The statement of variability shall include a clear description of the parameters or values of any variable material or information as required herein at Subparagraph C.2.h.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates, classification of risks, and actuarial memoranda are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders, endorsements, or optional endorsements or riders, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the state tracking number assigned by the department and/or the SERFF tracking number for each of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates, classification of risks, and actuarial memoranda are not required with such filings. The filing description shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:1072(C); provided that the policy form filings, the state tracking numbers assigned by the department and/or the SERFF

tracking numbers and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed with a copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

13. Filings of riders or endorsements as needed to evidence that the requirements contained in title 22 of the *Louisiana Revised Statutes* are covered for Louisiana residents that are enrolled in a group plan offered by a policyholder located outside of Louisiana who has obtained such group coverage from a health and accident insurer subject to the jurisdiction of another state. Such filings must include specimen copies of the complete product forms, including any amendments, that are approved or certified for use by the other state, document(s) that evidence approval or certification of the complete product forms by the other state, and the date(s) of the other state's approval or certification. The specimen copies of the complete product forms shall include premium rates, classification of risks, and actuarial memoranda. Such filings must include required filing fees for policy forms or subscriber agreements in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "general filing requirements" of this Section no less than 60 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 60-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 60 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 61, but not earlier than the 60-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 60-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 60-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 61 referred to in Paragraph E.6 or day 76, but not earlier than the 60-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms.

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated Certification of Compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be

made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Amendatory Endorsement—a written agreement attached to or stamped on an insurance product to add or subtract coverage, or otherwise modify the product.

Amendatory Rider—a written document that is attached to an insurance product that adds to or changes information in the original document.

Association—an organization which has been formed for purposes other than procuring insurance for the members or employees.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10). As used in this Section, insurer shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the internet.

Optional Endorsement or *Rider*—a form used to permits policyholders, certificate holders, or enrollees to obtain supplemental benefits.

Required Filing Fee—the fee assessed per product or filing pursuant to R.S. 22:821(11)(a).

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an insurer on behalf of participating employers, provided all participating employers and employees have the same statutory protections that would apply if such policy were purchased by the employer directly from the insurer, pursuant to R.S. 22:941(A)(1).

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. For non-electronic paper filings, this description must be satisfied by the submission of a completed life and annuity transmittal document. If the filing includes health insurance to be offered as an optional benefit under the base life insurance contract, the appropriate statement of compliance for said health insurance product must be completed and submitted.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance or annuity products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance or annuity products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance or annuity products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance or annuity product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of individual life insurance or annuity products must include, in final wording, the following items:

i. required filing fee, per insurance or annuity product, per company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. application form;

v. rider or endorsement forms;

vi. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance; and

vii. life illustrations, if illustrated.

viii. self-addressed, stamped envelope of sufficient size for use in returning the company’s set of policy forms filed, unless filed electronically.

b. Filings of all group life and annuity products must include, in final wording, the following:

i. required filing fee, per insurance or annuity product, per insurance company;

ii. statement of compliance for said product;

iii. group master contract;

iv. individual certificate;

v. group application;

vi. rider or endorsement forms;

vii. employee/member enrollment forms; and

viii. an actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance.

ix. self-addressed, stamped envelope of sufficient size for use in returning the company’s set of policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an insurer on behalf of a participating employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Any insurer choosing to include variable material or information in any policy form must attempt to set forth the range of variable material or information in the policy form itself. Each section of a policy form that is variable must be identified as variable and should be enclosed in square brackets. Whether the variable material or information be varying language, text, data, and/or ranges of values, the variable portion of the form filing must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all specific alternatives where possible.

f. If it is necessary to provide an explanation of or additional information regarding the range of variability contained in the form, then a separate statement of variability that complies with the following regarding form, content and submission must be submitted. The statement of variability must provide an explanation of all permissible variations of material or information that could be used in an insurance plan or policy form offered to policyholders or enrollees that is derived from the product filing. Whether the variable material or information be varying language, text, data, and/or ranges of values, the statement of variability must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all specific alternatives where possible.

g. Use of any material or information that does not reflect the variable material or information bracketed in the policy form and/or described in the statement of variability constitutes use of an unapproved policy form.

h. After approval of a policy form containing variable material or information, an insurer may not submit an “informational filing” changing its variable material or information or the statement of variability as this constitutes changing a form without approval. Because the variable material or information and/or statement of variability alters the contents of the policy forms, changes to a statement of variability must be submitted as an amendatory filing and reviewed.

i. Any insurer that uses variable material or information in its policy form and/or that uses a statement of variability must ensure the following:

i. The final form issued to the consumer will not contain variable material or information in brackets.

ii. Any variable material or information included in the policy forms or in the statement of variability will be effective only for policy forms issued or amended after the approval of such variable material or information.

iii. The use of variable material or information will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination.

iv. Only material or information included in the policy form or explained in the statement of variability will be allowed to be used on the referenced forms received by consumers.

v. Any changes to variable material or information in the product form filing will be submitted for approval prior to implementation.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance or annuity product, or with multiple insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used and, the application form or enrollment form is included with any subsequently filed basic insurance or annuity policy forms as needed to constitute a complete filing. No filings fees will be required for these filings.

2. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

3. Filings of riders, amendatory riders, endorsements, and revisions to schedule pages are permitted where the insurance product to be altered was originally certified or granted affirmative approval in SERFF.

a. Such filings must include:

i. specimen copies of the pertinent previously approved or certified forms with the specific terms and provisions being amended, underlined in red or similarly emphasized;

ii. the state tracking number assigned by the department and/or SERFF tracking number for each of the pertinent previously approved or certified forms;

iii. where necessary, a statement of variability, that shall include a clear description of the parameters or values of any variable material or information;

iv. the date of approval; and

v. the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

4. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed.

a. Such filings must include:

i. specimen copies of the previously approved forms;

ii. the state tracking number assigned by the department and/or the SERFF tracking number for each of the pertinent previously approved or certified forms and the dates previously approved;

iii. the specific terms and provisions being amended, underlined in red or otherwise noted;

iv. where necessary, a statement of variability that shall include a clear description of the parameters or values of any variable material or information;

v. the filing description shall advise that the previously approved form is no longer being marketed; and;

vi. the filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

5. Filings of optional rider forms or optional endorsement forms affecting previously approved or certified life insurance or annuity products must include:

a. the state tracking number assigned by the department and/or the SERFF tracking number for each previously approved or certified forms with which the rider forms or endorsement forms will be used;

b. where necessary, a statement of variability that shall include a clear description of the parameters or values of any variable material or information;

c. the statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the general filing requirements of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms.

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. The affected insurer may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer. If an endorsement or rider is to be added denoting such change, the standard filing fee is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, *Directive* 169, R.S.22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007), LR 42:1947 (November 2016).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Filing Organization—an entity authorized by the Commissioner to act as an advisory or rating organization on behalf of its members and subscribers.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract, or a basic insurance policy form which combines more than one line of business within one policy form at a single premium.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10).

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product For non-electronic paper filings, this description must be satisfied by the submission of a completed transmittal document.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings," and those insurance products which may, at the discretion of the insurer, be filed pursuant to said requirements. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Policy Form Filings." Filing organizations are excepted from the mandatory provisions relative to certified approval and may, at their option, make filings pursuant to Subsection E hereof.

2. Only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing of a basic insurance policy form will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

i. required filing fee, per product, per insurance company; or required filing fee per endorsement filing; per insurance company;

ii. forms filed for approval;

iii. statement of compliance for said product;

iv. explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state;

v. duplicate set of the policy forms filing, as filed for approval, unless filed electronically;

vi. self-addressed, stamped envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Any insurer choosing to include variable provisions in any policy form must set forth prospective options of the proposed variable text in the submitted policy form. Each section of a policy form that is variable must be identified as variable and should be enclosed in brackets. The variable text or provisions must be described as clearly as possible and include all specific possible alternatives.

c. If it is necessary to provide an explanation of or any additional information regarding the range of variability contained in the form, then a separate statement of variability must be submitted. A statement of variability must provide an explanation of all permissible variations of text or provision that could be used in a policy form offered to policyholders or certificate holders. A statement of variability must also describe in detail all variations of text or provisions that could be placed in a policy form. The variable text or language must be described as clearly as possible and include all specific possible alternatives.

d. Use of any text or language that does not reflect the variable text or provision submitted and approved by the department constitutes use of an unapproved policy form. Any changes to a statement of variability must be submitted to the department as a new filing along with the policy form(s) being amended.

3. An insurer may elect to adopt forms submitted by a filing organization, or have a filing organization file forms on its behalf. An insurer may request an effective date later than the effective date of the filing by the filing organization. Such adoptions, whether delayed or not, must be requested by letter. The Forms and Compliance Division staff of the department will verify that the insurer is a member or subscriber of the filing organization, and that the forms being adopted have been approved by the department.

a. Adoptions, including delayed adoptions, are filed for informational purposes only, but the request will be denied if the forms proposed for adoption are not approved by the department. To receive an acknowledgement of filing, the insurer's request must contain the following items, in order:

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

ii. reference to the filing organization's designation/item number;

iii. line of business;

iv. name of the program; and

v. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement, or disapproval of an adoption, unless filed electronically.

b. An insurer may elect to non-adopt forms submitted by a filing organization. Non-adoptions are filed

for informational purposes only, and must be submitted by the insurer. To receive an acknowledgement of the informational letter, it must contain the following items, in order:

i. reference to the filing organization's identification/code number;

ii. line of business;

iii. name of the program; and

iv. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for fidelity and surety bond forms as exempted by R.S. 22:861 A(1), and ocean marine and foreign trade insurances as exempted by R.S. 22:851(A). No filing fees will be required for these filings.

2. filings for certain commercial lines, exempted pursuant to the commercial deregulation laws set by Regulation 72;

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. forms for lines of insurance or insurance products specifically exempted pursuant to statute.

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. Time Periods and Requirements for Compliance Review of Policy Form Filings

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved. Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms:

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent at a minimum 60 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. The affected insurer may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of

competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December

2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016).

§10115. Penalties

A. Pursuant to R.S. 22:44, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than $5,000, or both.

B. Pursuant to R.S. 22:1964(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the insurer and its officer(s) or representative(s) to:

1. The provisions of R.S. 22:1969, including:

a. payment of a monetary penalty of not more than $1,000 for each and every act or violation, but not to exceed an aggregate penalty of $100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than $25,000 for each and every act or violation, but not to exceed an aggregate penalty of $250,000 in any six-month period; and

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1970, including:

a. a monetary penalty of not more than $25,000 for each and every act or violation, not to exceed an aggregate of $250,000; and

b. suspension or revocation of such person's license or certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007), LR 42:1957 (November 2016).

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016).

§10119. Effective Date
[Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016).

James J. Donelon
Commissioner

1611#013

RULE

Department of Natural Resources
Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This action has adopted Statewide Order No. 29-R-16/17 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-15/16.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 2. Statewide Order No. 29-R
Chapter 7. Fees
§701. Definitions

* * *

Application/Request for Commercial Facility Reuse—Repealed.

* * *

Authorization for After Hours Disposal of E and P Waste—Repealed.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 24.0.

Capable Gas—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue, as of December 31 in the year prior to the year in which the invoices are issued.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31 in the year prior to the year in which the Invoices are issued.

* * *

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, not to exceed $1,000,000 for fiscal year 2015-2016 and thereafter on all class I wells permitted December 31 of the year prior to the year in which the invoices are issued.

Class II CO_2 EOR Project (AOR Review and Updates) Fee—an annual fee for an enhanced recovery project permitted by the Office of Conservation injecting carbon dioxide (CO_2) down the wellbore of permitted class II injection wells under the authority of the Office of Conservation/Injection and Mining Division in conformance