

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. - J. ...

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 Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted 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 to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - 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), LR 44:2210 (December 2018), effective January 1, 2019.

§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 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. - J. ...

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 Chapter 12 of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, any demand must be in writing, must specify in what respects the person is aggrieved and the grounds upon which relief should be granted 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 to the aggrieved party at his last known address or delivered to the aggrieved party.

K. - 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 44:2211 (December 2018), effective January 1, 2019.

§10119. Effective Date

[Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective January 1, 2019.

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), LR 44:2211 (December 2018).

James J. Donelon
Commissioner

1812#070

RULE

Department of Insurance Office of the Commissioner

Regulation 111—Consent to Rate
(LAC 37:XIII.Chapter 159)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, R.S. 22:1464, and R.S. 22:1473, the Department of Insurance has promulgated Regulation 111 to implement the provisions of R.S. 22:1464, which permits an insurer, under certain circumstances and pursuant to certain requirements, to impose upon an insured a rate in excess of its filed and approved rates for a specific risk on a consent to rate basis and authorizes the Commissioner of Insurance to promulgate rules and/or regulations as he deems necessary to implement the provisions of Title 22. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE

Part XIII. Regulations

Chapter 159. Regulation Number 111—Consent to Rate

§15901. Purpose

A. Regulation 111 implements the provisions of R.S. 22:1464.E, which authorizes the commissioner to approve an application by an insurer to impose upon an insured a rate in excess of the insurer's filed and previously approved rates for a specific risk, provided the insurer complies with certain obligations and provides certain information and documentation to the commissioner in order for the commissioner to approve the consent to rate application.

B. The purpose of Regulation 111 is:

1. to regulate the activities of insurers by setting forth the process for the filing and review of a consent to rate application and specifying the information and documentation that must accompany such application; and

2. to protect the interests of insureds who are the subject of a consent to rate request from an insurer by delineating the nature and type of information and documentation that an insured shall receive from the insurer in order for the insured to make an informed decision as to whether it is in the insured's best interest to consent to such excess rate, and to reduce or eliminate the use of misleading or confusing information when an insurer requests that the insured consent to a rate in excess of the rate otherwise filed and approved for use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15903. Applicability and Scope

A. Regulation 111 shall apply to any consent to rate application made by any insurer for any property and casualty insurance policy written or issued for delivery in Louisiana, or for any risk located in Louisiana, in which the insurer seeks to obtain the approval of the commissioner to charge a rate in excess of the rate provided in a filing otherwise applicable. Regulation 111 does not apply to individually rated excess insurance coverages as specified in R.S. 22:1464.A(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15905. Authority

A. Regulation 111 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq., specifically R.S. 22:11 and R.S. 22:1473.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15907. Definitions

A. For the purposes of Regulation 111, the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Commissioner—the Louisiana Commissioner of Insurance.

Consent to Rate—an agreement between the insured and the insurer based on information provided by the insurer that insurance coverage will be provided for a specific risk at an excess rate, as defined herein.

Department—the Louisiana Department of Insurance.

Excess Rate—a rate that is more than the manual rate that the commissioner has previously approved for the insurance program. For the purposes of Regulation 111, "rate in excess" has the same meaning as "excess rate".

Insurance Program—every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing which an insurer proposes to use in the calculation of a premium to be charged for a policy.

Insurer—an insurer with a certificate of authority or license issued under provisions of the Louisiana Insurance Code.

Manual Rate—an approved rate for an insurance program.

Policy—an insurance contract providing property and casualty insurance coverage for a Louisiana insured or for property located in Louisiana.

Premium—all sums charged, received, or deposited as consideration for the purchase or continuation of insurance for a definitely stated term, and shall include any assessment, membership, policy, survey, inspection, service or similar fee or charge made by an insurer as a part of the consideration for the purchase or continuance of insurance, as defined in R.S. 22:46(13).

Rate—that cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, with an adjustment to account for the treatment of loss adjustment expenses, expenses, profit, and variation in expected future loss experience, prior to any application of individual risk variations based on actual past loss or expense considerations, and does not include minimum premiums.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15909. Procedure for Insurer to Use in a Consent to Rate Application

A. An insurer seeking the approval of the commissioner to charge an insured a rate in excess of the manual rate for property and casualty insurance coverage shall file a consent to rate application with the commissioner within 45 calendar days of the effective date of the policy.

B. The consent to rate application made by the insurer shall comply with the requirements of §15913 of Regulation 111.

C. The commissioner shall have 45 calendar days to review the consent to rate application, pursuant to R.S. 22:1451.C(1). The 45 day period for review shall commence once the commissioner has received the insurer's complete consent to rate application.

D. Any consent to rate application not received by the commissioner within 45 calendar days of the effective date of the policy shall be disapproved by the commissioner.

E. If a consent to rate application is disapproved by the commissioner, then the insurer shall follow the requirements set forth in §15911 of Regulation 111.

F. If a consent to rate application filed timely is approved by the commissioner, the insurer may proceed to implement the excess rate in accordance with the approved consent to rate application.

G. If the commissioner has not acted on a timely filed consent to rate application and the commissioner has not advised the insurer in writing of any objections with regard to the consent to rate application or that such application is incomplete within 45 days of the commissioner's receipt of same, the insurer may proceed as outlined in R.S. 22:1451.C(2).

H. Renewal of any policy at an excess rate shall require that the insurer submit a new consent to rate application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2212 (December 2018).

§15911. Coverage Obligations Imposed on the Insurer upon Disapproval

A. If an insurer's consent to rate application under Regulation 111 is disapproved for any reason, then the premium charged to the insured shall revert to the approved manual rate for the duration of the policy term, and the insurer shall refund the difference between the excess rate and the approved manual rate to the insured. Coverage shall still be binding on the insured and insurer for the duration of the policy. The insurer shall have 30 days from the date of the commissioner's disapproval of the consent to rate application to refund any monies due to the insured.

B. If an insurer's consent to rate application under Regulation 111 is disapproved for any reason, then the insurer may, within 10 calendar days from the commissioner's disapproval, exercise one of the following options.

1. The insurer may cancel the policy and shall provide the insured with not less than 60 days' written notice of the insurer's intent to cancel the policy.

2. The insurer may enter into a new policy with the insured and submit a new, subsequent consent to rate application. However, if a new, subsequent consent to rate application is submitted, the insurer will be required to utilize the approved manual rate provided in such new, subsequent consent to rate application and will not be able to implement the requested excess rate until such new, subsequent consent to rate application is approved by the commissioner.

3. An insurer may appeal the disapproval of a consent to rate application as set forth in R.S. 22:1451.C(1).

C. After a consent to rate application has been disapproved, if the commissioner approves a new, subsequent consent to rate application, the excess rate so approved shall be implemented on a prospective basis from the date of approval for the duration of the policy term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15913. Documentation Required from the Insurer

A. An insurer seeking the approval of the commissioner pursuant to a consent to rate application for any property and casualty insurance coverage shall file with the commissioner a written application packet, which shall contain the following documentation.

1. The consent to rate application shall set forth the full name of the insurer, the full name and title of the person filing such application on behalf of the insurer, the physical and mailing addresses of the insurer, email address, telephone number, and facsimile number of the insurer.

2. If the consent to rate application is submitted in paper form, a stamped, self-addressed return envelope.

3. An original of the consent to rate application signed by both the insurer and the insured, which must set forth the following information:

- a. name of the insurer;
- b. name of the insured;
- c. the line of business;
- d. if applicable, the sub-line or program under which the policy is being written;
- e. the policy number;
- f. the policy effective dates (the first and last dates on which the policy is effective);
- g. documentation setting forth in detail the calculation of the premium using the manual rates;
- h. documentation setting forth in detail the calculation of the premium using the consent to rate process;
- i. the written explanation that was provided by the insurer to the insured setting forth in detail the reason(s) why the insured did not qualify for the insurer's manual rates and was subjected to the consent to rate process; and
- j. a copy of any other documentation that the insurer provided to the insured.

B. The commissioner may request additional information and/or documentation as he deems necessary. In accordance with R.S. 22:1451.C(2), the commissioner shall make the final determination as to what constitutes a complete application under Regulation 111.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15915. Severability

A. If any section or provision of Regulation 111 or the application to any person or circumstance is held to be invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 111 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 111 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2213 (December 2018).

§15917. Effective Date

A. Regulation 111 shall become effective on January 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1464, R.S. 22:1473, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2214 (December 2018).

James J. Donelon
Commissioner

1812#015

RULE

Department of Natural Resources Office of Conservation

Commercial Facilities Hours of Operation (LAC 43:XIX.533 and 537)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment implements Act 191 of the 2018 Regular Session, which repealed the commissioner's authority to regulate the hours of operation or receiving of offsite treatment, storage and disposal facilities of E and P Waste. This Rule is hereby adopted on the day of promulgation.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

EDITOR'S NOTE: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

EDITOR'S NOTE: Chapter 5 was amended in November 2001. A chart showing the restructuring of Chapter 5 is found on page 1898 of the *Louisiana Register*, November 2001.

§533. General Operational Requirements for Commercial Facilities and Transfer Stations

A. ...

B. Commercial facilities and transfer stations shall be adequately manned during hours of receiving and off-loading of E and P Waste.

C. All facilities and systems for treatment, control, and monitoring (and related appurtenances) which are installed or used to achieve compliance with the conditions of a permit shall be properly operated and maintained at all times.

D. Inspection and entry by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

E. Discharges from land treatment cells, tanks, tank retaining walls and/or barges into man-made or natural drainage or directly into state waters will be allowed only after the necessary discharge permit has been obtained from the appropriate state and/or federal agencies and in accordance with the conditions of such permit.

F. A sign shall be prepared, displayed and maintained at the entry of each permitted commercial facility or transfer station. Such sign shall utilize a minimum of 1-inch lettering to state the facility name, address, phone number, and site code shall be made applicable to the activities of each facility according to the following example.

"This E and P Waste (storage, treatment and/or disposal) facility has been approved for (temporary storage, treatment and/or disposal) of exploration and production waste only and is regulated by the Office of Conservation. Violations shall be reported to the Office of Conservation at (225) 342-5515."

G.A vertical aerial color photograph (or series of photographs) with stereoscopic coverage of each Type A land treatment facility must be obtained during the month of October every two years and provided to the Office of Conservation by November 30 of the year the photo is taken. Such photograph(s) must be taken at an original photo scale of 1" = 1000' to 1" = 500' depending on the size of the facility. Photo(s) are to be provided as prints in either 8" x 10" or 9" x 9" formats. The commissioner may require more frequent aerial photos as deemed necessary.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1909 (November 2001), amended LR 44:2214 (December 2018).

§537. Hours of Receiving

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1910 (November 2001), amended LR 31:2262 (September 2005), repealed LR 44:2214 (December 2018).

Richard P. Ieyoub
Commissioner

1812#064