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John Bel Edwards, Governor  
Ava Dejoie, Secretary

## Office of the Secretary

January 30, 2020

**Via E-mail/R.R.R. to:**

[APA.H-LIR@legis.la.gov](mailto:APA.H-LIR@legis.la.gov)

Honorable Speaker Clay Schexnayder, Ex Officio  
House Committee on Labor & Industrial Relations  
State Capitol  
Baton Rouge, LA 70804

[APA.S-L&IR@legis.la.gov](mailto:APA.S-L&IR@legis.la.gov)

Honorable Senator Troy Carter, Chairman  
Senate Committee on Labor & Industrial Relations  
State Capitol  
Baton Rouge, LA 70804

**RE: Summary Report on Proposed Amendment to LAC 40:IV.377**

Dear Senator Carter and Speaker Schexnayder:

Pursuant to R.S. 49:968(D)(1)(b), the Louisiana Workforce Commission hereby announces its plan to proceed with rulemaking by finalizing the December 20, 2019 Notice of Intent that was promulgated on page 1906 of the *Louisiana Register*.

No request for a public hearing was made in accordance with R.S. 49:953(A)(2)(a). The Workforce Commission received no written comments regarding this proposed rule, and no changes have been made to the proposed rule.

Subject to legislative oversight by either the House or Senate Committee on Labor and Industrial Relations, the Workforce Commission anticipates adopting the Notice of Intent as a final rule in the March 20, 2020 issue of the *Louisiana Register*. A copy of the Notice of Intent that will be submitted for the final rule is attached.

In the event you have any questions or need additional information, please contact me directly at [adejoie@lwc.la.gov](mailto:adejoie@lwc.la.gov) or 225.342.3001.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Ava Dejoie'.

Ava M. Dejoie  
Secretary

cc: Editor, *Louisiana Register*  
Via Email: [Reg.Submission@la.gov](mailto:Reg.Submission@la.gov)

D. After discovery of the damage, each day that an excavator or demolisher fails to comply with the provisions of Subsection B shall be considered a separate violation.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:

#### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

#### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., February 10, 2020, at Office of Conservation, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Pipeline Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. PRA 2020-01. All inquiries should be directed to Steven Giambone at the above addresses or by phone to (225) 342-2989. No preamble was prepared.

Richard P. Ieyoub  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Damage Prevention**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be implementation costs to the Department of Natural Resources (DNR) as a result of the proposed amendments. However, since these regulations codify Act 218 of 2017 and are already enforced under LA RS 40:1749.11-27, these costs have already been recognized and incorporated into the operating budget.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be increased revenue to the DNR as a result of fines and penalties, however, based on actual revenue collections between August 2017 through November 2019, these are not anticipated to be material. Additionally, the department has received federal funding to support oversight and administration of pipeline damage prevention activities.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs to directly affected persons or non-governmental groups. Operators and excavators are already required to comply with the requirements of these regulations under LA RS 40:40:1749.11-27. Increased compliance could result in long term benefits to owner/operators in the form of reduced damages.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to have any impact on competition or employment.

Richard P. Ieyoub  
Commissioner  
1912#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

~~NOTICE OF INTENT~~ **RULE**

### Workforce Commission Office of Unemployment Insurance Administration

#### Electronic Filing and Payment Requirements (LAC 40:IV.377)

Under the authority of and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 36:304 and R.S. 23:1531.1, ~~notice is hereby given that~~ the Louisiana Workforce Commission <sup>has</sup> ~~proposed to amend~~ LAC 40:IV.377. The ~~proposed amendment to the~~ Rule sets forth the procedure and format for employers' submissions of required reports, payment of unemployment contributions, and submission of requested documents to the Louisiana Workforce Commission.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part IV. Employment Security

#### Chapter 3. Employment Security Law

#### §377. Electronic Filing and Payment Requirements

##### A. - C.1. ...

2. automated clearing house (ACH); or

3. any other method of payment approved by the administrator.

D. Any requested Federal 940 and 941 forms, 1099 and 1096 forms, and W-2 and W-3 forms must be submitted in response to an audit in an electronic data format specified by the Workforce Commission and to the site indicated in correspondence from the Workforce Commission. All other forms must be transmitted electronically.

E. Employers, employer's agents, and professional employer organizations shall be required to respond to requests for information as part of a wage investigation. Correspondence from the Workforce Commission will indicate the site where electronic forms can be completed. Responses shall be made by logging into the site and filling out the electronic forms. Other forms of submission may be accepted at the discretion of the administrator.

F. The electronic reporting requirements under subsection D may be waived by the administrator only upon a showing by the employer, employer's agent, or professional employer organization that electronic reporting creates a hardship. All applications for a waiver must be in writing and submitted to the administrator, setting forth detailed reasons the requirement to file electronically creates a hardship.

##### 1. The term *hardship* includes, without limitation:

a. a financial burden or expense which significantly impairs the employer's ability to continue to conduct its business;

b. electronic filing requirements under subsection D would impose a *hardship* due to a physical disability or geographic barrier;

c. the requirement under subsection D to file electronically is contrary to equity or good conscience due to the specific circumstances of the employer requesting the waiver.

2. A request for a waiver from the electronic filing requirements under subsection D must be delivered to the administrator prior to the due date for receipt of the reports that the employer is seeking to submit by an alternative method.

G. The failure to file reports in the required electronic formats or make payments electronically may result in the imposition of penalties and interest in accordance with R.S. 23:1543 and R.S. 23:1660.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631, R.S. 23:1531.1 and R.S. 36:304.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance, LR 40:806 (April 2014), amended by the Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

#### **Family Impact Statement**

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B).

#### **Poverty Impact Statement**

This proposed Rule will have no known impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

This proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

This proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

Interested persons may submit written comments to this amended Rule to Robert J. Roux, Executive Counsel, P.O. Box 94094, Baton Rouge, LA 70804-9094, or by email at RRoux@lwc.la.gov. All written comments must be received by 4:30 p.m., January 09, 2020.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Louisiana Workforce Commission, ATTN: Robert Roux, Post Office Box 94094, Baton Rouge, LA 70804-9094; however, such request must be received no later than 4:30 p.m. on January

9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, a public hearing will be conducted at the Louisiana Workforce Commission, 4th Floor Conference Room #494, Administration Bldg., 1001 N. 23rd St. on January 28, 2020 at 9 a.m. If a public hearing is held, notice will be posted at [www.laworks.net](http://www.laworks.net), and all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Ava Dejoie  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Electronic Filing and Payment Requirements****

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed rule.

The proposed amendment sets forth the procedure and format for employers' submission of required reports, payment of unemployment contributions, and submission of requested documents to the Louisiana Workforce Commission (LWC). The amendment removes the provision that allows employers to make unemployment contributions by paper check. The rule also provides that any form requested from an employer as a result of an audit must be submitted to LWC electronically. Finally, the rule provides the guidelines for an employer to request a waiver from the electronic filing requirement.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed changes will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The implementation of this rule may result in reduced printing costs to employers. Employers will have the ability to submit documentation electronically to LWC, as opposed to printing and submitting hard copies.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule has no known effect on competition and employment.

Ava M. Dejoie  
Secretary  
1912#045

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office