

rehabilitation and workforce development programs as directed by the committee on parole on or before nine (9) months after the parole hearing or the most recent reconsideration of the prisoner's case. The potential per offender savings is \$21.76 (\$24.39 per day - \$2.63 parole supervision per day) per day or \$7,942.40 annually per offender in local facilities. To the extent that offenders are released from state facilities, the potential savings per day per offender is \$49.27 (\$51.90 per day - \$2.63 parole supervision per day) or \$17,983.55 annually. Currently, the DPS&C houses 50% of state offenders at the local level and 50% at the state level.

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

Proposed rule changes as a result of Acts 70 and 280 of the 2017 Regular Session may likely result in an indeterminable increase in SGR as a result of offenders being released into parole supervision. For each offender that is released to parole at a date earlier than that allowed by previous law, the DPS&C could collect up to \$63 per month from each offender under parole supervision. The maximum amount paid per month is \$63. The offender's ability to pay is determined by the committee on parole. While the number of individuals under parole supervision is likely to increase in the short term, the Louisiana Justice Reinvestment Task Force Report dated March 26, 2017, estimates material reductions by 2027, which predicts a decrease in revenues at some unspecified point in the future.

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

There is likely an economic benefit for released offenders as they reenter the workforce and earn wages. This assumes individuals who are released have adequate skills and are able to obtain and maintain gainful employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should result in an increase in the number of former offenders being granted the capacity to reenter the workforce and earn wages. The capacity of these individuals to secure gainful employment and the capacity of the labor market to absorb the potential extra workforce is unknown.

Thomas C. Bickham, III
Undersecretary
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Gregory V. Albrecht
Chief Economist
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NOTICE OF INTENT

**Office of the Governor
Coastal Protection and Restoration Authority**

**Oyster Lease Acquisition and Compensation Program
(LAC 43:VII.Chapter 3)**

Pursuant to R.S. 56:432.1, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Executive Director of the Louisiana Coastal Protection and Restoration Authority gives notice that rulemaking procedures have been initiated to amend the below Chapter to clarify provisions of the Oyster Lease Acquisition Compensation Program ("OLACP"). The purpose of this amendment is to clarify language and add a definition regarding the "harvest efficiency ratio", which is used pursuant to the directive in R.S. 56:432.1 for the Coastal Protection and Restoration Authority ("CPRA") to determine the amount of compensation for oyster leases

acquired by the State of Louisiana for coastal protection and restoration projects. The amendment also seeks to make editorial changes that accurately reflect the agency responsible for administering the OLACP, which has changed from the Louisiana Department of Natural Resources to the CPRA pursuant to Acts 2009, No. 523. Neither purpose of the amendment will change any current policies, practices or methods of such lease acquisition compensation or of the OLACP. This program will continue to benefit coastal restoration efforts in Louisiana while sufficiently paying oyster lease holders for the acquisition of any oyster lease acquired through the program.

Title 43

NATURAL RESOURCES

Part VII. Coastal Protection, Conservation, and Restoration

Subpart 1. Ground Water Management

Chapter 3. Oyster Lease Acquisition and Compensation Program

§301. Purpose and Authority

[Formerly LAC 43:I.851]

A. This Subchapter sets forth the rules for the acquisition of and compensation for oyster leases by the authority when necessary for purposes of coastal protection, conservation, or restoration. The authority may acquire oyster leases, in whole or in part, for such purposes on behalf of the state to the extent that the leases are or may be directly affected by the dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a coastal protection, conservation, or restoration project.

B. These regulations are adopted pursuant to Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950, including the Oyster Lease Acquisition and Compensation Program under R.S. 56:432.1 and the general authority of the authority under Part II of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§303. Construction and Usage

[Formerly LAC 43:I.853]

A. The following shall be observed regarding the construction and usage of these regulations.

1. Unless otherwise specifically stated, the singular form of any noun includes the plural and the masculine form of any noun includes the feminine.

2. Unless otherwise specifically stated, all references to *Section* are to Sections of this Subchapter.

3. Any reference to *days* in this Subchapter shall refer to calendar days.

4. The day of the event from which a designated time period begins to run shall not be included in the computation of a period of time allowed or prescribed in these regulations. The last day of the period is to be included in the computation of a period of time allowed or prescribed in these regulations, unless it is a legal holiday, in which case the period runs until the end of the next day that is not a

legal holiday. Nonetheless, the effective date of acquisition shall be on the date set by the authority pursuant to these regulations and R.S. 56:432.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§305. Definitions

[Formerly LAC 43:I.855]

A. The following shall apply for purposes of these regulations.

* * *

Authority—the Coastal Protection and Restoration Authority, its executive director, or his designee.

* * *

Department—Repealed.

* * *

Executive Director—the executive director of the Coastal Protection and Restoration Authority or his designee, unless otherwise specifically stated in this Subchapter.

Harvest Efficiency Ratio—the ratio used to determine the amount of marketable oysters capable of being harvested on affected acreage acquired pursuant to R.S. 56:432.1. The harvest efficiency ratio shall be 70 percent of the marketable oysters on the affected acreage.

* * *

Secretary—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:421 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2089 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2610 (December 2015), amended LR 44:

§307. Notification to Leaseholder of an Oyster Resource Survey; Procedures and Protocols for an Oyster Resource Survey

[Formerly LAC 43:I.857]

A. When appropriate, the executive director shall determine and delineate the potential impact area of a project and in making such decision may consult with the government agency or any public or private entity responsible for the project.

B. When the executive director determines that an existing oyster lease identified in records provided and maintained by DWF may, in whole or in part, be located within the direct impact area of a project, the executive director may conduct an oyster resource survey.

C. The executive director shall notify the leaseholder in writing at least 15 days prior to the oyster resource survey of the potentially affected acreage or potentially affected lease. The notification shall, at a minimum, include the following:

1. a brief description of the coastal protection, conservation, or restoration project, and a plat or map depicting the project and potentially affected lease or potentially affected acreage;

2. a copy of these regulations, R.S. 56:424, and R.S. 56:432.1;

3. the date and time of the oyster resource survey;

4. the name of and contact information for the person conducting the oyster resource survey;

5. a statement that the leaseholder or his designee may accompany the person conducting the oyster resource survey;

6. a statement that the state may acquire the potentially affected lease or potentially affected acreage to be surveyed or sampled, and if so, that the leaseholder will be compensated for any acquired lease or portion thereof in accordance with R.S. 56:432.1 and this Subchapter;

7. the name of and contact information for a person at the authority to direct all inquiries regarding the project and the potentially affected lease or potentially affected acreage;

8. a statement that the leaseholder may provide to the authority, through the contact person listed in the notice, any reasonably confirmable data or other information relevant to a determination of the compensation for any potentially affected lease or potentially affected acreage, within 60 days after the actual date of the oyster resource survey conducted pursuant to this Subchapter. Failure to provide such data or information within the specified time period may preclude consideration of such data by the executive director, the authority, the person conducting the oyster resource survey, or the appraiser appointed thereby;

9. - 10. ...

11. a statement that the authority, the state of Louisiana, political subdivisions of the state, the United States, or any agency, agent, contractor, or employee of any of these entities is not subject to any obligation, responsibility, or liability in relation to or resulting from any surveying or sampling of any oyster lease, information provided to any leaseholder in relation to any surveying or sampling of any oyster lease, the timing of any acquisition of any part of any lease by the state pursuant to R.S. 56:432.1, the lack of acquisition of any part of any lease except as provided by R.S. 56:432.1, or any report pursuant to R.S. 56:432.2 or otherwise.

D. Any written notification from the executive director or the authority to the leaseholder of a potentially affected lease or potentially affected acreage in accordance with this section shall be deemed legally sufficient if sent by certified United States mail, postage pre-paid, return receipt requested, or hand delivered, to the last address furnished to DWF by the leaseholder on the date of issuance of notice.

E. Oyster Resource Survey Procedures and Protocol

1. ...

2. Assessment Procedure

a. Should the executive director elect to obtain an oyster resource survey of a potentially affected lease or potentially affected acreage, he may select the person(s) to conduct the oyster resource survey considering all relevant criteria, including but not limited to prior experience, prior performance, demonstrated expert knowledge in the field of oyster biology, and the ability to perform concurrent task orders while maintaining high quality work. The person(s) so selected shall be contracted with by the authority pursuant

to R.S. 39:1551, et seq., or other applicable public contract law, and shall have the following minimum qualifications:

- i. a college degree in biological science, or prior acceptance by a Louisiana federal or state court as an expert witness in the field of oyster biology or oyster ecology; and
- ii. five years of professional experience conducting oyster lease surveys and standing oyster crop analyses.

b. Samples should be taken at a minimum within the area of a potentially affected lease delineated by the executive director as the potential impact area of the project for which the oyster resource survey is being conducted.

c. - d. ...

f. An original copy of the written assessment shall be provided to and retained by the authority, which may use it in accordance with the appraisal and valuation procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:424, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2090 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 41:2611 (December 2015), amended LR 44:

§309. Appraisal
[Formerly LAC 43:I.859]

A. The executive director shall determine or delineate the direct impact area of a project, and in making such decision, may consult with any public or private entity responsible for the project.

B. Should the executive director determine that an existing oyster lease identified in records provided and maintained by DWF is, in whole or in part, located within the direct impact area of a project, the executive director shall obtain an appraisal of the affected lease or affected acreage.

C. When the executive director elects to obtain an appraisal of an affected lease or affected acreage, he shall select the appraiser considering all relevant criteria, including but not limited to the following:

1. ...

2. the appraiser so selected shall be contracted with by the authority pursuant to R.S. 39:1551 et seq., or other applicable public contract law, and shall have a current certification as a Louisiana certified general real estate appraiser; professional designation in the field of appraisal; and, five or more years of professional experience conducting real property appraisals.

D. ...

E. A written appraisal shall be prepared by the appraiser, estimating the fair market value of the affected lease or affected acreage, and explaining the valuation methodology. An original of the appraisal and a copy of all documents used to develop the appraisal shall be provided to the authority, which may use it pursuant to the procedures set forth in these regulations. A copy will be provided to the leaseholder upon written request by the leaseholder to the authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2612 (December 2015), amended LR 44:

§311. Determination of Compensation
[Formerly LAC 43:I.861]

A. The executive director shall determine the compensation for any affected acreage to be acquired as follows.

1. If the authority provides a time period of one year or more between issuance of a notice of acquisition pursuant to §313 of this Part and the effective date of acquisition, then compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the executive director in accordance with §309 of this Part.

2. If the authority provides a time period of less than one year between issuance of a notice of acquisition pursuant to §313 of this Part and the effective date of acquisition, the compensation for the affected acreage to be acquired shall be equal to the fair market value of the affected acreage to be acquired as determined by the executive director in accordance with §309 of this Part plus the value of the harvestable marketable oysters on the affected acreage, if any, as determined by the authority based upon the harvest efficiency ratio and other reasonably confirmable data. The number of harvestable marketable oysters on affected acreage shall be calculated by multiplying the harvest efficiency ratio by the number of marketable oysters on the affected acreage as determined in the oyster resource survey conducted in accordance with §307 of this Part. The number of marketable oysters on the affected acreage shall be determined taking into account the number of sacks of marketable oysters per acre, suitable acreage, and natural mortality. The compensation to be paid for harvestable marketable oysters on affected acreage shall be the number of harvestable marketable oysters on the affected acreage multiplied by the current statewide average market price, and subtracting the harvest cost.

3. Data for estimation of the value of harvestable marketable oysters shall be determined from the written assessment derived from the oyster resource survey conducted in accordance with §307 of this Part. The authority may also take into consideration any reasonably confirmable data or information supplied timely by any person in accordance with §307 of this Part.

4. The appraiser and the authority shall consider any reasonably confirmable data or other information supplied to the authority by the leaseholder following the oyster resource survey conducted in accordance with §307 of this Part. The authority or the appraiser may disregard any information or data not submitted timely pursuant to §307 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2091 (November 2006), repromulgated by the Office of the Governor, Coastal

§313. Notification to Leaseholder of Acquisition and Compensation
[Formerly LAC 43:I.863]

A. Should the executive director determine that an existing oyster lease issued by DWF is located within the direct impact area of a project and the project is necessary and proper for coastal protection, conservation, or restoration, the executive director may acquire the affected acreage on behalf of the state in accordance with this Section.

B. ...

C. Such notice of acquisition shall, at a minimum, include:

1. a description specifying affected acreage, or portion thereof, being acquired;

2. the effective date of acquisition;

3. a brief description of the coastal protection, conservation, or restoration project for which the acreage is being acquired;

4. a plat or map depicting the project and the affected lease or affected acreage to be acquired;

5. a copy of these regulations and R.S. 56:432.1;

6. a statement that the authority will acquire the acreage described in the notice of acquisition, and that such acquisition shall automatically occur on the date specified in the notice;

7. - 10. ...

11. a statement that the leaseholder will either be allowed a period of one year or more from the date of issuance of notice of acquisition herein in which to remove any and all marketable oysters from the affected lease, at his sole risk and expense, and that no compensation shall be allowed for oysters so removed or removable, or if the authority states an effective date for the acquisition that is less than one year after the date of issuance, a statement that the compensation for the acreage to be acquired includes compensation for the harvestable marketable oysters as part of the attached acquisition payment;

12. a determination of compensation, stating the dollar amount that the authority has determined in accordance with these regulations and R.S. 56:432.1 to be paid for the acquired acreage and the appraised value of the acquired acreage. If compensation is being paid for harvestable marketable oysters, a statement of the value thereof is also to be included;

13. a check, attached only to a notice of acquisition sent to the leaseholder's last address as furnished to DWF by the leaseholder on the date of issuance of notice, in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, in the name of the leaseholder of record in accordance with the records of DWF on the date of issuance of notice of acquisition herein;

14. ...

15. if any amount due on a recorded lien or encumbrance has been withheld from the check for compensation, a statement indicating the name of the holder of the recorded lien or encumbrance, the amount withheld, and that payment of said amount has been made by the authority to that holder;

16. a statement that the leaseholder may seek an administrative hearing in writing through the authority within 60 days after issuance of the notice of acquisition, determination of compensation, or payment, pursuant to these regulations and R.S. 56:432.1, as to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper or whether the compensation issued by the authority satisfied the regulations under this Subchapter, and that administrative or judicial review may be permissible, but that the procedures stated by law and these regulations must be followed or such right of review may be lost or impaired; and

17. ...

D. Before issuing any notice of acquisition, the authority shall make a reasonable attempt to determine whether any amount is due on a recorded lien or encumbrance in relation to any oyster lease covering the acreage to be acquired. The holder of the lien or encumbrance and the leaseholder may negotiate to allocate the compensation to be paid under the notice of acquisition by written agreement among them. Any such written agreement must fully release and indemnify the authority from any claim in relation to the acreage to be acquired or the compensation for such acreage.

1. If no such written agreement is provided on or before the date when the authority issues the notice of acquisition, the authority shall withhold the full amount of all liens or encumbrances covering any of the acreage to be acquired, up to the full amount of the compensation determined by the authority. If the authority timely receives such a written agreement, the authority shall withhold the amount agreed by the lienholder or encumbrance holder. A statement of the name of the holder and the amount withheld in relation to each lien or encumbrance shall be issued to the leaseholder as part of the notice of acquisition.

2. ...

3. The authority shall forward payment in the full amount of any withholding to the holder of the lien or encumbrance by certified United States mail, return receipt requested, postage pre-paid, or by pre-paid receipted courier or delivery service, or hand delivery, to the last address on file with the secretary of state, if any, or to any address provided to the authority or DWF by the lien or encumbrance holder. A copy of the notice of acquisition and determination of compensation, showing the lien or encumbrance and the withholding in relation thereto, shall be attached to the payment.

4. If the authority is unable to make delivery of the payment by these means, the authority shall transfer funds in the full amount of the withholding to a trust account from which it may be drawn for the benefit of the holder of the lien or encumbrance by joint agreement of the holder and the authority, upon request of the lienholder of record on the date the notice of acquisition is initially issued.

5. If funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq., at the sole discretion of the executive director.

E. If the authority attempts issuance of notice of acquisition, determination of compensation, and the check pursuant to §313.C of this Part, at least once, and is unable to make delivery of the notice to the leaseholder thereby, the authority shall re-issue the notice and the determination of compensation by certified United States mail, return receipt requested, to the leaseholder at his address on file with DWF on the date of the re-issuance. In such event, the authority shall also publish a summary of such notice identifying the affected lease and acreage to be acquired, stating the effective date of the acquisition and providing a contact person at the authority for all inquiries regarding the acquisition, in the official journal for all parishes in which any part of the acreage to be acquired is located. In addition, the following procedures shall apply.

1. If a Notice of Acquisition is re-issued under this Subsection, no check shall be attached to the re-issued notice. Instead, payment in the full amount of the determination of compensation, except for and less any amount due on recorded liens and encumbrances to be paid out of said proceeds, shall be transferred into a trust account from which it may be drawn for the benefit of the leaseholder by joint agreement of the leaseholder and the authority, upon request of the leaseholder listed with DWF on the date the notice of acquisition is initially issued. If said funds deposited into a trust account pursuant to this Subsection remain unclaimed after a period of five years, the funds shall be declared to be abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act as set forth in R.S. 9:151 et seq., at the sole discretion of the executive director.

2. A re-issued notice shall include a statement that compensation for the acquisition has been deposited into a trust account, and that a contact person at the authority designated in the re-issued notice can assist the leaseholder in withdrawing said funds from the trust account. The re-issued notice shall also include a statement that any funds in the trust account remaining unclaimed after five years shall be declared abandoned and may be disposed of pursuant to the Uniform Unclaimed Property Act, R.S. 9:151 et seq.

F. ...

G. No lease shall be granted for any water bottom for which any lease was previously acquired by the state for coastal protection, conservation, or restoration, unless the secretary of DWF determines that leasing would otherwise be appropriate under the provisions of Subpart D of Part VII of Chapter I of Title 56 of the Louisiana Revised Statutes of 1950 and the executive director of CPRA affirms that the water bottom is not necessary for coastal protection, conservation, or restoration, as provided by and in accordance with the provisions of R.S. 56:425(E). Unless this determination has been made prior to issuance of the lease, a lease of water bottom for which a lease was previously acquired shall be null and void for such water bottom and shall be of no force or effect. No person shall have any claim against the executive director of CPRA, the secretary of DWF, either department, the state of Louisiana, its political subdivisions, the United States, or any agency, agent, contractor, or employee thereof or any other person in relation to the nullity of such lease. The determination of whether the water bottom sought to be leased is not necessary for coastal protection, conservation, or restoration

shall be at the sole discretion of the executive director of CPRA, upon consideration of existing, planned, projected, or reasonably foreseeable projects or other actions needed for coastal protection, conservation, or restoration.

H. Nothing in these regulations shall be construed to require the executive director to engage in or perform any project or other action for coastal protection, conservation, or restoration or any oyster resource survey, appraisal, or valuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:213.1 et seq., R.S. 56:425, and R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 32:2092 (November 2006), repromulgated by the Office of the Governor, Coastal Protection and Restoration Authority LR 41:2612 (December 2015), amended LR 44:

§315. Administrative Review **[Formerly LAC 43:I.865]**

A. A leaseholder of an oyster lease acquired, in whole or in part, in accordance with these regulations and R.S. 56:432.1 may seek an administrative hearing through the authority.

1. Any such adjudication shall be limited to whether the acquisition due to the impact of dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration is proper, or whether the compensation issued by the authority satisfies the rules and regulations under this Subchapter.

2. Any leaseholder whose lease is not acquired, but upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred, may also seek an administrative hearing through the authority under this section to determine if acquisition of such oyster lease acreage would be proper.

B. A leaseholder's request for an administrative hearing under this section shall be requested in writing and sent to the authority at the following address: Coastal Protection and Restoration Authority, Executive Director, P.O. Box 44027, Baton Rouge, LA 70804-4027.

1. A written request for adjudication under this Section must be received by the authority within 60 days after issuance of the notice of acquisition, determination of compensation, or payment to which the request pertains. However, a request for adjudication may be submitted to the authority within two years after completion of the project for which acreage was acquired, if and only if, the leaseholder establishes that notice of the acquisition, determination of compensation, or payment was not issued as required by R.S. 56:432.1 or §313 of this Part, or the request for adjudication seeks review of the lack of acquisition of leased acreage upon which dredging, direct placement of dredged or other materials, or other work or activities necessary for the construction or maintenance of a project for coastal protection, conservation, or restoration has occurred.

a. A request for adjudication received after the aforementioned deadlines, as applicable, is not timely and shall be denied.

b. A request for adjudication is deemed timely "received" when the request is mailed on or before the due date. If the papers are received by mail on the first legal day