NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Open Meetings via Electronic Means Policy

(LAC 33:I.Chapter 22) (OS103)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 22. (OS103)

This rule summarizes the LDEQ’s obligations and limitations for announcing and holding public meetings and the process by which the LDEQ shall provide eligible requestors with accommodations in order to attend and participate in said meetings in person or remotely (via electronic means).

Act 393 of the 2023 Regular Session requires the LDEQ, upon request, to provide accommodations to people with disabilities to enable them to participate in open meetings or open meetings delivered by electronic access. The basis and rationale for this rule are to ensure equal access to public meetings to all residents, including those who identify as disabled, as required by the Americans with Disabilities Act. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Family Impact Statement**

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

**Poverty Impact Statement**

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

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

**Provider Impact Statement**

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

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS103. Such comments must be received no later than March 5, 2024, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS103. The proposed regulation is available on the Internet at https://deq.louisiana.gov/page/rules-regulations.

**Public Hearing**

A public hearing will be held via Zoom on February 27, 2024, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at https://deqlouisiana.zoom.us/j/9373792954?omn=84764065727 or by telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below, or at (225) 219-1325.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Courtney J. Burdette

Executive Counsel

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part I. Office of the Secretary**

**Subpart 1. Departmental Administrative Procedures**

**Chapter 22. Open Meetings**

**§2201. Open Meetings Accessibility**

A. The Louisiana Department of Environmental Quality shall provide for participation via electronic means on an individualized basis by people with disabilities.

B. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);

2. a designated caregiver of such a person; or

3. a member of the public body itself with an ADA-qualifying disability.

C. The written public notice for an open meeting, as required by R.S. 42:19, shall include the name, telephone number and email address of the agency representative to whom a disability accommodation may be submitted.

D. As soon as possible, but no later than the start of the scheduled meeting, the requestor shall be provided with the teleconference or videoconference link.

AUTHORITY NOTE: Promulgated in accordance with Act 393 of the 2023 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**FOR ADMINISTRATIVE RULES**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Person Preparing Statement: | Doug Bordelon |  | Dept.: | Environmental Quality |
| Phone: | (225) 219-1325 |  | Office: | Office of Management & Finance |
| Return Address: | 602 N. 5th St. |  | Rule Title: | Open Meetings via Electronic Means Policy |
|  | Baton Rouge, LA 70802 |  |  | LAC 33:I.Chapter 22 |
|  |  |  | Date Rule Takes Effect: | Upon Promulgation |

SUMMARY

(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

1. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated costs or savings to state or local governmental units related to implementation of the proposed rule. The Louisiana Department of Environmental Quality (LDEQ) currently has the capability to offer participation in public meetings via electronic means, either through teleconference phone lines and/or existing Zoom or Teams videoconference accounts.

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

There is no estimated effect on revenue collections of state or local government units.

1. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The individuals directly affected by this rule would be members of the public with disabilities, their designated caregivers, and/or members of public bodies with disabilities request to attend public meetings via electronic means (i.e. teleconference or videoconference). In such cases, it stands to reason that they would not request to participate in such a manner unless they already have the technological capability to do so, either via telephone or through a free Zoom or Teams videoconference account. Therefore, the proposed rule may result in travel savings to members of the public with disabilities as they can now participate in the meeting virtually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature of Head or Designee |  | Legislative Fiscal Officer or Designee |
| Courtney J. Burdette, Executive Counsel |  |  |
| Typed Name & Title of Agency Head or Designee |  |  |
|  |  |  |
| Date of Signature |  | Date of Signature |

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

1. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).   
     
   The proposed rule sets forth procedures related to participation in public meetings via electronic means as an accommodation for people with disabilities. It also addresses the agency's ineligibility to conduct public meetings via electronic means for non-disabled participants.
2. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.   
     
   Act 393 of the 2023 Regular Session amended Louisiana's Open Meetings law to permit certain public bodies to conduct its open meetings via electronic means. However, regardless of its eligibility status, public bodies are required by Act 393 to provide electronic or alternate participation in open meetings as an accommodation for people with disabilities. In order to implement these provisions, La. R.S. 42:14.E.(4) and R.S. 42:17.2.1.B. require state agencies to promulgate rules pursuant to the Administrative Procedures Act.
3. Compliance with Act 11 of the 1986 First Extraordinary Session
4. Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. The proposed rule does not result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) YES. If yes, attach documentation.

(b) NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

|  |  |  |  |
| --- | --- | --- | --- |
| **COSTS** | **FY 24** | **FY 25** | **FY 26** |
| PERSONAL SERVICES | $0 | $0 | $0 |
| OPERATING EXPENSES | $0 | $0 | $0 |
| PROFESSIONAL SERVICES | $0 | $0 | $0 |
| OTHER CHARGES | $0 | $0 | $0 |
| EQUIPMENT | $0 | $0 | $0 |
| MAJOR REPAIR & CONSTR. | $0 | $0 | $0 |
| **TOTAL** | **$0** | **$0** | **$0** |
| **POSITIONS (#)** | **0** | **0** | **0** |

1. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.   
     
   There are no estimated costs related to the implementation of the proposed rule. The Louisiana Department of Environmental Quality has the capability to offer participation in public meetings via electronic means, either through teleconference phone lines and/or existing Zoom or Teams videoconference accounts. Any additional workload to provide a teleconference and/or videoconference link to people with disabilities, upon request, should be minimal.
2. Sources of funding for implementing the proposed rule or rule change.

|  |  |  |  |
| --- | --- | --- | --- |
| **SOURCE** | **FY 24** | **FY 25** | **FY 26** |
| STATE GENERAL FUND | $0 | $0 | $0 |
| AGENCY SELF-GENERATED | $0 | $0 | $0 |
| DEDICATED | $0 | $0 | $0 |
| FEDERAL FUNDS | $0 | $0 | $0 |
| OTHER (Specify) | $0 | $0 | $0 |
| **TOTAL** | **$0** | **$0** | **$0** |

1. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?   
     
   Not applicable.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.   
     
   The proposed rule only applies to public bodies within the LDEQ, so there is no potential cost or savings to local governmental units.
2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.   
     
   Not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

1. What increase (decrease) in revenues can be anticipated from the proposed action?

|  |  |  |  |
| --- | --- | --- | --- |
| **REVENUE INCREASE/DECREASE** | **FY 24** | **FY 25** | **FY 26** |
| STATE GENERAL FUND | $0 | $0 | $0 |
| AGENCY SELF-GENERATED | $0 | $0 | $0 |
| DEDICATED | $0 | $0 | $0 |
| FEDERAL FUNDS | $0 | $0 | $0 |
| LOCAL FUNDS | $0 | $0 | $0 |
| **TOTAL** | **$0** | **$0** | **$0** |

\*Specify the particular fund being impacted.

1. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.   
     
   There is no estimated effect on revenue collections of state or local government units.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.   
  
Those individuals directly affected by this rule would include members of the public with disabilities, their designated caregivers, and/or members of public bodies with disabilities who request to attend public meetings via electronic means (i.e. teleconference or videoconference). In such cases, it stands to reason that they would not request to participate in such a manner unless they already have the technological capability to do so, either via telephone or through a free Zoom or Teams videoconference account. Therefore, there are no estimated costs for those directly affected by this rule. A request to participate in a public meeting via electronic means may be submitted by email or telephone, so there is no additional paperwork or workload incurred by people with disabilities to implement this rule.

1. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.   
     
   There is no estimated impact on receipts and/or income for people with disabilities associated with this rule.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment

in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.   
  
There is no estimated impact on competition and employment.