NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Recovery Furnaces

(LAC 33:III.2301) (AQ388)

 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 Air regulations, LAC 33:III.2301 (AQ388).

 This Rule reduces the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five years. This Rule also provides an exemption from the total reduced sulfur (TRS) limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BBa (Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013). Finally, this Rule provides an exemption from the opacity standard of LAC 33:III.2301.D.4.a for recovery furnaces subject to 40 CFR 63 Subpart MM (National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills).

Currently, owners or operators of recovery furnaces located at pulp and paper mills are required to conduct annual performance tests to demonstrate compliance with the particulate matter (PM) limitation of LAC 33:III.2301.D.1.a (i.e., 4.0 pounds per equivalent pulp ton). These recovery furnaces are also subject to more stringent federal standards for PM under 40 CFR 63 Subpart MM and the associated performance testing and monitoring requirements set forth therein. In order to reduce compliance costs for owners or operators of recovery furnaces, the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii will be reduced from annually to once every five years.

LAC 33:III.2301.E, promulgated on October 20, 2006, already provides an exemption from the TRS limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BB (Standards of Performance for Kraft Pulp Mills). This Rule will expand this exemption to recovery furnaces subject to Subpart BBa, promulgated April 4, 2014. Like Subpart BB, Subpart BBa establishes TRS standards that are equivalent to or more stringent than those set forth in LAC 33:III.2301.D.3.

Likewise, 40 CFR 63 Subpart MM establishes opacity standards for recovery furnaces that are more stringent than that provided by LAC 33:III.2301.D.4.a. While the federal standards apply only to recovery furnaces equipped with an electrostatic precipitator (ESP), a determination of opacity from furnaces controlled using a wet scrubber or combination ESP/wet scrubber is generally not possible due the presence of uncombined water in the flue gas discharge. The basis and rationale for this Rule are to reduce compliance costs for owners or operators of recovery boilers obligated to comply with more stringent federal standards for PM and to provide exemptions from the TRS and opacity limitations of LAC 33:III.2301 for recovery boilers subject to equivalent or more stringent federal standards under 40 CFR 60 Subpart Bba and 40 CFR 63 Subpart MM, respectively. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 23. Control of Emissions for Specific Industries1

1Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

 A. – D.3.b. …

 4. Opacity Limitation

 a. …

 b. Compliance. Owners or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Services as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

 i. four tests at six month intervals within 24 months of ~~promulgation of this regulation~~initial startup; and

 ii. one test ~~annually~~every five years thereafter.

 E. Exemptions~~.~~

 1. The ~~total reduced sulfur~~TRS limitations of Paragraph D.3 of this Section ~~and the opacity limitation of Paragraph D.4 of this Section~~ do not apply to affected facilities subject to 40 CFR 60, Subpart BB―Standards of Performance for Kraft Pulp Mills, or 40 CFR 60, Subpart BBa―Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.

 2. The opacity limitation of Subparagraph D.4.a of this Section does not apply to affected sources subject to 40 CFR 63, Subpart MM―National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills.

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:1892 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2753 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, 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 business as described in R.S. 49:965.2 - 965.8.

**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 AQ388. Such comments must be received no later than August 5, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ388. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

**Public Hearing**

A public hearing will be held on July 29, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

 These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, 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.

 Herman Robinson

 General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT

 FOR ADMINISTRATIVE RULES LOG #: AQ388

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| PersonPreparingStatement: | Bryan D. Johnston |  | Dept.: | Environmental Quality |
| Phone: | (225) 219-3450 |  | Office: | Environmental Services |
|  | bryan.johnston@la.gov |  |  |  |
| Return Address: | 602 North Fifth Street |  | Rule Title: | Recovery Furnaces |
|  | Baton Rouge, LA 70802 |  |  | (LAC 33:III.2301) |
|  |  |  |  |  |
|  |  |  | Date Rule Takes Effect: | Upon Promulgation |

SUMMARY

(Use complete sentences)

In accordance with Section 953 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.

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change reduces the frequency of the performance tests on recovery furnaces from annually to every five years. Further, the rule change provides for certain exemptions from the total reduced sulfur limitations and the opacity standard for recovery furnaces.

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

There is no estimated increase or decrease in revenues to state or local governmental units as a result of the proposed rule.

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

The proposed rule will decrease compliance costs for owners or operators of recovery furnaces located at pulp and paper mills obligated to comply with more stringent federal standards for particulate matter under 40 CFR 63 Subpart MM by reducing the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

 a

Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Herman Robinson, General Counsel

Typed Name & Title of Agency Head or Designee

 a

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.

A. 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).

This rule reduces the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five years.

This rule also provides an exemption from the total reduced sulfur (TRS) limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BBa (Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013).

Finally, this rule provides an exemption from the opacity standard of LAC 33:III.2301.D.4.a for recovery furnaces subject to 40 CFR 63 Subpart MM (National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills).

1. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Currently, owners or operators of recovery furnaces located at pulp and paper mills are required to conduct annual performance tests to demonstrate compliance with the particulate matter (PM) limitation of LAC 33:III.2301.D.1.a (i.e., 4.0 pounds per equivalent pulp ton). However, these recovery furnaces are also subject to more stringent federal standards for PM under 40 CFR 63 Subpart MM and the associated performance testing and monitoring requirements set forth therein. Therefore, in order to reduce compliance costs for owners or operators of recovery furnaces, the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii will be reduced from annually to once every five years.

LAC 33:III.2301.E, promulgated on October 20, 2006, already provides an exemption from the TRS limitations of LAC 33:III.2301.D.3 for recovery furnaces subject to 40 CFR 60 Subpart BB (Standards of Performance for Kraft Pulp Mills). This rule will expand this exemption to recovery furnaces subject to Subpart BBa, promulgated April 4, 2014. Like Subpart BB, Subpart BBa establishes TRS standards that are equivalent to or more stringent than those set forth in LAC 33:III.2301.D.3.

Likewise, 40 CFR 63 Subpart MM establishes opacity standards for recovery furnaces that are more stringent than that provided by LAC 33:III.2301.D.4.a. While the federal standards apply only to recovery furnaces equipped with an electrostatic precipitator (ESP), a determination of opacity (i.e., Method 9) from furnaces controlled using a wet scrubber or combination ESP/wet scrubber is generally not possible due the presence of uncombined water in the flue gas discharge.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) 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 will 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.

This question is not applicable.

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?

No costs or savings to state agencies are anticipated as a result of the proposed rule.

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COSTS FY 21-22 FY 22-23 FY 23-24

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PERSONAL SERVICES -0- -0- -0-

OPERATING EXPENSES -0- -0- -0-

PROFESSIONAL SERVICES -0- -0- -0-

OTHER CHARGES -0- -0- -0-

EQUIPMENT -0- -0- -0- a

TOTAL -0- -0- -0-

MAJOR REPAIR & CONSTR.

POSITIONS (#) -0- -0- -0-

2. 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.

This question is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

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SOURCE FY 21-22 FY 22-23 FY 23-24

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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- a

TOTAL -0- -0- -0-

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

No additional funds are required to implement the proposed action.

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.

 No impact on local governmental units is anticipated.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

 There will be no costs or savings to local governmental units, so no funding sources will be affected.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

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

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

No increase or decrease in revenues to state and local governmental units will be realized.

REVENUE INCREASE/DECREASE FY 21-22 FY 22-23 FY 23-24

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STATE GENERAL FUND -0- -0- -0-

AGENCY SELF-GENERATED -0- -0- -0-

RESTRICTED FUNDS\* -0- -0- -0-

FEDERAL FUNDS -0- -0- -0-

LOCAL FUNDS -0- -0- -0- a

TOTAL -0- -0- -0-

\*Specify the particular fund being impacted.

B. 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.

No increase or decrease in revenues will be realized.

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

1. 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.

Owners or operators of recovery furnaces located at pulp and paper mills will be directly affected. The proposed rule will decrease compliance costs for owners or operators of recovery furnaces obligated to comply with more stringent federal standards for particulate matter under 40 CFR 63 Subpart MM by reducing the frequency of the performance tests required by LAC 33:III.2301.D.4.b.ii from annually to once every five (5) years.

B. 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.

No impact on receipts or income of the directly affected persons or non-governmental groups is expected.

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 will be no effect on competition or employment in the public or private sector.