

**CLEAN AIR ACT SECTION (CAA) 111(d) PLAN FOR THE
CLEAN AIR MERCURY RULE (CAMR)
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Clean Air Mercury Rule (CAMR) 111(d) Plan

I. Background

On December 20, 2000, the Environmental Protection Agency (EPA) issued a conclusion in accordance with section 112(n)(1)(A) of the Clean Air Act (CAA) that it was “appropriate and necessary” to regulate coal-and oil-fired utility units under section 112. Later EPA reversed its position and proposed and promulgated a federal cap-and-trade mercury rule for coal-fired electrical generating units (EGUs) based upon section 111. The final Clean Air Mercury Rule (CAMR) was published in the *Federal Register* on May 18, 2005 (70 FR 28606-28700). Subsequent revisions include corrections in the *Federal Register* on August 30, 2005, (70 FR 51266-51269), and amendments in the *Federal Register* on June 9, 2006 (71 FR 33388-33402). CAMR will permanently cap and reduce mercury emissions from new and existing coal-fired utility units. The emission guidelines (EGs) for existing units are at 40 CFR 60 Subpart HHHH, and New Source Performance Standards (NSPS) for new units are at 40 CFR 60 Subpart Da. The EGs apply to coal-fired EGUs for which construction began before January 1, 2001. The NSPS apply to coal-fired EGUs for which construction or reconstruction commenced on or after January 1, 2001. States with coal-fired EGUs are required to implement State Plans pertaining to EGs and NSPS for affected facilities.

State Plans must contain specific information and legal mechanisms necessary to implement the EGs. The minimum requirements for the state plan are listed below:

- ▶ Confirmation that the state emission standards will be based upon an allowance system or the CAMR “not to exceed” cap for Louisiana;
- ▶ A demonstration that Louisiana will comply with the state’s annual EGU mercury budget;
- ▶ Specification of the test methods and procedures that will be used for determining compliance. Per CAMR, EGUs must comply with the monitoring, recordkeeping, and reporting provisions of 40 CFR Part 75 with regard to mercury emissions if they are to participate in the federal cap and trade program;
- ▶ Inclusion of language that indicates that the final compliance will be set no later than the published compliance date,
- ▶ A demonstration that Louisiana has the legal authority to administer the plan including:
 - Adopting emissions standards and compliance schedules necessary for attainment and maintenance of the relevant mercury budget, and
 - Requiring owners of affected units to install emission monitoring devices;
- ▶ Inclusion of an emission inventory of each applicable source as specified in 40 CFR 60 Appendix D, although many of the 40 CFR 60 Appendix D requirements are obsolete.

Louisiana may meet its statewide mercury emissions budget by allowing affected sources to participate in a national cap and trade program or through a state rule. Louisiana has elected to participate in the EPA-managed cap and trade program for coal-fired EGUs greater than 25 MW. Louisiana has adopted regulations identical to 40 CFR 60 subpart HHHH. See Appendix B to this document. Consequently, such allowance system is automatically approved in the state 111(d) plan. Additionally, Louisiana authorizes the EPA Administrator to assist Louisiana in implementing the Mercury Budget Trading Program by carrying out the Administrator functions specified in 40 CFR 60 subpart HHHH.

There are currently six coal-fired EGUs in the State of Louisiana that will be subject to this regulation: Big Cajun 2 (3 units), Rodemacher (1 unit), R.S. Nelson (1 unit), and Dolet Hills (1 unit).

II. Demonstration of Legal Authority

The Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., (herein after referred to as the Act) grants the secretary of the Department of Environmental Quality (the department) specific authority to adopt, amend, or repeal those rules and regulations that are deemed necessary for the protection of the state's environment. Further, the Act provides the secretary with the general power to assure compliance with applicable federal laws and regulations and to assume authority for those delegated programs that exist under the provision of the Clean Air Act Amendments.

Also included in the Act is the Louisiana Air Control Law, La. R.S. 30:2051, et seq., which provides specific statutory authority for air quality matters. The secretary is provided the authority to adopt and/or promulgate rules and regulations that are consistent with applicable state and federal law. This authority also includes the air operating permit program that is required by 40 CFR Part 70.

Although the Act does not provide the department with specific authority to include monitoring, recordkeeping, and reporting requirements in an air operating permit, broad statutory authority is provided the secretary to develop permitting procedures and regulations that conform to applicable state and federal laws. Such statutory authority is sufficient to incorporate monitoring, recordkeeping, reporting and compliance certification requirements in the air operating permit consistent with the federal requirements of 40 CFR Part 70. (See Appendix E, Attorney General's Opinion, dated November 15, 1993)

State law provides authority to make available to the public any permit application, compliance plan, or monitoring and compliance certification report, except for that information entitled to confidential treatment. According to the Act, the contents of an operating permit and air emissions data shall not be entitled to confidential treatment. Further, the Louisiana Public Records Law, La. R.S. 44:1, et seq., provides that all records of a public body are defined as "public records" and are therefore available for public inspection and copying. This general rule has been modified by the Act, which allows the department to maintain certain records as confidential. (La. R.S. 30:2030)

III. Inventory of Applicable Sources

There are six EGUs in the State of Louisiana that will be subject to the new regulation. Table 1 is a list of the facilities, the operating rate of each facility, and the type of air pollution control equipment, if any, currently used at the facility. Other existing sources, not identified below, are also subject to the requirements of this 111(d) plan, and as these new sources are identified they will be added to the inventory and reported via the annual progress report to EPA Region VI.

Table 1. Coal-fired EGUs in Louisiana

FACILITY NAME	OPERATING RATE (MAX)	AIR POLLUTION EQUIPMENT
Big Cajun 2 Unit 1	6420 MM BTU/hr	Electrostatic precipitator, low NOx burner, over-fire air
Unit 2	6420 MM BTU/hr	Electrostatic precipitator, low NOx burner, over-fire air
Unit 3	6420 MM BTU/hr	Electrostatic precipitator
Rodemacher (Unit 2)	6534 MM BTU/hr	Electrostatic precipitator, low NOx burner
R.S. Nelson (Unit 6)	6216 MM BTU/hr	Electrostatic precipitator w/ flue gas conditioning
Dolet Hills	7600 MM BTU/hr	Electrostatic precipitator, a flue gas desulfurization system, low NOx burners, and an overfire air system

IV. Emissions Inventory from Coal-Fired EGUs in Louisiana

Name/Address of Facility	Location UTM	Parish	Boiler Type	Permit / Emission Information	Total Tons per Year**
Big Cajun 2, 9951 Cajun 2 Road (Hwy 981), New Roads, LA 70760	Zone 15 656.395 km East 3400.246 km North	Pointe Coupee	Dry-bottom wall-fired	Permit 2260-00012-V0	NO _x 17,715.3 tpy CO 46,932.9 tpy SO ₂ 98,302.9 tpy PM ₁₀ 8,192.0 tpy VOC 308.7 tpy Hg 0.6 tpy <hr/> 171,452.4 Total TPY ** permitted emissions
Rodemacher (Unit 2) 275 Rodemacher Road, Lena, LA 71447	Zone 15 526.849 km East 3473.529 km North	Rapides	Wet bottom wall-fired	Permit 2360-0030-V0	Pm 3293 tpy SO ₂ 43,360 tpy NO ₂ 18,165 tpy CO 3,502 tpy VOC 277 tpy Hg 0.38 tpy <hr/> 68,597.38 Total TPY ** permitted emissions
R. S. Nelson (Unit 6) 3500 Houston River Road, Westlake, LA 70669	Zone 15 471.946 km East 3350.318 km North	Calcasieu	Tangential	Air Permit 0520-00014-V0	Pm 1,391.11 tpy SO ₂ 32,671.30 tpy NO ₂ 12,251.74 tpy CO 993.60 tpy VOC 151.04 tpy Hg no limit specified <hr/> 47,458.79 Total TPY ** permitted emissions
Dolet Hills, 963 Power Plant Road, Mansfield, LA 71052	Zone 15 446.289 km East 3544.012 km North	Desoto	Dry-bottom wall-fired	Air Permit 0760-00001-V0	Pm 2,519.0 tpy SO ₂ 35,850.0 tpy NO ₂ 17,927.0 tpy CO 2,497.0 tpy VOC 96.9 tpy Hg 0.200 tpy <hr/> 58,890.1 Total TPY ** permitted emissions

V. Federal Regulations Adopted by Reference

Standards Adopted: The following standards of Performance for New Stationary Sources and Emission Guidelines contained in 40 CFR Part 60, revised as of July 1, 2005, to be incorporated by reference, and rules to that effect will be adopted on or about August 20, 2006. Any new coal-fired EGU is also subject to the provisions of 40 CFR 60, Subpart HHHH, and shall file an application for a permit to operate under the requirements of LAC33:III.Chapter 5 prior to construction.

VI. Compliance Schedules

- A. Submit Title V Permit Application by May 18, 2006, in accordance with LAC 33:III.507.C.3.
- B. Comply with monitoring and recordkeeping and monitoring and recordkeeping compliance dates in accordance with the model rule, 40 CFR 60.4170-4176, by January 1, 2009. New units must comply by the later of the following dates: January 1, 2009, or 90 unit operating days or 180 calendar days, whichever occurs first from the beginning of commercial operation.
- C. Submit mercury budget trading program permit applications in accordance with the model rule, 40 CFR 60.4120-4124. Mercury budget trading program permit applications should be submitted at least 18 months prior to commencing operation for new units, or by July 1, 2008, for existing units in accordance with 40 CFR 60.4121.

VII. Additional Requirements for Existing and New Coal-fired EGUs

- A. The provisions of the model rule, 40 CFR 60.4104-4114 and 40 CFR 60.4150-4162 will be incorporated by reference.

B. Definitions

Definitions at 40 CFR 60.4102 and abbreviations at 40 CFR 60.4103 will be incorporated by reference. The terms used but not defined in 40 CFR 60, Subpart HHHH, will have the meaning given to them in the Clean Air Act and in 40 CFR 60, Subparts A, Da.

C. State Reports

Annual reports to EPA Region 6 will be submitted in accordance with 40 CFR 60.25(e) & (f).

D. State Requirements

Mercury budget allocations will be made in accordance with the model rule, 40 CFR 60.4140-4142. Louisiana's Phase 1 (from 2010-2017) budget is 0.601 tons per year, And the budget for Phase 2 is 0.237 (2018 and thereafter). See Appendix D for allocation spreadsheet.

Table 2. Mercury Allocations (in ounces per year)

AFFECTED UNITS	FACILITY OWNER NAME	HIGHEST 3 YEAR AVERAGE HEAT INPUT (2000-2004)	ADJUSTED AVERAGE HEAT INPUT	MERCURY ALLOCATION (OZ.) FOR YEARS 2010-2014
Rodemacher	CLECO Corp., CLECO Power, LLC, Lafayette Public Power, Louisiana Energy and Power Authority	35,826,707	44,783,383	1,908
RS Nelson	Entergy Gulf States Inc. Sam Rayburn G & T Inc., Sam Rayburn Municipal Power Agency	41,848,426	52,310,532	2,229
Big Cajun 2 (2B1)	Louisiana Generating, LLC	48,596,460	60,745,575	2,588
Big Cajun 2 (2B2)	Louisiana Generating LLC	47,574,954	59,468,692	2,534
Big Cajun 2 (2B3)	Louisiana Generating LLC & Entergy Corp.	47,818,200	59,772,750	2,547
Dolet Hills	CLECO Corp. CLECO Power LLC, NE Texas Electrical Cooperative, Oklahoma Municipal Power Authority, SWEPCO	50,564,806	151,694,419	6,464
<u>total</u>		272,229,552	428,775,351.50	18,270

VIII. Public Hearing

A public hearing for the section 111(d) plan was held on September 26, 2006, in Baton Rouge, Louisiana (see Appendix C). The public comment period began on August 20, 2006, and ended on September 26, 2006. Notice of this hearing was published in the August 20, 2006 edition of the *Louisiana Register*, the official state journal. This publication date provided a 30-day period for review and comment. Notice of this hearing was also published in daily newspapers in the cities of Shreveport, Alexandria, Lake Charles, Lafayette, Monroe, Baton Rouge, and New Orleans.

Notices of Intent

NOTICE OF INTENT

**Tuition Trust Authority
Office of Student Financial Assistance**

START Savings Program
(LAC 28:VI.107, 305, 309, and 311)

The Louisiana Tuition Trust Authority announces its intention to amend its START Savings Program (R.S. 17:3091 et seq.) Rules.

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972 (ST0671NI).

The text of this proposed Rule may be viewed in its entirety in the Emergency Rule section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed changes (ST0671NI) until 4:30 p.m., June 12, 2006, to Jack L. Guinn, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: START Savings Program

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

There are no estimated implementation costs or savings to state or local governmental units.

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

Revenue collections of state and local governments will not be affected by the proposed changes.

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

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Badge Eldredge
General Counsel
0605#006

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Clean Air Mercury Rule Incorporation by Reference
(LAC 33:III.3003)(AQ257f)

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.3003 (Log #AQ257f).

This proposed rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control plan based upon Section 111 of the Clean Air Act Amendments of 1990.

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to

mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury allowances. The department proposes to adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also proposes to adopt the new source set-aside of five percent of the allowances in Phase 1, and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have the authority to develop an alternative rule different from the federal cap-and-trade program, the department has concluded that alternatives to the EPA program which produce earlier and deeper reductions of mercury may not be technologically feasible and that rules which require all coal-fired EGUs to install mercury controls may not be cost effective, possibly subjecting the electricity rate payer to higher than necessary rates without a corresponding decrease in state-wide mercury deposition levels. The basis and rationale for this proposed rule are to mirror the federal regulations for CAMR.

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

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2005, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subparts A, B, Da, and HHHH as promulgated as the Clean Air Mercury Rule on May 18, 2005, in the *Federal Register*, 70 FR 28606-28700; and Subpart EEEE, "Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or

Reconstruction is Commenced on or After June 16, 2006," and Subpart FFFF, "Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004," promulgated on December 16, 2005, in the *Federal Register*, 70 FR 74870-74924.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:

A public hearing will be held on June 28, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ257ft. Such comments must be received no later than June 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 AQ257ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

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REGULATION DEVELOPMENT SECTION

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097 TELEPHONE (504) 826-3206

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Mercury Rule Incorporation by Reference (LAC 33:III.3003) (AQ257H)

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.3003 (LAC 33:III.3003) (AQ257H).

This proposed rule is identical to federal regulations found in 70 FR 28406-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550, Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control plan based upon Section 111 of the Clean Air Act Amendments of 1990.

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a Louisiana budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury allowances. The department proposes to adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also proposes to adopt the new source set-aside of five percent of the allowances in Phase 1, and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have the authority to develop an alternative rule different from the federal cap-and-trade program, the department has concluded that alternatives to the EPA program which produce earlier and deeper reductions of mercury may not be technologically feasible and that rules which require all coal-fired EGUs to install mercury controls may not be cost effective, possibly subjecting the electricity rate payer to higher than necessary rates without a corresponding decrease in state-wide mercury deposition levels. The basis and rationale for this proposed rule are to mirror the federal regulations for CAMR.

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

A public hearing will be held on June 28, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

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This proposed regulation is 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; 171 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM Executive Counsel

State of Louisiana
Parish of Orleans
City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached LEGAL NOTICE

Re: Notice of Intent Clean Air Mercury Rule Incorporation by Reference (LAC 33:III.3003) (AQ257H)

Advertisement of Dept. Of Environmental Quality

P.O. BOX 4302
Baton Rouge, La. 70821-4302

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates May 11, 2006

Sworn to and subscribed before me this 11th Day of May, 2006

Robert Chiasson (Signature)

Notary Public (Signature)

My commission expires at my death. Charles A. Ferguson, Jr.

Notary identification number 23492

CERTIFIED COPY *AD 5/18/06*

RECEIVED

MAY 16 2006

REGULATION DEVELOPMENT SECTION

Affidavit of Publication

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Clean Air Mercury Rule Incorporation by Reference
(LAC 33:111.3003) (AQ257f)

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 33:111.3003 (Log #AQ257f).

This proposed rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control plan based upon Section 111 of the Clean Air Act Amendments of 1990.

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmos-

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Candi Dickson

who being duly sworn, deposes and says:

He/She is a duly authorized agent of
LAKE CHARLES AMERICAN PRESS
a newspaper published daily at 4900 Highway 90 East,
Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893
Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s)
dated:

00254772 - \$71.00
May 12, 2006

00053262
LA. DEQ OSEC/LARD
REGULATION DEVELOPMENT
REMENDER WEATHERSPOON
P.O. BOX 4302
BATON ROUGE, LA 70821-4302

Candi Dickson

Duly Authorized Agent

Subscribed and sworn to before me on this 12th day of May, 2006 at
Lake Charles, LA

Gwendolyn R. Dugas

Notary Public

00053262
LA. DEQ OSEC/LARD

Gwendolyn R. Dugas
#056523

phere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

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

A public hearing will be held on June 28, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ257ff. Such comments must be received no later than June 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 AQ257ff. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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Herman Robinson,
CPM
Executive Counsel
May 12 11
00254772

CAPITAL CITY PRESS

CERTIFIED COPY

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

05/20/06



Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

May 20, 2006


Pegeen Singley, Notary Public, #66565
My Commission Expires: Indefinite
Baton Rouge, Louisiana

RECEIVED

JUN 09 2006

LDEQ/OSEC/LARD
REGULATION DEVELOPMENT SECTION

DEQ - OSEC/LARD REGULATION
REMENDER D. WEATHERSPOON
PO BOX 4302
BATON ROUGE LA 70821-4314

3324112

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Mercury Rule
Incorporation by Reference
(LAC 33:III.3003) (AQ257f)

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Executive Counsel
3324112-may 20-11

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MAY 22 2006

LOUISIANA
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

**Clean Air Mercury Rule
Incorporation by Reference
(LAC 33:III.3003) (AQ257f)**

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Publisher of

**THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION**

**The hereto attached advertisement
Was published in the NEWS-STAR.
A daily newspaper of general circulation.**

Published in Monroe, Louisiana.

Parish of Ouachita in the issues of:

May 13, 2006
Amonde Brown

LEGAL AD DEPT.

Sworn and subscribed before me by

The person whose signature appears above in Monroe, LA on this

15th day of May 20 06 AD

Sarah M Walker
62422 Sarah M Walker
NOTARY PUBLIC

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methylmercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases in the years 2010 and 2019. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.257 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury allowances. The department proposes to adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also proposes to adopt the new source set-aside of five percent of the allowances in Phase 1 and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have

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Herman Robinson, CPM
Executive Counsel

Monroe, LA
May 13, 2006

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RECEIVED

MAY 22 2006

AFFIDAVIT OF PUBLICATION

REGULATION DEVELOPMENT SECTION

AQ25744

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Mercury Rule Incorporation by Reference (LAC 33:111.3003) (AQ25744)

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 33:111.3003 (Log #AQ25744).

This proposed rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

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I, Bill Buschmann, Classified Advertising Manager

of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the

Public Notice

advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertions commencing with the issue dated May 18, 2006 and ending with the issue dated May 18, 2006.

Bill Buschmann

Subscribed and sworn to before me this 18th day of May, 2006

[Signature]

Notary Number

019888

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HERMAN ROBINSON,
CPM
Executive Counsel

(5) 18

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R. Penfold

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MAY 22 2006

Acadiana's Daily Newspaper

LOUISIANA
REGULATION DEVELOPMENT SECTION

THE ADVERTISER

1100 Bertrand Drive
LAFAYETTE, LA 70506

PHONE: (337) 289-6300
FAX: (337) 289-6466

AFFIDAVIT OF PUBLICATION

**Remender D. Weatherspoon
LA Department of Environmental Quality
OSEC/Legal Affairs Division/
Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302**

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I, **ROSE PENFOLD**, do solemnly swear that I am the **LEGAL CLERK** of **THE ADVERTISER**, a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and that from my personal knowledge and reference to the files of said publication, the advertisement of

**NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Clean Air Mercury Rule Incorporation by Reference
(LAC 33:111.3003) (AQ257ff)**

was published in **THE ADVERTISER** on the following dates:

***Thursday, May 11, 2006**

Rose Penfold

**ROSE PENFOLD
LEGAL CLERK**

Sworn to and subscribed before me this 15 day of May, 2006.

Christie Veary

NOTARY PUBLIC - ID#58555

593946
NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Mercury
Rule Incorporation by
Reference
(LAC 33:111.3003)
(AQ257ff)

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A public hearing will be held on June 28, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ257ff. Such comments must be received no later than June 28, 2006, at

4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302, or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 AQ257ff. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson,
CPM
Executive Counsel.

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The Times

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JUN 02 2006

LDEQ/OSEC/LARD
REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Mercury Rule
Incorporation by Reference
(LAC 33:III.3003)
(AQ257ft)

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.3003 (Log #AQ257ft).

This proposed rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control plan based upon Section 111 of the Clean Air Act Amendments of 1990.

00000

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton, personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the Classified Advertising Manager of The Times, and that the attached Advertisement entitled:

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Clean Air Mercury Rule Incorporation by Reference (AQ257ft)

May 20, 2006

(Signed) Altheas Critton

Sworn to and subscribed before me this 22nd day of May, 2006

Diana W. Barber
(Notary)

DIANA W. BARBER, NOTARY PUBLIC # 60491
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE



Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury

then gets into the food chain and results in mercury exposure to persons who eat fish.

There are numerous fish consumption advisories in Louisiana. Human exposure to mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury

allowances. The department proposes to adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also proposes to adopt the new source set-aside of five percent of the allowances in Phase 1, and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have the authority to develop an alternative rule different from the federal cap-and-trade program, the department has concluded that alternatives to the EPA program which produce earlier and deeper reductions of mercury may not be technologically feasible and that rules which require all coal-fired EGUs to install mercury controls may not be cost effective, possibly subjecting the electricity rate payer to higher than necessary rates without a corresponding decrease in state-wide mercury deposition levels. The basis and rationale for this proposed rule are to mirror the federal regulations for CAMR.

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

A public hearing will be held on June 28, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ257ft. Such comments must be received no later than June 28, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation 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 AQ257ft. This regulation is available on the internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is 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 Baratania Street, Lockport, LA 70374;
645 N. Lotus Drive, Suite C, Mandeville, LA 70471

Herman Robinson, CPM
Executive Counsel

The Times
May 20, 2006

COPY

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

CLEAN AIR MERCURY RULE INCORPORATION BY
REFERENCE
WHICH AMENDS LAC 33:III.3003

LOG #: AQ257ft

PUBLIC HEARING

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana, beginning at 1:39 p.m., on June 28, 2006.

BEFORE: Lori B. Overland
Certified Court Reporter
In and For the State of
Louisiana

ASSOCIATED REPORTERS, INC.

(225) 216-2036

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JUL 17 2006

A P P E A R A N C E S

FOR THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL
QUALITY:

SANDY STEPHENS
Hearing Officer

Department of Environmental Quality
Legal Affairs Division, 8th Floor
Regulation Development
602 N. Fifth Street
Baton Rouge, Louisiana 70802

* * * * *

I N D E X

EXAMINATION :

PAGE (S) :

None

EXHIBITS :

None

REPORTER'S PAGE

9

REPORTER'S CERTIFICATE

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MS. STEPHENS:

Good afternoon! My name is Sandy Stephens. I'm employed with the Louisiana Department of Environmental Quality. I'll be serving as hearing officer this afternoon to receive comments regarding proposed amendments to the Air regulations.

The comment period for these amendments began on May 20, 2006, when the notice of intent was published in the Louisiana Register. The comment period will close at 4:30 p.m., today, June 28, 2006, for the Log Number AQ257ft, and at 4:30 p.m., July 5, 2006 for the Log Number AQ253. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by

1 the Log Number AQ257ft.

2 This rulemaking incorporates by
3 reference the federal Clean Air Mercury Rule
4 and provides for participation in the EPA-
5 administered cap-and-trade program for
6 annual mercury emissions. The federal rule
7 seeks to reduce mercury emissions from coal-
8 fired electrical generating units (EGUs).
9 The federal mercury cap-and-trade program
10 for coal-fired EGUs was promulgated on May
11 18, 2005, and is closely based upon the
12 highly successful Acid Rain Program. States
13 have until November 2006 to submit to EPA
14 their corresponding EGU emission control
15 plan based upon Section 111 of the Clean Air
16 Act Amendments of 1990.

17 Mercury is a metal that exists
18 naturally in the environment around the
19 world. It has been demonstrated that
20 mercury can be transported globally in the
21 atmosphere. This mercury transport occurs
22 from both natural and man-made sources.
23 Emissions from coal-fired EGUs in the United
24 States have been determined to be a
25 significant source of mercury. Although

1 there are numerous sources of mercury
2 exposure in homes, industries, and nature,
3 some of the most significant exposure risks
4 occur when the mercury in the atmosphere
5 eventually settles to the ground and finds
6 its way into lakes, rivers, and streams.
7 This mercury in the bottom sediments of some
8 rivers and lakes undergoes methylation, a
9 process carried out by bacteria in certain
10 conditions. Methyl mercury then gets into
11 the food chain and results in mercury
12 exposure to persons who eat fish. There are
13 numerous fish consumption advisories in
14 Louisiana. Human exposure to mercury can
15 affect the nervous system and the function
16 of several internal organs, such as the
17 brain and the kidneys. Young children,
18 especially the unborn, developing fetus, are
19 particularly susceptible to the effects of
20 mercury.

21 The federal rule establishes mercury
22 limits from new and existing coal-fired EGUs
23 and creates a market based cap-and-trade
24 program that will reduce EGU emission of
25 mercury in two separate phases, in the years

1 2010 and 2018. Each state receives a
2 mercury budget for each year. Louisiana's
3 budget is 0.601 tons of mercury for years
4 2010-2017 and 0.237 tons of mercury
5 thereafter. Each state can adopt any
6 methodology to allocate its mercury
7 allowance. The department proposes to adopt
8 the federal model rule for mercury allowance
9 allocations that are based upon baseline
10 heat input. It also proposes to adopt the
11 new source set-aside of five percent of the
12 allowances in Phase 1, and three percent in
13 Phase 2. New coal-fired EGUs will have to
14 meet stringent new source performance
15 standards in addition to being subjected to
16 the caps.

17 While individual states do have the
18 authority to develop an alternative rule
19 different from the federal cap-and-trade
20 program, the department has concluded that
21 alternative to the EPA program which produce
22 earlier and deeper reductions of mercury may
23 not be technologically feasible, and that
24 rules which require all coal-fired EGUS to
25 install mercury controls may not be cost

1 effective, possibly subjecting the
2 electricity rate payer to higher than
3 necessary rates without a corresponding
4 decrease in the state-wide mercury
5 deposition levels.

6 Does anyone care to comment on this
7 regulation?

8 If not, the hearing --

9 **MR. ELLENDER:**

10 My name is Gary Ellender. I'm the
11 environmental manager for Louisiana
12 Generating and I just want to state that we
13 are in support of the LDEQ's incorporation
14 by reference of the clean air mercury limit.
15 That's it.

16 **MS. STEPHENS:**

17 Thank you.

18 Does anyone else care to comment on
19 this regulation?

20 If not, the hearing on AQ257ft is
21 closed.

22 Thank you for your attention and
23 participation.

24 This hearing is closed.

25 **THE HEARING CONCLUDED AT 1:43 P.M.**

C E R T I F I C A T I O N

1
2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask tape
5 of the proceedings had herein, taken down by me
6 and transcribed under my supervision, to the
7 best of my ability and understanding, at the
8 time and place hereinbefore noted, in the above
9 entitled cause.

10 I further certify that the witness was duly
11 sworn by me in my capacity as a Certified Court
12 Reporter pursuant to the provisions of R.S.
13 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor related
15 to any of the counsel of any of the parties, nor
16 in the employ of any of the parties, and that I
17 have no interest in the outcome of this action.

18 I further certify that my license is in good
19 standing as a court reporter in and for the
20 state of Louisiana.

21 

22 Lori Overland, C.C.R.

23 # 97083



A unit of American Electric Power

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JUN 20 2006

REGULATION DEVELOPMENT SECTION

Jim Orgeron
Sandra Hillman
Sandy Stephens

Southwestern Electric
Power Company
P. O. Box 21106
Shreveport, LA 71156-0001
aep.com

T. Brian Bond
Vice President
External Affairs

318-673-3595
Fax 318-673-3011

June 16, 2006

Ms. Judith A. Schuerman, Ph.D.
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
Box 4302
Baton Rouge, LA 70821-4302

**RE: AEP Southwestern Electric Power Company
Clean Air Mercury Rule Incorporation by Reference
Comments on Proposed Regulation AQ257ft.**

Dear Dr. Schuerman:

On behalf of AEP Southwestern Electric Power Company, we are pleased to submit comments fully supportive of LDEQ's proposal to incorporate by reference the federal Clean Air Mercury Rule (CAMR).

Specifically, we believe that it is in the best interest of Louisiana ratepayers for affected units within the state to participate in the federal EGU mercury cap-and-trade program. If adopted, this will facilitate the most cost-effective approach to reducing national mercury levels by approximately 70% over the next 12 years.

Additionally, the department's proposal to allocate mercury allowances based on EPA's model rule should streamline the implementation process.

Should you have any questions regarding these comments, please do not hesitate to contact me at (318) 673-3595.

Sincerely,

Brian Bond
Vice President External Affairs



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JUL 06 2006

LDEQ/OEA/AQAD
Administrative

Cleco Corporation
2030 Donahue Ferry Rd
P. O. Box 5000
Pineville, LA 71361-5000

June 27, 2006

Judith A. Schuerman, Ph.D.
Office of the Secretary,
Legal Affairs Division
Louisiana Department of Environmental Quality
P O Box 4302
Baton Rouge, Louisiana 70821-4302

Re: Proposal to Adopt by Reference
Clean Air Mercury Rule
AQ257f

Dear Dr. Schuerman:

On behalf of Cleco Corporation, I would like to express our support for the Department's stated intention to adopt by reference the EPA Clean Air Mercury Rule. Adoption of the federal rule will simplify the compliance process and put Louisiana on a level playing field with the rest of the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. Madison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael H. Madison
President & CEO, Cleco Corporation

Xc: Mike D. McDaniel, PhD.
Secretary, Louisiana Department of Environmental Quality

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - C.10. ...

11. Emissions shall be calculated in accordance with LAC 33:III.919.C.

12. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-accepted estimation methods may be promulgated or revised. As a result of new or revised AP-42 emission factors for sources or source categories and/or department-accepted estimation methods, changes in calculated emissions may occur. Changes in reported emission levels as required by LAC 33:III.919.B.2.a due solely to revised AP-42 emission factors or department-accepted estimation methods do not constitute violations of the air permit; however, the department may evaluate changes in emissions on a case-by-case basis, including but not limited to, assessing compliance with other applicable Louisiana air quality regulations.

13. If the emission factors for any source or source category used in preparing the Annual Emission Statement required by LAC 33:III.918 and 919 differ from the emission factors used in the current air permit such that resulting "calculated" emissions reflect a change as defined in LAC 33:III.919.B.2.a, notification of the use of updated emission factors shall be included in the Title V Annual Certification, as specified in the affected permit. The notification shall include the old and new emission factor reference source and the date, volume, and edition (if applicable); the raw data for the reporting year used for that source category calculation; and applicable emission point and permit numbers that are impacted by such change. The notification shall include any other explanation, as well as the facility's intended time frame to reconcile the emission limits in the applicable permit. The department reserves the right to reopen a permit pursuant to LAC 33:III.529.

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 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:

Herman Robinson, CPM
Executive Counsel

0607#061

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Public Hearing—Substantive Changes to Proposed Rule
AQ257ft—Clean Air Mercury Rule
(LAC 33:III.3003)(AQ257ftS)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:III.3003 (Log #AQ257ftS), which were originally noticed as AQ257ft in the May 20, 2006, issue of the *Louisiana Register*.

The substantive changes to AQ257ft are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial. A ~~strikeout/underline/highlighted~~ version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257ftS. Such comments must be received no later than August 24, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this

proposed regulation with substantive changes 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 AQ257fS.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2005, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subparts A, B, Da, and HHHH as promulgated as the Clean Air Mercury Rule on May 18, 2005, in the *Federal Register*, 70 FR 28606-28700, as corrected in the *Federal Register*, 70 FR 51266-51269, August 30, 2005, and as amended in the *Federal Register*, 71 FR 33388-33402, June 9, 2006; and Subpart EEEE, "Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006," and Subpart FFFF, "Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004," promulgated on December 16, 2005, in the *Federal Register*, 70 FR 74870-74924.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:

Herman Robinson, CPM
Executive Counsel

0607#035

POTPOURRI

**Department of Health and Hospitals
Board of Veterinary Medicine**

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the State Board Examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e., holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline to Apply
November 13 through December 9, 2006	Friday, August 11, 2006

The board will also accept applications for and administer the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians as follows.

Test Date	Deadline to Apply
Friday, January 19, 2007	Friday, December 8, 2006

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 N. Third Street, Suite 104, Baton Rouge, LA 70801, by request via telephone at (225) 342-2176, or by e-mail at lbvm@eatel.net. Application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parish
Administrative Director

0607#003

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Production Management Terry Dale Jordan	Wyches Bayou	M	Quinn C Swd	7	161037
	Grogan	S	Arnold A	1	73361

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Acadiana's Daily Newspaper

JUL 21 2006

THE ADVERTISER

REGULATION DEVELOPMENT SECTION

1100 Bertrand Drive
LAFAYETTE, LA 70506

PHONE: (337) 289-6300
FAX: (337) 289-6466

AFFIDAVIT OF PUBLICATION

Remender D. Weatherspoon
LA Department of Environmental Quality
OSEC/Legal Affairs Division/
Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302

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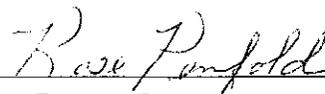
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I, **ROSE PENFOLD**, do solemnly swear that I am the **LEGAL CLERK** of **THE ADVERTISER**, a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and that from my personal knowledge and reference to the files of said publication, the advertisement of

POTPOURRI
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Notice of Public Hearing for Substantive Changes to
Proposed Rule AQ257ft—Clean Air Mercury Rule
(LAC 33:III.3003) (AQ257ftS)
(0607Pot1)

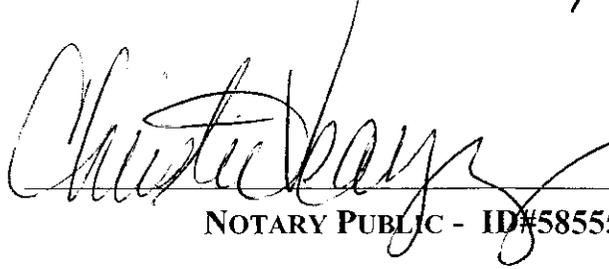
was published in **THE ADVERTISER** on the following dates:

***Thursday, July 13, 2006**



ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 17 day of July, 2006.



NOTARY PUBLIC - ID#58555

POTPOURRI

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Notice of Public
Hearing for
Substantive Changes to
Proposed Rule
AQ257ff-Clean Air
Mercury Rule
(LAC 33:111.3003)
(AQ257ffS)
(0607Pot1)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:111.3003 (Log #AQ257ffS), which were originally noticed as AQ257ff in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257ff are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial.

A ~~strikeout/underline/highlighted~~ version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257ffS. Such comments must be received no later than August 24, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies

of this proposed regulation with substantive changes 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 AQ257ffS.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson,
CPM
Executive Counsel

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

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Handwritten: 8/15/06

0607POT1

PROOF OF PUBLICATION

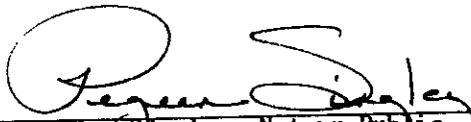
The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

07/14/06


Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

July 14, 2006


Pegeen Singley, Notary Public, #66565
My Commission Expires: Indefinite
Baton Rouge, Louisiana

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257fTS. Such comments must be received no later than August 24, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation with substantive changes 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 AQ257fTS.

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Herman Robinson, CPM
Executive Counsel
3366888-jul 14-11

POTPOURRI

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Notice of Public Hearing for
Substantive Changes to
Proposed Rule AQ257fT-Clean
Air Mercury Rule
(LAC 33:III.3003) (AQ257fTS)
(0607Pot1)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:III.3003 (Log #AQ257fTS), which were originally noticed as AQ257fT in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257fT are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51269-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51269-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial. A strike-out/underline/highlighted version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

DEQ - OSEC/LARD REGULATION 3366888
REMENDER WEATHERSPOON
PO BOX 4302
BATON ROUGE LA 70821-4314

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AD
8/15/06

AFFIDAVIT OF PUBLICATION

0607POT1

(A Correct Copy of Publication)

POTPOURRI
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Notice of Public Hearing for Substantive Changes to Proposed Rule AQ257ff - Clean Air Mercury Rule (LAC 33:III.3003) (AQ257ffS) (0607Pot1)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:III.3003 (Log #AQ257ffS), which were originally noticed as AQ257ff in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257ff are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

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A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257ffS. Such comments must be received no later than August 24, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation with substantive changes 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 AQ257ffS.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

HERMAN ROBINSON, CPM Executive Counsel

I, Bill Buschmann, Classified Advertising Manager

of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the

Public Notice

advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertions commencing with the issue dated July 19, 2006 and ending with the issue dated July 19, 2006.

Bill Buschmann

Subscribed and sworn to before me this 19th day of July, 2006

[Signature]
Notary Number 019838

CERTIFIED COPY

8/15/06

Affidavit of Publication

POTPOURRI

Department of Environmental Quality, Office of the Secretary, Legal Affairs Division - Notice of Public Hearing for Substantive Changes to Proposed Rule AQ257ff—Clean Air Mercury Rule (LAC 33:111.3003) (AQ257ffS) (0607Pot1)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air Regulations, LAC 33:111.3003 (Log #AQ257ffS), which were originally noticed as AQ257ff in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257ff are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial. A strikeout/underline/highlighted version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257ffS. Such comments must be received no later than August 24, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation with substantive changes 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 AQ257ffS.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. Herman Robinson, CPM

Executive Counsel
July 14
00272100

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Cardi Dickson
who being duly sworn, deposes and says:

He/She is a duly authorized agent of
LAKE CHARLES AMERICAN PRESS
a newspaper published daily at 4900 Highway 90 East,
Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893
Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s)
dated:

00272100 - \$41.00 0607Pot1
July 14, 2006

00053262
LA. DEQ OSEC/LARD
REGULATION DEVELOPMENT
REMENDER WEATHERSPOON
P.O. BOX 4302
BATON ROUGE, LA 70821-4302

Cardi Dickson

Duly Authorized Agent

Subscribed and sworn to before me on this 14th day of July, 2006 at Lake Charles, LA

Gwendolyn R. Dugas

Notary Public

00053262
LA. DEQ OSEC/LARD

Gwendolyn R. Dugas
00053262

8/15/06

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The Times-Picayune

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TELEPHONE (504) 826-3206

0607POT1

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Notice of Public Hearing for Substantive Changes to Proposed Rule AQ257ft - Clean Air Mercury Rule (LAC 33:111.3003) (AQ257ft)(0607Pot1)

Under the authority of the Environmental Quality Act, R.S. 30:208 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:111.3003 (Log #AQ257ft), which were originally noticed as AQ257ft in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257ft are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed

technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial. A strikeout/underline/highlighted version of the proposed rule that distinguishes original proposed language from substantively changed language is available on the internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by AQ257ft. Such comments must be received no later than August 24, 2006, at 4:30 p.m. and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation with substantive changes 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 AQ257ft.

This proposed regulation is 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached **LEGAL NOTICE**

Re: Potpourri (AQ257ft)(0607Pot1) Notice of Public Hearing for Substantive Changes to Proposed Rule

Advertisement of Dept. Of Environmental Quality

P.O. BOX 4302
Baton Rouge, La. 70821-4302

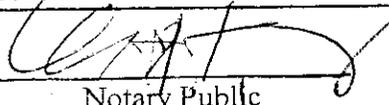
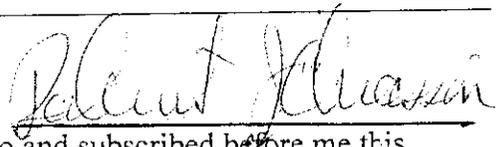
Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates July 20, 2006

20th

Sworn to and subscribed before me this
Day of July, 2006



Notary Public

My commission expires at my death.
Charles A. Ferguson, Jr.

Notary identification number 23492

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8/15/06
The Times

RECEIVED

JUL 21 2006

EDIG/USEC/LA 13
REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Notice of Public Hearing for Substantive Changes to Proposed Rule AQ257f-Clean Air Mercury Rule (LAC 33:III.3003) (AQ257fS) (0607Pot1)

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 the department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:III.3003 (Log #AQ257fS), which were originally noticed as AQ257f in the May 20, 2006, issue of the Louisiana Register.

The substantive changes to AQ257f are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial. A strikeout/underline/highlighted version of the proposed rule that distinguishes original proposed language from substantively changed

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the Classified Advertising Manager of The Times, and that the attached Advertisement entitled:

POTPOURRI (0607Pot1)

As per copy of advertisement hereto annexed, was published in The Times on the following dates to wit:

July 15, 2006

(Signed) Altheas Critton

Sworn to and subscribed before me this 17th day of July, 2006

Diana W. Barber

(Notary)

DIANA W. BARBER, NOTARY PUBLIC # 60491
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE



language is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

A public hearing on the substantive changes will be held on August 24, 2006, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

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Herman Robinson, CPM
Executive Counsel

The Times
July 15, 2006

COPY

A0257-AS

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

August 24, 2006

1:30 P.M.

Galvez Building, Oliver Pollock Conference Room
602 North Fifth
Baton Rouge, Louisiana

BEFORE: Theresa Thompson
Certified Court Reporter
In and For the State of
Louisiana

ASSOCIATED REPORTERS, INC.
(225) 216-2036

RECEIVED

SEP 21 2006

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

MS. HANO:

Good afternoon. My name is Nicole Hano. I'm employed with the Louisiana Department of Environmental Quality. I'll be serving as hearing officer this afternoon to receive comments regarding amendments to the state implementation plan (SIP) for air quality, and to the Environmental Quality regulations.

The comment periods for these proposals began on July 20, 2006, when the notices were published in the "Louisiana Register." The comment periods will close at 4:30 p.m. on August 31, 2006, for Potpourri 0607Pot2 and rule log number OS070. The comment periods for the other proposals will end at 4:30 p.m. today. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ257ftS.

The department is seeking to incorporate substantive changes to the proposed amendments to the Air regulations, LAC 33:111.3003, which were originally noticed as AQ257ft in the May 20, 2006, issue of the *Louisiana Register*.

The substantive changes to AQ257ft are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial.

Does anyone care to comment on this regulation?

If not, the hearing on AQ257ftS is closed.

Thank you for your attention and participation.

This hearing is closed.

R E P O R T E R ' S P A G E

I, Theresa Thompson, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana code of Civil Procedure, before whom this sworn testimony was taken, do hereby state on the Record

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporters's transcription of proceeding, and that the dashes (--) do not indicated that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."



Theresa Thompson
Theresa Thompson, C.C.R.

#24015

C E R T I F I C A T I O N

I, the undersigned reporter, do hereby certify that the above and foregoing is a true and correct transcription of the stenomask tape of the proceedings had herein, taken down by me and transcribed under my supervision, to the best of my ability and understanding, at the time and place hereinbefore noted, in the above entitled cause.

I further certify that the witness was duly sworn by me in my capacity as a Certified Court Reporter pursuant to the provisions of R.S. 37:2551 et seq. in and for the state of Louisiana; that I am not of counsel nor related to any of the counsel of any of the parties, nor in the employ of any of the parties, and that I have no interest in the outcome of this action.

I further certify that my license is in good standing as a court reporter in and for the State of Louisiana.



Theresa Thompson

Theresa Thompson, C.C.R.

#24015

From: James Orgeron
Sent: Tuesday, October 17, 2006 8:46 AM
To: Jodie Alexis
Subject: FW: AQ257fts

From: Remender Weatherspoon
Sent: Monday, August 28, 2006 3:37 PM
To: James Orgeron; Sandra Hilton
Cc: Nicole Hano; Sandra Stephens; Deborah Audiffred; Melissa Murphy; Sharon Parker; Judith Schuerman
Subject: AQ257fts

NO COMMENTS were received on the above-referenced rule. To continue the rulemaking process and deliver the Summary Report to the LOC in time to meet the next deadline to finalize the rule, please send **authorization to proceed** and the following items, if applicable, *via email WORD attachments*, to **Nicole Hano** by the **first** of the month:

1. the rule with technical amendments (use the strikeout/underline/highlight format), and
2. a separate list of technical amendments.

If you have any questions or need assistance, please call **Nicole @ x3562**.

Thanks!
Remender

*Mrs. Remender D. Weatherspoon, Administrative Assistant
LDEQ/OSEC/Legal Affairs Division
Regulation Development Section
Room 636-14
Phone: (225) 219-3550
Fax: (225) 219-3582*

b. demonstrating a plan or progression through which more than fifty percent of its sales will be from outside of Louisiana;

c. that the business is to operate as a person defined as an "employer" within the meaning of La. R.S. 51:2453(1)(b)(i) through (v), (c), and (d), and in Section 1105A.1 through A.5 of the Quality Jobs Rules.

2. The secretary shall also find that the business is not a business primarily engaged in the business of retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds.

3. Such other findings by the Secretary as shall be consistent with Act 400, provided that under no circumstances shall the secretary's certification of the applicant as a Louisiana Entrepreneurial Business be considered or implied to be an endorsement of the business or any investment in that business and the applicant shall so advise all investors of this fact.

B. Approval of the secretary shall be obtained upon application by letter that submits the above business plan together with the Louisiana taxpayer identification number of the business and all other information regarding those items necessary to qualify the investment in the business for the angel tax credit as provided for by Act 400 addressed to the Secretary of Economic Development, Post Office Box 94185, Baton Rouge, LA 70802-9185. Upon receipt, the Secretary shall make such requests for other information necessary to a determination that the business should or should not be certified as a Louisiana Entrepreneurial Business. The secretary's certification of the business shall include the Louisiana taxpayer identification number of the business. This certification shall be in effect for one year from the date of the secretary's letter. The certification may be extended for additional one-year periods upon application to the secretary showing that the business continues to be an entrepreneurial business within the meaning of the act and these rules, and the application includes the use of proceeds previously raised, number of employees, amount of payroll, annual revenue, and such other information as shall be requested by the Secretary or his representative. In order to continue to be certified, the business shall be in compliance with all reporting and other provisions of Act 400 and these rules with respect to the administration of the credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006); LR 32:1594 (September 2006).

§3307. The Angel Investor Tax Credit

A. The following rules shall be applicable to investments by Accredited Investors in Louisiana Entrepreneurial Businesses.

1. By January 31 of each year, Louisiana Entrepreneurial Businesses certified by the Secretary shall, by affidavit of its Chief Financial Officer, provide the secretary with the list of those Accredited Investors, the Louisiana taxpayer identification number of the Accredited Investors and the amount of their investment in accordance with the statute and these Rules, who have invested in the business provided that the business shall report up to and no more than \$2,000,000 total for the calendar year 2005 that shall have been invested by Accredited Investors in the

manner prescribed by Act 400 in order to obtain a tax credit for the Accredited Investors of no more than \$1,000,000 total for the tax year ending the previous December 31.

2. All tax credit amounts reported to the Secretary shall be fully credited to the Accredited Investor unless the total of all such investments shall exceed \$10,000,000 and the total of such credits shall exceed \$5,000,000 in which case the Secretary shall prorate the total amount of investment and tax credits earned and advise each Accredited Investor of the amount of his credit for the tax year ending December 31, no later than February 28 of the following year.

3. The secretary shall provide the Accredited Investor with all other necessary and appropriate certificates as provided by statute and as shall assist the Department of Revenue in its determination of applicability of the credit. No credit certificates shall be issued until after a determination has been made as to whether or not there is a necessity for prorating of the credits as provided above. When issued, the certificates shall include the Louisiana taxpayer identification number of the Accredited Investor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006); LR 32:1595 (September 2006).

Michael J. Olivier
Secretary

0609#048

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Mercury Rule Incorporation by Reference (LAC 33:III.3003)(AQ257ft)

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 has amended the Air regulations, LAC 33:III.3003 (Log #AQ257ft).

This rule is identical to federal regulations found in 70 FR 28606-28700 (May 18, 2005), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rulemaking incorporates by reference the federal Clean Air Mercury Rule (CAMR) and provides for participation in the EPA-administered cap-and-trade program for annual mercury emissions. The federal rule seeks to reduce mercury emissions from coal-fired electrical generating units (EGUs). The federal EGU mercury cap-and-trade program for coal-fired EGUs was promulgated on May 18, 2005, and is closely based upon the highly successful Acid Rain Program. States have until November 2006 to submit to EPA their corresponding EGU emissions control

plan based upon Section 111 of the Clean Air Act Amendments of 1990.

Mercury is a metal that exists naturally in the environment around the world. It has been demonstrated that mercury can be transported globally in the atmosphere. This mercury transport occurs from both natural and man-made sources. Emissions from coal-fired EGUs in the United States have been determined to be a significant source of mercury. Although there are numerous sources of mercury exposure in homes, industries, and nature, some of the most significant exposure risks occur when the mercury in the atmosphere eventually settles to the ground and finds its way into lakes, rivers, and streams. This mercury in the bottom sediments of some rivers and lakes undergoes methylation, a process carried out by bacteria in certain conditions. Methyl mercury then gets into the food chain and results in mercury exposure to persons who eat fish. There are numerous fish consumption advisories in Louisiana. Human exposure to mercury can affect the nervous system and the function of several internal organs, such as the brain and the kidneys. Young children, especially the unborn, developing fetus, are particularly susceptible to the effects of mercury.

The federal rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. Each state can adopt any methodology to allocate their mercury allowances. The department will adopt the federal model rule for mercury allowance allocations that are based upon baseline heat input. It also will adopt the new source set-aside of five percent of the allowances in Phase 1, and three percent in Phase 2. New coal-fired EGUs will have to meet stringent new source performance standards in addition to being subjected to the caps. While individual states do have the authority to develop an alternative rule different from the federal cap-and-trade program, the department has concluded that alternatives to the EPA program which produce earlier and deeper reductions of mercury may not be technologically feasible and that rules which require all coal-fired EGUs to install mercury controls may not be cost effective, possibly subjecting the electricity rate payer to higher than necessary rates without a corresponding decrease in state-wide mercury deposition levels. The basis and rationale for this rule are to mirror the federal regulations for CAMR.

The substantive changes to AQ257f are identical to federal corrections and amendments to the Clean Air Mercury Rule (CAMR) found in 70 FR 51266-51269 (August 30, 2005) and 71 FR 33388-33402 (June 9, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the substantive changes; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

These amendments correct portions of the promulgated CAMR. EPA addressed technical corrections in 70 FR 51266-51269 and subsequently addressed amendments in 71 FR 33388-33402. The amendments include a change in the definition of coal to exclude petroleum coke. The other amendments are non-controversial.

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

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2005, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are revisions to 40 CFR Part 60, Subparts A, B, Da, and HHHH as promulgated as the Clean Air Mercury Rule on May 18, 2005, in the *Federal Register*, 70 FR 28606-28700, as corrected in the *Federal Register*, 70 FR 51266-51269, August 30, 2005, and as amended in the *Federal Register*, 71 FR 33388-33402, June 9, 2006; and Subpart EEEE, "Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006," and Subpart FFFF, "Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004," promulgated on December 16, 2005, in the *Federal Register*, 70 FR 74870-74924.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006).

Herman Robinson, CPM
Executive Counsel

0609#017

subsequent destruction or substantial damage to these and other homes and structures.

The devastation left by Hurricane Rita also requires temporary and permanent housing to be moved into or built in the named parishes. Unless the movable temporary housing is inspected prior to leaving the named parishes, the use or passage of the temporary housing in or through other parishes of the state will cause the spread of Formosan termites and subsequent destruction or substantial damage to these and other homes and structures. All new construction and reconstruction of permanent housing in the named parishes must be treated for Formosan termites to reduce the extent of infestation and to minimize subsequent destruction and damage to these homes and structures and other homes and structures.

Imposition of this quarantine is required to prevent the spread of Formosan termites and infestation of areas, homes and structures that are not currently infested, or which are to be built or reconstructed. Failure to impose this quarantine will cause severe economic damage and property loss to the citizens of Louisiana.

II. Objectives of Quarantine

The objectives of this quarantine are to prevent the spread of Formosan termites into areas of the state that are not now currently infested with Formosan termites, to prevent Formosan termites from infesting existing homes and structures that are not currently infested, and to prevent Formosan termites from infesting new and reconstructed homes and structures.

III. Geographical Area of Quarantine

The geographical areas of this quarantine are the named parishes of Calcasieu, Cameron and Jefferson Davis.

IV. Prohibitions and Requirements

1. All new construction and reconstruction of houses, buildings and other permanent structures in the named parishes must be treated for Formosan termites according to the Louisiana Structural Pest Control Commission's Rules and Regulations.

2. The movement of any wood or cellulose material from the named parishes and the burial or use as land fill of any wood or cellulose material, including burial or use as land fill in any of the named parishes, is prohibited unless such movement, burial or use as land fill is performed pursuant to a written plan submitted to and approved in writing by the commissioner or his designee(s). Any changes or amendments to any plan previously approved by the commissioner or his designee(s) must also be submitted to and approved in writing by the commissioner or his designee(s).

3. All temporary housing to be moved out of the named parishes shall not be removed from the named parishes until written authorization is given by the commissioner or his designee(s).

4. All architectural components, such as beams, doors, and other wood salvaged from a structure in the named parishes shall not be sold or placed in a new, remodeled, or reconstructed home, building, or permanent structure located in the named parishes or in any other parish prior to being fumigated or treated for Formosan termites.

V. Exemptions from Quarantine

The following activities shall be exempt from this quarantine.

1. Commercial logging and timber operations related to silviculture productions.

2. Commercial operations involving the sale or distribution of nursery stock. Nursery stock is defined in R.S. 3:1656(B) and means "all trees, shrubs, ornamental plants, grass sod, foliage plants, or marsh plants."

V. Time Limit

This quarantine shall remain in effect until rescinded by my written order. A waiver of any requirement or authorization for anyone to do any of the prohibited acts, whether in whole or in part, by me or my designee(s) shall not be construed as rescinding or modifying this quarantine.

Signed December 7, 2005 at Baton Rouge, Louisiana.

Bob Odom
Commissioner

0608#022

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Act Section 111(d) Plan for Coal-Fired Electrical Steam Generating Units

Under the authority of the Louisiana 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 a Section 111(d) plan is proposed for coal-fired electrical steam generating units (EGUs) in Louisiana to comply with provisions of the federal Clean Air Mercury Rule (CAMR).

Section 111(d) of the Clean Air Act Amendments of 1990 and provisions of the CAMR as published in the *Federal Register* at 70 FR 28606-28700 (May 18, 2005) require states to submit to EPA a plan to reduce mercury emissions from coal-fired EGUs. EPA published a model rule (40 CFR Part 60, Subpart HHHH, *Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units*) on May 18, 2005, to assist the states. The department proposed a rule (AQ257ft) in the *Louisiana Register* on May 20, 2006, to incorporate the federal rules by reference, and made substantive changes to the proposal (AQ257ftS) on July 20, 2006, to mirror subsequent changes in the originally-promulgated federal rule. The published EPA model rule forms the basis for the Section 111(d) plan.

The EPA model rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. The proposed initial mercury allowances are included in the plan. The public comment period for the proposed Section 111(d) plan begins on August 20, 2006, and ends on September 26, 2006.

The public hearing for this plan will be held at 1:30 p.m. on September 26, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton

Rouge, LA. Interested persons are invited to attend and submit oral comments on the Section 111(d) plan. Should individuals with a disability need an accommodation in order to participate, contact James Orgeron at the address given below or at (225) 219-3578. Parking in the Galvez Garage is free with a validated parking ticket.

Written comments must be received no later than September 26, 2006, at 4:30 p.m., and should be sent to James Orgeron, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314, or to FAX (225) 219-3582, or by email to james.orgeron@la.gov. The Section 111(d) plan is available on the Internet at www.deq.louisiana.gov/portal/tabid/2381/Default.aspx. A copy 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 the coal-fired EGU Section 111(d) plan.

A copy of the plan, minus the appendices, may be viewed at the following DEQ office locations from 8 a.m. to 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0608#046

POTPOURRI

Office of the Governor Oil Spill Coordinator's Office

Freshwater Bayou Crude Oil Discharge of June 21, 1997 Final Settlement Agreement

Agencies: Louisiana Oil Spill Coordinator's Office, Office of the Governor (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); and Louisiana Department of Wildlife and Fisheries (LDWF).

Action: Notice of Availability of a Final Settlement Agreement.

Summary: Notice is hereby given that a document entitled "Vermilion Parish Coastal Marsh Natural Resource Restoration Agreement" (Final Settlement Agreement) is final and available to the public as of September 20, 2006. This document has been agreed to by Apache Corporation and the agencies listed above (trustees) to address natural resources damage claims associated with the June 21, 1997 discharge of crude oil into a coastal marsh near Freshwater City, Louisiana (incident). On June 20, 1999, the trustees published a Damage Assessment and Restoration Plan (DARP) in the *Louisiana Register* detailing natural resource injuries caused by the Freshwater Bayou incident, and the compensatory restoration project selected to compensate the public for lost resource services. The project, which involved planting two acres of broken marsh habitat with California

bulrush (*Schoenoplectus californicus*) was implemented in 2001 but was determined not to meet the prescribed performance standards. As a result the trustees, in cooperation with Apache Corporation, prepared a Final Restoration Plan (FRP) in October 2005 to inform the public of restoration planning efforts conducted to select a restoration alternative for corrective action. The Final Settlement Agreement and its attachment (i.e., the Restoration Implementation and Monitoring Plan [RIMP]) describe the agreement between Apache Corporation and the trustees to settle natural resource damage claims in the state of Louisiana for the incident and include a description of the performance criteria, construction schedule, performance monitoring, and reporting requirements for the South Lake de Cade Vegetative Plantings compensatory restoration project, to be constructed along the southern rim of Lake de Cade, Terrebonne Parish, Louisiana.

Interested members of the public are invited to view the Final Settlement Agreement and RIMP online at the website address given below or request a copy of the documents from Chuck Armbruster at the address given below.

For Further Information: Contact Chuck Armbruster at 225-219-5800, or by email at charles.armbruster@la.gov. To view the Final Settlement Agreement via the internet, please visit www.losco.state.la.us and look under News Flash for Freshwater Bayou Oil Spill.

Address: Requests for copies of the Final Settlement Agreement should be sent to:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
150 Third Street, Suite 405
Baton Rouge, LA 70801

Roland Guidry
Oil Spill Coordinator

0608#072

POTPOURRI

Department of Health and Hospitals Bureau of Health Services Financing

Mental Health Rehabilitation Program Changes of Ownership

Effective August 20, 2004, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated an Emergency Rule to establish a moratorium on the enrollment of new providers of mental health rehabilitation (MHR) services in the Medicaid Program (*Louisiana Register*, Volume 30, Number 8). The provisions of the Emergency Rule were adopted as a Rule and published on March 20, 2005 (*Louisiana Register*, Volume 31, Number 3). Effective August 20, 2006, the Department gives notice that changes of ownership (CHOWs) will be allowed for existing MHR providers. New owners must meet all participation requirements for the Medicaid Program.

Frederick P. Cerise, M.D., M.P.H.
Secretary

0608#073

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Act Section 111(d) Plan
for Coal-Fired Electrical Steam
Generating Units
(0608Pot1)

Under the authority of the Louisiana 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 a Section 111(d) plan is proposed for coal-fired electrical steam generating units (EGUs) in Louisiana to comply with provisions of the federal Clean Air Mercury Rule (CAMR).

Section 111(d) of the Clean Air Act Amendments of 1990 and provisions of the CAMR as published in the Federal Register at 70 FR 28606-28700 (May 18, 2005) require states to submit to EPA a plan to reduce mercury emissions from coal-fired EGUs. EPA published a model rule (40 CFR Part 80, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units)

on May 18, 2005, to assist the states. The department proposed a rule (AQ257R) in the Louisiana Register on May 20, 2006, to incorporate the federal rules by reference, and made substantive changes to the proposal (AQ257RS) on July 20, 2006, to mirror subsequent changes in the original-ly-promulgated federal rule. The published EPA model rule forms the basis for the Section 111(d) plan.

The EPA model rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. The proposed initial mercury allowances are included in the plan. The public comment period for the proposed Section 111(d) plan begins on August 20, 2006, and ends on September 26, 2006.

The public hearing for this plan will be held at 1:30 p.m. on September 26, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the Section 111(d) plan. Should individuals with a disability need an accommodation in order to participate, contact James Orgeron at the address given below or at (225) 219-3578. Parking in the Galvez Garage is free with a validated parking ticket.

Written comments must be received no later than September 26, 2006, at 4:30 p.m., and should be sent to James Orgeron, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314, or to FAX (225) 219-3582, or by email to james.orgeron@la.gov. The Section 111(d) plan is available on the Internet at <http://www.deq.louisiana.gov/portal/tabid/2381/Default.aspx>. A copy 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 the coal-fired EGU Section 111(d) plan.

A copy of the plan, minus the appendices, may be viewed at the following DEQ office locations from 8 a.m. to 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel
Monroe, LA
August 14, 2006

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement
Was published in the NEWS-STAR.
A daily newspaper of general circulation.
Published in Monroe, Louisiana.
Parish of Ouachita in the issues of:

August 14, 2006
[Handwritten Signature]

LEGAL AD DEPT.

Sworn and subscribed before me by

The person whose signature appears above in Monroe, LA on this

17 day of August 20 06 AD

[Handwritten Signature]
Steven L. Turner 43154
NOTARY PUBLIC

RECEIVED

AUG 25 2006

Acadiana's Daily Newspaper

THE ADVERTISER

LDEQ/OSEC/LARD
REGULATION DEVELOPMENT SECTION

1100 Bertrand Drive
LAFAYETTE, LA 70506

PHONE: (337) 289-6300
FAX: (337) 289-6466

AFFIDAVIT OF PUBLICATION

**Remender D. Weatherspoon
LA Department of Environmental Quality
OSEC/Legal Affairs Division/
Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302**

**Account No.: LDEQRD
Ad Number: 643282
Ad Total: \$79.75
No. of Lines: 175
Reference No.:**

**To insure proper credit please refer to your account number and/or ad number when making payment. Remittance address: P.O. Box 3268, Lafayette, LA 70502-3268

I, **ROSE PENFOLD**, do solemnly swear that I am the LEGAL CLERK of THE ADVERTISER, a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and that from my personal knowledge and reference to the files of said publication, the advertisement of

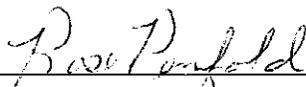
POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Clean Air Act Section 111(d) Plan for Coal-Fired Electrical Steam Generating Units
(0608Pot1)**

was published in **THE ADVERTISER** on the following dates:

***Monday, August 14, 2006**



**ROSE PENFOLD
LEGAL CLERK**

Sworn to and subscribed before me this 23 day of August, 2006.



NOTARY PUBLIC - ID#58555

POTPOURRI

DEPARTMENT OF
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Act Section
111(d) Plan for
Coal-Fired Electrical
Steam-Generating
Units
(0608Pot1)

Under the authority of the Louisiana 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 a Section 111(d) plan is proposed for coal-fired electrical steam generating units (EGUs) in Louisiana to comply with provisions of the federal Clean Air Mercury Rule (CAMR).

Section 111(d) of the Clean Air Act Amendments of 1990 and provisions of the CAMR as published in the Federal Register at 70 FR 28606-28700 (May 18, 2005) require states to submit to EPA a plan to reduce mercury emissions from coal-fired EGUs. EPA published a model rule (40 CFR Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-Fired Electric Steam

Generating Units) on May 18, 2005, to assist the states. The department proposed a rule (AQ257ff) in the Louisiana Register on May 20, 2006, to incorporate the federal rules by reference, and made substantive changes to the proposal (AQ257ff5) on July 20, 2006, to mirror subsequent changes in the originally promulgated federal rule. The published EPA model rule forms the basis for the Section 111(d) plan.

The EPA model rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. The proposed initial mercury allowances are included in the plan. The public comment period for the proposed Section 111(d) plan begins on August 20, 2006, and ends on September 26, 2006.

The public hearing for this plan will be held at 1:30 p.m. on September 26, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the Section 111(d) plan. Should individuals with a disability need an accommodation in order to participate, contact James Orgeron at the address given below or at (225) 219-3578. Parking in the Galvez Garage is free with a validated parking ticket.

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A copy of the plan, minus the appendices, may be viewed at the following DEQ office locations from 8 a.m. to 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; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.
Herman Robinson,
CPM
Executive Counsel

CAPITAL CITY PRESS

0608POT1

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

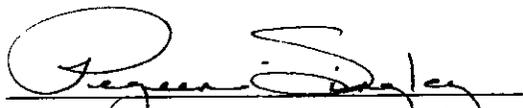
08/15/06



Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

August 15, 2006



Pegeen Singley, Notary Public, #60565
My Commission Expires: Indefinite
Baton Rouge, Louisiana

are included in the plan. The public comment period for the proposed Section 111(d) plan begins on August 20, 2006, and ends on September 26, 2006.

The public hearing for this plan will be held at 1:30 p.m. on September 26, 2006, in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the Section 111(d) plan. Should individuals with a disability need an accommodation in order to participate, contact James Orgeron at the address given below or at (225) 219-3578. Parking in the Galvez Garage is free with a validated parking ticket.

Written comments must be received no later than September 26, 2006, at 4:30 p.m., and should be sent to James Orgeron, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314, or to FAX (225) 219-3582, or by email to james.orgeron@la.gov. The Section 111(d) plan is available on the Internet at <http://www.deq.louisiana.gov/pctai/tabid/2381/Default.aspx>. A copy 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 the coal-fired EGU Section 111(d) plan.

A copy of the plan, minus the appendices, may be viewed at the following DEQ office locations from 8 a.m. to 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairchild Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel
3390288-aug 15-11

POTPOURRI

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Act Section 111(d)
Plan for Coal-Fired Electrical
Steam Generating Units
(0608Pot1)

Under the authority of the Louisiana 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 a Section 111(d) plan is proposed for coal-fired electrical steam generating units (EGUs) in Louisiana to comply with provisions of the federal Clean Air Mercury Rule (CAMR).

Section 111(d) of the Clean Air Act Amendments of 1990 and provisions of the CAMR as published in the Federal Register at 70 FR 28606-28700 (May 18, 2005) require states to submit to EPA a plan to reduce mercury emissions from coal-fired EGUs. EPA published a model rule (40 CFR Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units) on May 18, 2005, to assist the states. The department proposed a rule (AQ257f1) in the Louisiana Register on May 20, 2006, to incorporate the federal rules by reference, and made substantive changes to the proposal (AQ257f1S) on July 20, 2006, to mirror subsequent changes in the originally-promulgated federal rule. The published EPA model rule forms the basis for the Section 111(d) plan.

The EPA model rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. The proposed initial mercury allowances

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REGULATION DEVELOPMENT SECTION

DEQ - OSEC/LARD REGULATION

3390288

REMEMBER WEATHERSPOON

PO BOX 4302

BATON ROUGE

LA 70821-4314

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AUG 15 2006

RECORDED & INDEXED

Affidavit of Publication

POTPOURRI
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Clean Air Act Section 111(d) Plan for Coal-Fired Electrical Steam Generating Units (0608Pot1)

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Executive Counsel
August 15
00280976 11

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared



who being duly sworn, deposes and says:

He/She is a duly authorized agent of
LAKE CHARLES AMERICAN PRESS
a newspaper published daily at 4900 Highway 90 East,
Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893
Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s)
dated:

00280976 - \$41.00 0608POT1
August 15, 2006

00053262
LA. DEQ OSEC/LARD
REGULATION DEVELOPMENT
REMENDER WEATHERSPOON
P.O. BOX 4302
BATON ROUGE, LA 70821-4302



Duly Authorized Agent

Subscribed and sworn to before me on this 15th day of August, 2006 at
Lake Charles, LA



Jacqueline M. Fontenot Notary Public

00053262
LA. DEQ OSEC/LARD

#23111

The Times

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PROOF OF PUBLICATION

RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

+

Clean Air Act Section 111(d) Plan for Coal-Fired Electrical Steam Generating Units (0608Pot1)

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The EPA model rule establishes mercury limits from new and existing coal-fired EGUs and creates a market based cap-and-trade program that will reduce EGU

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the Classified Advertising Manager of The Times, and that the attached Advertisement entitled:

POTPOURRI (0608Pot1)

As per copy of advertisement hereto annexed, was published in The Times on the following dates to wit:

August 16, 2006

(Signed) Altheas Critton

Sworn to and subscribed before me this 16th day of August, 2006

Diana W. Barber

DIANA W. BARBER, NOTARY PUBLIC # 60491
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE

(Notary)

emissions of mercury in two separate phases, in the years 2010 and 2018. Each state receives a mercury budget for each year. Louisiana's budget is 0.601 tons of mercury for years 2010-2017 and 0.237 tons of mercury thereafter. The proposed initial mercury allowances are included in the plan. The public comment period for the proposed Section 111(d) plan begins on August 20, 2006, and ends on September 26, 2006.

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Herman Robinson, CPM
Executive Counsel

The Times:
August 16, 2006

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097

TELEPHONE (504) 826-3206

0608POT1

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached Legal Notice

RE:Potpourri Department Of Env. Clean Air Act Section 111(d) Units (0608Pot1)Quality Act, R.S, 49:950

Advertisement of Office Of Env.

Legals Only
Baton Rouge, Louisiana 70821

Was published in The Times Picayune

3800 Howard Avenue
New Orleans, Louisiana 70125

On the following dates August 14, 2006
2006

Sworn to and subscribed before me this

14th Day of August 2006

Notary Public

My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Act Section 111(d)
Plan for Coal-Fired Electrical
Steam Generating Units
(0608Pot1)

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Herman Robinson, CPM
Executive Counsel

AFFIDAVIT OF PUBLICATION

0608POT1

(A Correct Copy of Publication)

POTPOURRI
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Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Act Section
111(d) Plan for Coal-
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HERMAN ROBINSON,
CPM
Executive Counsel

(9) 13

I, Bill Buschmann, Advertising Sales Manager
of THE TOWN TALK, published at Alexandria,
Louisiana do solemnly swear that the

Public Notice

advertisement, as per clipping attached, was
published in the regular and entire issue of said
newspaper, and not in any supplement thereof
for one insertion commencing with the issue
dated September 13, 2006 and ending with the
issue dated September 13, 2006.

Bill Buschmann

Subscribed and sworn to before me
this 13th day of September, 2006

[Signature]

Notary Number 01988

DEPARTMENT OF ENVIRONMENTAL QUALITY

CLEAN AIR ACT SECTION 111(D) PLAN
FOR COAL-FIRED ELECTRICAL
STEAM GENERATING UNITS

LOG NUMBER: 0608Pot1

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Street, Galvez Building, Oliver Pollock Conference Room, Baton Rouge, Louisiana, beginning at 1:33 p.m. on September 25, 2006.

BEFORE: Mark LaCour, Certified Stenomask Reporter in and for the State of Louisiana

ASSOCIATED REPORTERS, INC.
Mark LaCour, C.C.R.
(225) 216-2036

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OCT 12 2006

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

A P P E A R A N C E S

FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY:

NICOLE HANO, Hearing Officer

DEPARTMENT OF ENVIRONMENTAL QUALITY
Office of the Secretary
Legal Affairs Division
Regulations Development Section
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302

ASSOCIATED REPORTERS, INC.

Mark LaCour, C.C.R.

(225) 216-2036

H E A R I N G

MS. HANO:

Good afternoon. My name is Nicole Hano. I'm employed with the Louisiana Department of Environmental Quality. I'll be serving as hearing officer this afternoon to receive comments regarding amendments to the Clean Air Act Section 111(d) Plan for Coal-Fired Electrical Steam Generating Units noticed in Potpourri number 0608Pot1, and proposed amendments to the Office of the Secretary and Water Quality regulations, rule log numbers OS071 and WQ068.

The comment period for these amendments began on August 20, 2006 when the notices of intent were published in the Louisiana Register. The comment period will close at 4:30 p.m. today for the Clean Air Act Section 111(d) plan. It will close at 4:30 p.m. on October 3, 2006, for OS071, and at 4:30 p.m. on October 11, 2006, for WQ068. It would be helpful to us if all oral comments received today were followed up in

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1 writing.

2 This public hearing provides a
3 forum for all interested parties to
4 present comments on the proposed
5 changes. I'll ask that each person
6 commenting come up and sit at the front
7 table and begin by stating his or her
8 name and affiliation for the record.

9 The first item on the agenda is
10 Potpourri Notice 0608Pot1, proposed
11 amendments to the Clean Air Act Section
12 111(d) Plan for Coal-Fired Electrical
13 Steam Generating Units.

14 A Section 111(d) plan is proposed
15 for coal-fired electrical steam
16 generating units (EGUs) in Louisiana to
17 comply with provisions of the federal
18 Clean Air Mercury Rule (CAMR). Section
19 111(d) of the Clean Air Act Amendments
20 of 1990 and provisions of the CAMR as
21 published in the Federal Register at 70
22 FR 28606 through 28700 (May 18, 2005)
23 require states to submit to EPA a plan
24 to reduced mercury emissions from coal-
25 fired EGUs. EPA published a model rule

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Mark LaCour, C.C.R.

(225) 216-2036

1 at 40 CFR Part 60, Subpart HHHH,
2 entitled Emission Guidelines and
3 Compliance Times for Coal-Fired Electric
4 Steam Generating Units, on May 18, 2005,
5 to assist the states. The department
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9 reference, and made substantive changes
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15 Louisiana Section 111(d) plan. The EPA
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25 0.237 tons of mercury thereafter. The

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1 proposed initial mercury allowances are
2 included in the plan.

3 Does anyone care to comment on
4 this regulation?

5 **MR. ROTA:**

6 Hello, my name is Matt Rota from
7 the Gulf restoration network, and I'm
8 actually here to comment on another one
9 of the proposed rules. But in looking
10 at this and seeing that the public
11 comment date and the public hearing
12 date, being on the same day is pretty
13 ridiculous that the hearing doesn't
14 allow you to have anymore time to
15 formulate formal arguments. So I just
16 wanted to state that for the record.

17 **MS. HANO:**

18 Thank you. Does anyone else care
19 to comment? If not, the hearing on
20 Potpourri notice 0608Pot1 is closed.

21

22 **THE HEARING ENDED AT 1:37 P.M.**

23

* * * * *

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Mark LaCour, C.C.R.

(225) 216-2036

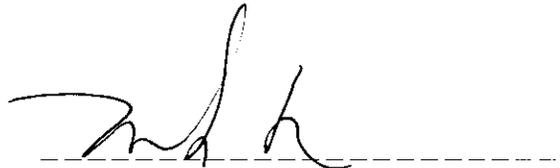
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R E P O R T E R ' S P A G E

I, Mark LaCour, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana Code of Civil Procedure, before whom this sworn testimony was taken, do hereby state on the record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript.

Also, any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."



Mark LaCour, C.C.R.

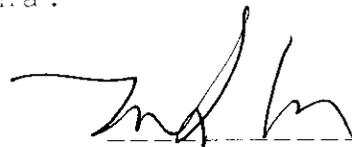
89054

C E R T I F I C A T I O N

1
2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask
5 tape of the proceedings had herein, taken down
6 by me and transcribed under my supervision, to
7 the best of my ability and understanding, at
8 the time and place hereinbefore noted, in the
9 above-entitled cause.

10 I further certify that the witness was
11 duly sworn by me in my capacity as a Certified
12 Court Reporter pursuant to the provisions of
13 R.S. 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor
15 related to any of the counsel of any of the
16 parties, nor in the employ of any of parties,
17 and that I have no interest in the outcome of
18 this action.

19 I further certify that my license is in
20 good standing as a court reporter in and for
21 the state of Louisiana.

22
23 

24 Mark LaCour, C.C.R.

25 # 89054

ASSOCIATED REPORTERS, INC.

Mark LaCour, C.C.R.

(225) 216-2036

-----Original Message-----

From: Robinson.Jeffrey@epamail.epa.gov

[<mailto:Robinson.Jeffrey@epamail.epa.gov>]

Sent: Tuesday, September 12, 2006 1:38 PM

To: James Orgeron

Subject: Draft CAMR Plan - Additional Minor Comments

1. Please add the name of the legal owner of each facility/affected unit in Table 2. Mercury Allocations of your final plan.
2. Please include a copy of all Louisiana legal citations referenced in II. Demonstration of Legal Authority in your final plan.

FYI.....Eventually, EPA HQ (CAMD) may ask the Regions to have the States submit their final CAMR allocations via an Excel spreadsheet, but CAMD has not provided us a spreadsheet format to date for CAMR. If you did an Excel spreadsheet for your allocations, please feel free to go ahead and provide a copy in your appendices.

Thanks

Jeff Robinson
214-665-6435

Comment Summary and Response
Clean Air Act (CAA) Section 111(d) for the Clean Air Mercury Rule

Comment 1:

EPA recommended to add the name of the legal owner of each facility/affected unit into Table 2. Mercury Allocations of the final 111(d) plan.

Response 1:

Legal Owners have been added into Table 2.

Comment 2:

EPA recommended including a copy of all Louisiana legal citations referenced in Section II. Demonstration of Legal Authority in the final 111(d) plan.

Response 2:

This information is included in Appendix E in the final 111(d) plan.

Comment 3:

EPA recommended including the Excel spreadsheet for allocations in the appendices, if performed.

Response 3:

This information is included in Appendix D in the final 111(d) plan.

Hg tons (2010 Allowances)	Hg pounds (2010 Allowances)	Hg ounces (2010 Allowances)	Hg ounces less 5% for new sources	Hg ounces 18270.4	Affected Units	Heat Input (2000)	Heat Input (2001)	Heat Input (2002)	Heat Input (2003)	Heat Input (2004)	Highest 3 Average Heat Input	adjusted average heat input	ratios	allocation based on heat & total Hg
0.601	1202	19232	19232	18270.4	Rodemacher	38,338,091	32,247,989	33,458,655	34,534,633	34,607,396	35,826,707	44,783,383.3	0.104445	1,908
					RS Nelson	44,146,319	39,741,660	40,107,832	35,780,852	41,291,126	41,848,426	52,310,532.1	0.12200	2,229
					Big Cajun 2 (2B1)	42,505,185	42,911,321	50,644,765	46,045,445	49,099,171	48,596,460	60,745,575.4	0.141672	2,588
					Big Cajun 2 (2B2)	46,956,499	46,311,387	44,799,298	49,456,975	41,579,245	47,574,954	59,468,692.1	0.138694	2,534
					Big Cajun 2 (2B3)	48,208,731	46,042,298	39,957,661	41,693,864	49,203,570	47,818,200	59,772,749.6	0.139403	2,547
					Dolet Hills	47,677,605	45,604,574	47,370,461	51,798,486	52,218,328	50,564,806	151,694,419.0	0.353785	6,464
						267,832,430	252,859,229	256,338,672	259,310,255	267,998,836	272,229,552	428,775,351.5	1.00000	18,270

ATTORNEY GENERAL'S OPINION

November 15, 1993

Pursuant to my authority as Attorney General of the State of Louisiana and in accordance with Section 502(d) of the Federal Clean Air Act (CAA), as amended, (42 U.S.C. § 7401, et seq.), and 40 C.F.R. § 70.4(b)(3), it is my opinion that the laws of the State of Louisiana provide adequate authority to carry out all aspects of the program submitted by the Louisiana Department of Environmental Quality (LDEQ) to the U.S. Environmental Protection Agency for approval to administer and enforce the operating permit program under Title V of the CAA. The specific authorities provided, which are contained in statutes, regulations, or other legal authorities lawfully adopted, and which shall be fully effective by the time the program is approved, include those identified below.

I. BROAD GRANT OF STATUTORY AUTHORITY

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(6), 2011(D)(12), 2011(D)(14), La.R.S. 30:2054(B)(1), [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

Pursuant to La.R.S. 30:2011(A)(1) the Louisiana Department of Environmental Quality is the primary agency in the state "concerned with environmental protection and regulation." The department has jurisdiction over matters "affecting the regulation of the environment within the state including but not limited to regulation of air quality"

Subsection (C)(1)(a) of R.S. 30:2011 creates the Office of Air Quality and Radiation Protection which shall "administer and enforce the Louisiana Air Control Law as provided in Chapter 3 of this Subtitle"

Subsection (D)(1) provides the Secretary of the department with the power to "adopt, amend, or repeal all rules, regulations, and standards for the protection of the environment as is provided by this Subtitle." Subsection (D)(6) authorizes the secretary to "issue such orders or determinations as may be necessary to effectuate the purpose of this Subtitle;" and, subsection (D)(14) grants the Secretary "all incidental powers necessary or proper to carry out the purposes of this Subtitle."

One clear intent of the Environmental Quality Act is to empower the secretary of the department to adopt regulations and

impose standards as are required by federal statutes, rules and regulations. For example, R.S. 30:2011(D)(2) provides: "The secretary shall have the general power to require such conditions in individual instances (in permits) as are necessary to assure compliance with applicable federal laws and regulations relating to this Subtitle" (emphasis added). Section 2011(D)(12) provides the secretary with the power and duty to assume authority, when delegated, for programs existing under the provisions of the Clean Air Act.

This intent to empower the secretary with the authority necessary to conform with federal law and regulations is continued in the Louisiana Air Control Law (Louisiana Environmental Quality Act, Chapter 3) which provides statutory authority specifically for air quality matters. La.R.S. 30:2054(B)(1) provides the secretary with the authority "To adopt and promulgate rules and regulations consistent with applicable state and federal law and the general intent and purposes of this Chapter for the maintenance of air quality within the state of Louisiana." (emphasis added) Pursuant to section 2054(B)(1), the secretary has broad authority to adopt rules which are consistent with or required by federal rules, including the air operating permit program required by 40 CFR Part 70.

Statutory limitations placed upon the secretary regarding regulation of certain emission sources (i.e., oil & gas wells and pipelines and the burning of cotton gin agricultural wastes in connection with cotton gin operation) will not impede the ability of the department to implement and administer a program complying with the Part 70 regulations, as none of these sources will qualify as a major source and be subject to regulation under Part 70.

La.R.S. 30:2022(C) provides certain statutory limitations on how the department will process applications for permits for facilities relating to oil and gas wells and pipelines. In LAC 33:III.502, the department has defined oil & gas wells and pipelines and determined them to be an insignificant emission unit pursuant to 40 CFR 70.5(c). A calculation of emissions of volatile organic compounds and hazardous air pollutants (the only regulated pollutants) from typical oil & gas wells and pipelines shows them to be minimal compared to major source levels (see Exhibit #1, Addison Tatum memorandum with attachments).

R.S. 30:2054(B)(2)(b) and 30:2057(B) also will not preclude the department from implementing and enforcing a program meeting the requirements of 40 CFR Part 70. The only exclusion covered in those sections which would qualify as a stationary source is the burning of cotton gin agricultural wastes in connection with cotton

gin operations. However, a calculation of emissions of particulate matter (the only regulated pollutants) from existing cotton gins within the state shows them to be minimal compared to major source levels (see Exhibit #2, Addison Tatum memorandum with attachments).

II. AUTHORITY TO ISSUE PERMITS

State law provides authority for LDEQ to issue operating permits to all air pollution sources within the state that are required to have permits under Section 502(a) of the CAA and 40 CFR section 70.3, and to incorporate into permits and assure compliance with each applicable requirement of the Clean Air Act and the requirements of 40 CFR Part 70. State law also provides authority to issue operating permits for solid waste incineration units combusting municipal waste under section 129 (e) of the CAA that assure compliance with all applicable requirements of the Clean Air Act and the requirements of 40 CFR Part 70.

Federal Authority: CAA §§ 129(e) 502 (a)-(b), 503, 504(a), 42 U.S.C. §§ 7429(e), 7661a(a)-(b), 7661b, 7661c(a); 40 C.F.R. §§ 70.4 (b) (3) (i), 70.4 (b) (3) (iv), 70.4 (b) (3) (v), 70.5(a), 70.6, 70.7(b).

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

In addition to the broad general statutory authorization discussed in section I above, La.R.S. 30:2011(D)(2) provides the secretary with the specific authority to "grant or deny permits." La.R.S. 30:2054(B)(2)(a) also provides the secretary with specific authority "To develop permitting procedures and regulations conforming to applicable state and federal laws, and to require and issue permits, . . . for all sources of air contaminants within the state of Louisiana . . ." (emphasis added) Therefore, the secretary has broad authority to issue such permits as are necessary to implement the air operating permit program as required by 40 CFR Part 70.

III. PERMIT BOARD MEMBERSHIP AND CONFLICTS OF INTEREST

State law provides that no State board or body which approves operating permits, either in the first instance or upon appeal, shall be constituted of less than a majority of members who represent the public interest and who do not

derive a significant portion of their income from persons subject to operating permits. State law also provides that any potential conflicts of interest by members of such board or body or the head of any executive agency with similar powers be adequately disclosed. State law also provides that no permit for a solid waste incinerator unit may be issued by an agency, instrumentality or person that is also responsible in whole or in part, for the design and construction or operation of the unit.

Federal Authority: CAA §§ 128(a)(1)-(2), 129(e), 42 U.S.C. §§ 7428(1)(a)-(2), 7429(e); 40 C.F.R. § 70.4(b)(3)(iv).

State Authority: La.R.S. 30:2014.1 [Acts 1993, No. 451, effective date: Aug. 15, 1993]; La.R.S. 42:1101 et. seq [Acts 179, No. 443, effective date: Sept. 7, 1979]

Remarks of the Attorney General:

The Louisiana Code of Governmental Ethics (La. R.S. 42:1101 et. seq) prohibits any conflicts of interest involving a public servant. In particular section 1111 and 1112 prohibit the public servant from receiving "any thing of economic value" for the performance of his duties or from participating in any transaction in which he has substantial economic interest. In addition, La. R.S. 30:2014.1 prohibits any permit to be reviewed by any one who has received a significant portion of income from the applicant.

IV. AUTHORITY TO ISSUE PERMITS TO NONCOMPLYING SOURCES

State law provides authority for the LDEQ to issue permits to sources that are not in compliance with applicable requirements, and to include compliance schedules in permits to bring sources into compliance.

Federal Authority: CAA §§ 502 (b)(5)(A), 504(a), 42 U.S.C. §§ 7661a(b)(5)(A), 7661c(a); 40 C.F.R. §§ 70.5(e)(8), 70.6(c)(3).

State Authority: La.R.S. 30:2011(D)(2), 30:2054(B)(2)(a), [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

In addition to the broad statutory authorization discussed in sections I and II above, La.R.S. 30:2054(B)(2)(a) provides the secretary with authority " . . . to issue compliance schedules for all sources of air contaminants . . ." (emphasis added) These

compliance schedules may be included as a condition in any permit issued by the secretary. (see R.S. 30:2011(D)(2) The secretary shall have the power: "To grant or deny permits, . . . or compliance schedules as are provided in this Subtitle. The secretary shall have the general power to require such conditions in individual instances as are necessary to assure compliance with applicable federal laws and regulations relating to this Subtitle." (emphasis added))

V. PERMIT FEES

State law provides authority for the LDEQ to assess and collect annual permit fees (or the equivalent amount of fees over some other period of time) from sources within the state which are subject to the requirements of Title V of the CAA and 40 CFR Part 70, in an amount sufficient to cover all reasonable direct and indirect costs required to develop, administer, and enforce the State's title V program.

Federal Authority: CAA § 502(b)(3)(A), 42 U.S.C § 7661a (b)(3)(A); 40 C.F.R. §§ 70.9(a)-(d).

State Authority: La.R.S. 30:2014(B) [Acts 1983, No. 97, effective date: Feb. 1, 1984; Amended Acts 1986, No. 385 & 943, effective date: July 2, 1986]

Remarks of Attorney General

In addition to the broad statutory authority discussed in sections I and II above, La.R.S. 30:2014(B) also provides a specific statutory authority to adopt, impose and collect all fees that are necessary to implement the Part 70 air permit program. Section 2014(B) provides:

"In order to provide for adequate permitting, monitoring, investigation, administration, and other activities required for the maintenance of a healthful and safe environment, an initial fee and an annual monitoring and maintenance fee shall be charged for all permits, licenses, registrations, or variances authorized by this Subtitle."

This provides the necessary authority for the department to charge fees to support the Part 70 air operating permit program.

VI. PERMIT TERM

State law provides authority to issue operating permits for a fixed term not to exceed 5 years. State law provides a fixed term not to exceed 12 years for solid waste incineration units combusting municipal waste under section 129(e) of the CAA and a review of such permits at least every 5 years. State law provides authority to issue permits with acid rain provisions for a fixed term of 5 years.

Federal Authority: CAA §§ 129(e), 408(a), 502(b)(5)(B), 42 U.S.C. §§ 7429(e), 7651g(a), 7661a(b)(5)(B); 40 C.F.R. §§ 70.4(b)(3)(iii)-(iv), 70.6(a)(2), 72.70(b), 72.72(a).

State Authority: La.R.S. 30:2023 [Acts 1989, No. 472, effective date: Sept. 3, 1989] LAC 33:III.507.E.1, 505.D.5.a.ii, [adopted November 1993, effective date upon approval of Part 70 program by EPA] La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

La.R.S. 30:2023(A) provides the maximum term of any permit, registration, variance or license for any activity covered by the Environmental Quality Act shall be ten years "unless otherwise specified by rule." Under the broad statutory grant of authority discussed in sections I and II above, the department has adopted regulations necessary to be consistent with federal regulations. These regulations (LAC 33:III.507.E.1) establish a maximum term of five years for any permit issued to a Part 70 source. LAC 33:III.505.D.5.a.ii provides the permit term (5 years) for any acid rain permit under Title IV of the CAA.

VII. MONITORING, RECORDKEEPING, AND REPORTING

State law provides authority to incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into operating permits consistent with 40 CFR § 70.6. State law provides authority to incorporate into the permit periodic monitoring or testing requirements where the existing State Implementation Plan or other applicable requirement does not contain such a requirement, consistent with 40 CFR § 70.6(a)(3)(i)(B).

Federal Authority: CAA §§ 502(b)(2), 503(b)(2), 504(a)-(c), 42 U.S.C. §§ 7661a(b)(2), 7661c(a)-(c); 40 C.F.R. §§ 70.4(b)(3)(ii), 70.6(a)(3), 70.6(c)(1), 70.6(c)(5)

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

Although the Louisiana statutes do not provide the department with the specific authority to include monitoring, recordkeeping and reporting requirements in an air permit, the broad statutory authority discussed in Sections I and II above provide sufficient authority to include these provisions. La.R.S. 30:2011(D)(2) provides the secretary with authority to include such conditions in a permit "as are necessary to assure compliance with applicable federal laws." With respect to air permits in particular, La.R.S. 30:2054 grants the secretary the broad power necessary to include monitoring, recordkeeping and reporting requirements in the Part 70 permits. Subsection (B)(1) grants the secretary the authority to adopt rules and regulations "consistent with applicable state and federal law;" and, subsection (B)(2) authorizes the secretary to develop permitting procedures and regulations "conforming to applicable state and federal laws." These grants of statutory authority are sufficient to incorporate monitoring, recordkeeping, reporting and compliance certification requirements into the operating permit consistent with 40 CFR § 70.6.

VIII. INSPECTION/ENTRY AUTHORITY

State law provides authority to incorporate into permits inspection and entry requirements consistent with 40 CFR § 70.6(c)(2).

Federal Authority: CAA § 504(c), 42 U.S.C. § 7661c(c); 40 C.F.R. §§ 70.6 (c)(2).

State Authority: La.R.S. 30:2002(C), 30:2011(D)(13), [Acts 1983, No. 97, effective date: Feb. 1, 1984] La.R.S. 30:2012 [Acts 1983, No. 97, effective date: Feb. 1, 1984, Amended Acts 1990, No. 141, effective Sept. 7, 1990]

Remarks of Attorney General

One of the stated findings of the Environmental Quality Act is the need for unannounced regular inspections of all facilities which may be regulated under the Act, (see La.R.S. 30:2002(3)). In accordance with that finding, the secretary is specifically empowered to conduct inspections as provided in La.R.S. 30:2012, (see La.R.S. 30:2011(D)(13)). La.R.S. 30:2012 provides the statutory framework for inspections conducted by the department.

The section provides that each permit "shall as a matter of law be conditioned upon the right of the secretary or his representative" to make monitoring inspections in accordance with the statute. The section also provides that the secretary may obtain a court order to compel inspections, gain admission to the facility, obtain information requested by the secretary and obtain access to records, (see 30:2012(F)). The statute provides the secretary or his representative shall make inspections "upon presentation of identification." This statute provides the necessary statutory authority to conduct inspections as required by the Part 70 permit program.

IX. INCORPORATION OF ALL APPLICABLE REQUIREMENTS INTO PERMIT

State law provides authority to incorporate into an operating permit, upon issuance or renewal, all applicable requirements as defined in 40 CFR § 70.2, and as provided generally in the CAA and 40 CFR Part 70.

Federal Authority: CAA §§ 502(b)(5)(c), 504(a), 42 U.S.C. 7661a(b)(5)(c), 7661c(a); 40 C.F.R. §§ 70.4(b)(3)(v), 70.6(a).

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to incorporate all applicable requirements as defined in 40 CFR Part 70 into an air operating permit.

X. PERMIT REOPENING

State law provides authority to revise permits with remaining terms of 3 or more years to incorporate new applicable requirements which become effective after issuance of the permit. State law provides authority to reopen permits when additional acid rain requirements become applicable, regardless of the remaining permit term. State law provides authority to terminate, modify, or revoke permits for cause at any time during the permit term consistent with 40 CFR §§ 70.7 (f) and (g).

Federal Authority: CAA §§ 502(b)(5)(D), 502(b)(9), 42 U.S.C. §§ 7661a(b)(5)(D), 7661a(b)(9); 40 C.F.R. §§ 70.4(b)(3)(vi), 70.6(a)(6)(iii), 70.7(f)-(g).

State Authority: La.R.S. 30:2023(B) (Act 1993, No. 116, effective date: August 15, 1993); LAC 33:III.529(B) adopted November 1993, effective date upon approval of part 70 program by EPA

Remarks of Attorney General

La.R.S. 30:2023(B) provides: "The department may at any time: . . . modify a permit for cause in accordance with law, rule or regulation." La.R.S. 30:2054(B)(1) provides the secretary with the authority "To adopt and promulgate rules and regulations consistent with applicable state and federal law and the general intent and purposes of this Chapter for the maintenance of air quality within the state of Louisiana." In accordance with these statutes, LDEQ has adopted regulations which provide for the reopening of a permit under these circumstances (LAC 33:III.529.B). The authority to adopt rules and procedures consistent with federal law, provides the authority for LAC 33:III.529.B. The federal requirement to reopen the permits is sufficient "cause" under R.S. 30:2023(B) which then authorizes the reopening of the permit.

XI. OPERATIONAL FLEXIBILITY

State law provides authority to allow changes within a permitted facility without requiring a permit revision if the changes are not modifications under any provision of title I of the CAA, and the changes do not exceed the emissions allowable under the permit, provided that the source provides at least 7 days written notice to the State and to EPA. State law provides authority for permits to include terms and conditions for reasonably anticipated alternative operating scenarios in permits.

Federal Authority: CAA § 502(b)(10), 42 U.S.C. § 7661a(b)(10); 40 C.F.R. §§ 70.4(b)(12), 70.6(a)(9).

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) (Acts 1983, No. 97, effective date: Feb. 1, 1984;]

Remarks of Attorney General

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to allow operational flexibility as provided in 40 CFR Part 70.

XII. PERMIT MODIFICATIONS

State law provides authority to process permit modifications in a manner that conforms to or is substantially equivalent to the procedures set forth under 40 CFR § 70.7(e).

Federal Authority: CAA 502(b)(6), 42 U.S.C. § 7661a(b)(6), 40 C.F.R. §§ 7661a(b)(6); 40 C.F.R. §§ 70.4(b)(13), 70.7(e).

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;] LAC 33:III.521-527 [adopted November 1993, effective date upon approval of Part 70 Program by EPA]

Remarks of Attorney General

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to process applications for permit modifications in a manner that conforms to or is substantially equivalent to the procedures set forth under 40 CFR Part 70 into an air operating permit. The department has adopted such permit modification procedures complying with 40 CFR Part 70 in LAC 33:III.521-527.

XIII. PUBLIC PARTICIPATION

State law provides authority for procedures to allow public participation in [the permitting authority's] action to issue or deny an operating permit, to modify a permit (except as provided in §§ 70.7(e)(2) and (3)), or to renew a permit. Public participation under State law includes the opportunity for public comment and the opportunity for a hearing on draft permits in accordance with the requirements of the CAA and 40 CFR § 70.7(h). State law provides for affected States to review permit applications in accordance with the CAA and 40 CFR § 70.8 (b).

Federal Authority: CAA §§ 502(b)(6), 505(a)(2), 42 U.S.C. §§ 7661a(b)(6), 7561d(a)(2); 40 C.F.R. §§ 70.7(h), 70.8(b)

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(5), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;] LAC 33:III.531 [adopted November 1993, effective date upon approval of Part 70 program by EPA]

Remarks of Attorney General

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to allow public participation in the permitting process and to allow affected states to review permit applications in accordance with 40 CFR Part 70. In addition to the general powers, La.R.S. 30:2011(D)(5) provides the secretary with the authority to hold meetings or hearings "for purpose of factfinding, receiving public comments, conducting inquiries and investigations, or other purposes under this Subtitle." In LAC 33:III.531, the department has provided for such public participation in accordance with 40 CFR Part 70.

XIV. PUBLIC ACCESS TO PERMIT INFORMATION

State law provides authority to make available to the public any permit application, compliance plan, permit, and monitoring and compliance certification report, except for information entitled to confidential treatment. State law provides that the contents of an operating permit shall not be entitled to confidential treatment.

Federal Authority: CAA §§ 114(c), 502(b)(8), 503(e), 42 U.S.C. §§ 7414(c), 7661a(b)(8), 7661b(e); 40 C.F.R. §70.4(b)(3)(viii).

State Authority: La.R.S. 44:1 et seq., [Acts 1940, No. 195] La.R.S. 30:2030 [Acts 1983, No. 97, effective date: Feb. 1, 1984]

Remarks of Attorney General

The Louisiana Public Records Law (R.S. 44:1 et seq.) provides that all records of a public body (such as the Department of Environmental Quality) are "public record" and therefore, available to the public for inspection and copying, (see e.g., La.R.S. 44:1(A)(2)). This general rule is modified by La.R.S. 30:2030 which allows the DEQ to maintain certain records as confidential. In order to be maintained as confidential, a written application must be made to the secretary. The secretary must then determine nondisclosure of the information is necessary to (1) prevent impairment of an ongoing investigation or prejudice the final decision regarding a violation, or (2) protect trade secrets, proprietary secrets and information, and commercial or financial information. The statute also provides that certain environmental information, e.g. air emission data, shall not be held as confidential.

XV. ENFORCEMENT OF PERMIT PROGRAM REQUIREMENTS

State law provides civil and criminal enforcement authority consistent with 40 CFR § 70.11, including authority to recover penalties and fines in a maximum amount of not less than \$10,000 per day per violation.

Federal Authority: CAA § 502(b)(5)(E), 42 U.S.C. § 7661a(b)(5)(E); 40 C.F.R. §§ 70.4(b)(3)(vii), 70.11.

State Authority: La. R.S. 30:2025(A), (B), (C), (D), (E) & (F) (originally enacted Acts 1983, No. 97, effective date: Feb. 1, 1984, amended several times, most recently by Acts 1992, No. 965, effective date: Aug. 21, 1992)

Remarks of Attorney General

La.R.S. 30:2025 provides the statutory authority for the department to enforce the appropriate regulations under the program. Subsection A provides a broad general authority. The department may bring administrative actions to require compliance under subsections C and D or may bring civil actions under subsections B. Civil penalties (not to exceed \$25,000 for each day of violation of a statute or regulation) may be assessed under subsection E (\$50,000 for each day of violation of a compliance order). Subsection F provides for criminal penalties for the intentional or wilful violations of the Environmental Quality Act or any rules or regulations promulgated by the DEQ pursuant to the Subtitle. Maximum criminal penalties for violations are \$25,000 per violation per day of violation (\$100,000 if there is endangerment of human life or health).

The burden of proof and degree of knowledge or intent required under state law is no greater than that required under the Clean Air Act. The burden of proof under R.S. 30:2025(F) is beyond a reasonable doubt. The degree of knowledge or intent under 2025(F) is willful or knowing. Louisiana jurisprudence has held that "In the context of a criminal charge 'willful' and 'intentional' have the same meaning" State v. Neumeier 561 So.2d 944 at 945 (La.App. 4th Cir. 1990). The standard for an intentional crime is provided by La.R.S. 14:10 and 14:11. R.S. 14:11 provides that the terms "intent" and "intentional" have reference to "general intent" as defined by R.S. 14:10. General intent is defined by R.S. 14:10 as whenever the offender " . . . in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act."

Louisiana jurisprudence has established the same standard for "knowledge." In State v. Ford 473 So.2d 931 (La.App. 3rd Cir. 1985) the court held:

"Knowledge, like intent, must be inferred from the totality of the circumstances of a transaction where it is an element of the crime charged. The test of knowledge is not a subjective test, but rather a completely objective test, i.e., the offender is taken to know that which any reasonable person so situated would have known." id at 934.

Therefore, violations under R.S. 30:2025(F) are "general intent" crimes, a standard no greater than the federal requirement of "knowing."

XVI. AUTHORITY TO ENFORCE LAPSED PERMITS

State law provides authority to enforce the terms and conditions of a permit which has expired, if the source has filed a timely and complete application for renewal, so as to assure compliance with all applicable requirements.

Federal Authority: CAA § 502(b)(5)(A), 42 U.S.C. § 7661a(b)(5)(A); 40 C.F.R. § 70.4(b)(10).

State Authority: La.R.S. 30:2023(C), [Acts 1989, No. 472, effective date: Sept. 3, 1989] La.R.S. 49:961 [Acts 1966, No. 382, effective date: July 1, 1967]

Remarks of Attorney General

La.R.S. 30:2023(C) provides that R.S. 49:961(B) shall apply at the end of any DEQ permit. La.R.S. 49:961(B) provides specifically:

"When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall not expire until the application has been finally determined by the agency, and, in case the application is denied or terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by the order of the reviewing court."

XVII. EPA PERMIT VETO

State law provides that an operating permit will not issue if the Administrator of EPA (or her designee) objects in a timely manner to its issuance pursuant to 40 CFR § 70.8(c) or, if the permit has been issued, but the Administrator or her designee objects pursuant to 40 CFR § 70.8(d).

Federal Authority: CAA §§ 502(b)(5)(F), 505(b), 42 U.S.C. §§ 7661a(b)(5)(F), 7661d(b); 40 C.F.R. §§ 70.4(b)(3)(ix), 70.8(c)-(d).

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(2), 2011(D)(6), 2011(D)(14), La.R.S. 30:2054(B)(1), 2054(B)(2) [Acts 1983, No. 97, effective date: Feb. 1, 1984;] LAC 33:III.533 [adopted November 1993, effective date upon approval of Part 70 program by EPA].

Remarks of Attorney General

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to allow a veto by the administrator of EPA of any part 70 permit issued. The department has provided for EPA veto of permits in accordance with 40 CFR Part 70 in LAC 33:III.533.

XVIII. FINAL AGENCY ACTION ON PERMITS

State law provides that, solely for the purposes of obtaining judicial review in State court for LDEQ's failure to take final action, "final permit action" shall include the failure of LDEQ to take final action on an application for a permit, permit renewal, or permit revision within at a minimum of 18 months.

Federal Authority: CAA § 502(b)(7), 42 U.S.C. § 7661a(b)(7); 40 C.F.R. § 70.4(b)(3)(xi).

State Authority: La.R.S. 30:2022(B), [Acts 1990, Nos. 696 and 996, effective date: Sept. 7, 1990], Code of Civil Procedure Article 3861 et seq. [Act 1960, No. 15, effective date: Jan. 1, 1961] LAC 33:I.1505.C [Effective date: April 20, 1993], LAC 33:III.519.C.3&4, [Effective date: upon approval of part 70 program by EPA]

Remarks of Attorney General

La.R.S. 30:2022(B) provides that the department shall adopt rules for the processing and review of permit applications. The statute mandates that the rules provide that a final decision on

applications for permits for new facilities and for substantial permit modifications shall be made within 410 days of the application. These rules were adopted and promulgated on April 23, 1993 (LAC 33:I.1505.C). This requirement to make a final decision within 410 days is repeated in LAC 33:III.519.C.4.

For all other Part 70 permits, LAC 33:III.519.C.3 provides "Final permit action shall be taken on any application pertaining to a Part 70 source within 18 months of receipt of a complete application, except as provided under the time frames for issuance of initial Part 70 permits to existing sources under LAC 33:III.507 or as provided for the issuance of acid rain permits under LAC 33:III.505."

The requirement to make a final decision within the appropriate time limit is mandatory and non-discretionary. If the secretary fails to follow the mandatory provision of law, the applicant has the right to obtain a writ of mandamus under the provisions of the Louisiana Code of Civil Procedure, see e.g., Myers v. City of Lafayette 537 So.2d 1269 (La.App. 3 Cir. 1989). Through the use of the mandamus proceeding, the applicant can obtain a court order requiring the LDEQ to make final permit decision.

XIX. DEFAULT PERMIT ISSUANCE

State law does not authorize the issuance, modification, or renewal of any permit based on the passage of a specified time period when LDEQ has failed to take action on the application, and does not include any other similar provision providing for default issuance of a permit unless EPA has specifically waived the right of review for itself and affected States.

Federal Authority CAA § 505(a)-(e), 42 U.S.C. § 7661d(a)-(e); 40 C.F.R. § 70.8(e)

State Authority: La.R.S. 30:2056 [Acts 1979, No. 449, amended by Acts 1983, No. 97 and Acts 1993, No. 570, effective date: August 15, 1993]

Remarks of Attorney General

There is no provision in Louisiana law which would provide for the issuance of a Part 70 permit "by default" if the DEQ fails to act upon the application timely. The applicant's remedy for the failure to act timely is to obtain a writ of mandamus pursuant to the Code of Civil Procedure directing the agency to act within a time limit set by the court or be found in contempt (see e.g. Myers v. City of Lafayette 537 So.2d 1269 (La.App. 3 Cir. 1989).

Previously there was a provision in La.R.S. 30:2056 which provided that if the department failed to act timely upon a variance requested pursuant to that section, the applicant could treat the failure to act as a grant of the variance requested. The section was amended in 1993 to delete the "default" provision. Act 570 of the 1993 session of the Louisiana legislature amended subsection D which now reiterates the general rule that if the secretary fails to act timely, the applicant has a right to a writ of mandamus.

XX. OPPORTUNITY FOR JUDICIAL REVIEW OF PERMIT ACTIONS

State law provides an opportunity for judicial review in State court of any final permit action by the applicant, any person who participated in the public participation process provided pursuant to the CAA and 40 CFR § 70.7(h), or any other person who could obtain judicial review of such actions under State laws, including any person aggrieved by the permit decision. Any provisions of State law which limit access to judicial review do not exceed the corresponding limits on judicial review imposed by the standing requirements of Article III of the United States Constitution.

Federal Authority: CAA § 502(b)(6), 42 U.S.C. § 7661a(b)(6); 40 C.F.R. § 70.4(b)(3)(x).

State Authority: La.R.S. 30:2024(C) [Acts 1983, No. 97, amended by Acts 1984, No. 795, No. 825, Effective date: July 13, 1984], Code of Civil Procedure, Article 681 [Act 1960, No. 15, effective date: Jan. 1, 1961]

Remarks of Attorney General

Judicial review of permit decisions is available under La.R.S. 30:2024(C). This right is available to any person "aggrieved." Jurisprudence has established that to be an aggrieved person, one must have a real actual interest which is or may be adversely affected by the decision. See In the Matter of BASF Corporation, Chemical Division 533 So.2d 971 (La.App. 1st Cir. 1988). The court in BASF looked to the Louisiana Code of Civil Procedure, Article 681 for guidance on the issue of who has been "aggrieved." Article 681 provides that an action may be brought "by a person having a real and actual interest." The requirement that the petitioner have a "real and actual interest" is equivalent to the standing requirement imposed by Article III, Section 2 of the United States Constitution.

XXI. LIMITATIONS ON JUDICIAL REVIEW

State law provides that the opportunity for judicial review of a final permit action in State court described in paragraph XIX of this Opinion shall be the exclusive means for obtaining judicial review of the terms and conditions of permits. State law provides that petitions for judicial review must be filed no later than 30 days after the final permit action. State law provides that where petitions for judicial review are based solely on grounds arising after the 30-day or less deadline for judicial review, such petitions may be filed no later than 30 days after the new grounds for review arise. State law further provides that if the final permit action being challenged is the DEQ's failure to take final action, a petition for judicial review may be filed at any time before DEQ denies the permit or issues the final permit.

Federal Authority: CAA §502(b)(6), 42 U.S.C. § 7661a(b)(6); 40 C.F.R. § 70.4(b)3)(xii).

State Authority: La.R.S. 30:2024 [Acts 1983, No. 97, amended by Acts 1984, No. 795, 1984, No. 825, 1990, No. 197, 1991, No. 846 and 1993, No. 567, effective date: June 10, 1993]

Remarks of Attorney General

La.R.S. 30:2024 provides for the finality of agency action and for judicial review of that action. Subsection A provides that a permit or enforcement action "shall be final and not be subject to further review" unless the respondent requests a hearing within 30 days of the action. The fact that the action becomes "final" and "not subject to further review" precludes any further examination of the action or any collateral attack. The proper mechanism to review such "final" action is through an appeal authorized under R.S. 30:2024(C) and discussed section XX above.

XXII. COORDINATION WITH ACID RAIN PROGRAM REQUIREMENTS

State law is consistent with, and cannot be used to modify, the Acid Rain Program requirements of 40 CFR Part 72.

Federal Authority: CAA §§ 408(a), 506(b), 42 U.S.C. §§ 7651g(a), 7661e(b); 40 C.F.R. §§ 70.4(b)(3)(xiii), 72.70(b), 72.72(a)

State Authority: La.R.S. 30:2011(A)(1), 2011(C)(1)(a), 2011(D)(1), 2011(D)(6), 2011(D)(12), 2011(D)(14), La.R.S. 30:2054(B)(1), [Acts 1983, No. 97, effective date: Feb. 1, 1984;] LAC 33:III.505

[adopted November 1993, effective date upon approval of Part 70 program by EPA]

Remarks of the Attorney General:

The broad statutory authority granted to the secretary discussed in Parts I and II above are sufficient to implement and enforce the Acid Rain requirements of 40 CFR Part 72. The acid rain permitting requirements have been adopted in LAC 33:III.505.

XXIII. DISCRETIONARY AUTHORITY

The EPA has raised certain questions concerning the statutory authority of the LDEQ which may not comply with the requirement of Title V of the Clean Air Act and 40 CFR Part 70 (including the authority to issue variances under certain limited circumstances). These concerns are misplaced and without statutory authorization.

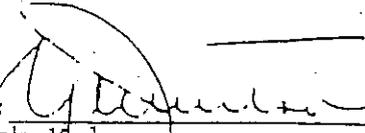
In accordance with discussions with EPA, La.R.S. 30:2056 (which provided that if the department failed to act timely upon a variance requested pursuant to that section, the applicant could treat the failure to act as a grant of the variance requested), was amended by Act 570 of the 1993 session of the Louisiana legislature to delete the "default" provision. The present law provides that if the secretary fails to act on the variance request timely, the applicant has a right to a writ of mandamus. No further statutory revision concerning variances is required by the Clean Air Act or 40 CFR Part 70.

Title V requires that regulations promulgated by the Administrator establishing the minimum elements of a permit program include the requirement that the permitting agency have "adequate authority" to administer the program, see 42 U.S.C. § 7661a(b)(4). In accordance with this provision 40 CFR 70.4(b)(3) requires this opinion of the Attorney General to state that "the laws of the State, locality, or interstate compact provide adequate authority to carry out all aspects of the program." (emphasis added) There is no provision in the Clean Air Act or 40 CFR Part 70 which compel the state statutes LIMIT the authority of the LDEQ to those requirements or standards imposed by the Clean Air Act and 40 CFR Part 70.

The fact that LDEQ may have the statutory "authority" under state law to implement, administer or enforce a program which does not meet the requirements of the federal air operating permit program is not relevant if LDEQ does not make use of that authority. The state has adopted regulations which meet or exceed all standards or requirements of the Clean Air Act and 40 CFR Part

70. The state has adequate statutory authority to do so. The state is willing to commit to the EPA through an implementation agreement to utilize the statutory authority to implement, administer, and enforce the program in accordance with the Clean Air Act and 40 CFR Part 70. However, there is no requirement for a statute which limits LDEQ authority.

Richard P. Ieyoub
Attorney General

by: 
Jack Yelverton
First Assistant Attorney General

LAJ_OPION.
November 15, 1991

