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State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

Mr. Guy Donaldson
Section Chief 6PD
US EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

RE: Louisiana State Implementation Plan (SIP)
2011-2013 Miscellaneous Rule SIP Revision

Dear Mr. Donaldson:

The Louisiana Department of Environmental Quality is proposing revisions to the State Implementation Plan for Louisiana. This proposed SIP revision incorporates general miscellaneous regulations promulgated in the Louisiana Administrative Code during 2011-2013.

Written comments regarding the proposed SIP revisions should be mailed to Sandra Hilton, Office of Environmental Services, Permits Division, P. O. Box 4313, Baton Rouge, La., 70821-4313 or faxed to (225) 219-3472 or emailed to sandra.hilton@la.gov. Comments must be received by 4:30 p.m., June 20, 2014.

We have enclosed two bound copies of the above referenced document for your review and comment. Should you have questions regarding this proposed revision, please contact Ms. Hilton at (225) 219-3511.

Sincerely,

Tegan Treadaway

Tegan Treadaway, Administrator
Air Permits Division

6/5/14
Date

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**** This rule includes Parts of the Louisiana Administrative Code that are not applicable to air quality; the sections that are pertinent to this proposed SIP are listed above.***

OVERVIEW

PURPOSE

This proposed State Implementation Plan (SIP) revision incorporates rules promulgated in the Louisiana Administrative Code (LAC) during 2011 - 2013. The submittal includes revisions to regulations in LAC 33:III.Chapter 9, 11, and 25. Submittal of this SIP revision to the Environmental Protection Agency fulfills an air quality planning commitment in the Performance Partnership Grant.

AUTHORITY

Revisions or adoptions to the Air Quality rules and regulations are made in accordance with Louisiana R. S. 30:2019. The SIP revision is submitted in accordance with 40 Code of Federal Regulations (CFR) Part 51 Appendix V and policy established by EPA.

Miscellaneous Rule SIP

SUMMARY OF RULES PROMULGATED IN 2011-2013			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§905	May 2013 LR 39:1278 **AQ 338**	Control Facilities to be Installed When Feasible	This Rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances.
§1101	April 2011 LR 37:1143 **AQ 310**	Control of Emissions of Smoke	This Rule revises the "six minute period ini any 60 consecutive minutes" during which opacity may be in excess of 20% is not limited to certain activities; specify the appropriate test methods and procedures to verify compliance with the opacity standard; establish an opacity limitation during start-up and shutdown periods and provide for an exemption from combustion units that combust only natural gas or other gaseous fuel.
§1106	April 2011 LR 37:1143 **AQ 310**	Control of Emissions of Smoke	This Rule revises the "six minute period ini any 60 consecutive minutes" during which opacity may be in excess of 20% is not limited to certain activities; specify the appropriate test methods and procedures to verify compliance with the opacity standard; establish an opacity limitation during start-up and shutdown periods and provide for an exemption from combustion units that combust only natural gas or other gaseous fuel.
§1107	April 2011 LR 37:1143 **AQ 310**	Control of Emissions of Smoke	This Rule revises the "six minute period ini any 60 consecutive minutes" during which opacity may be in excess of 20% is not limited to certain activities; specify the appropriate test methods and procedures to verify compliance with the opacity standard; establish an opacity limitation during start-up and shutdown periods and provide for an exemption from combustion units that combust only natural gas or other gaseous fuel.
§1111	April 2011 LR 37:1143 **AQ 310**	Control of Emissions of Smoke	This Rule revises the "six minute period ini any 60 consecutive minutes" during which opacity may be in excess of 20% is not limited to certain activities; specify the appropriate test methods and procedures to verify compliance with the opacity standard; establish an opacity limitation during start-up and shutdown periods and provide for an exemption from combustion units that combust only natural gas or other gaseous fuel..
§2511	December 2013 LR 39:3268 **AQ 341**	Air Regulations—Miscellaneous Incineration; Comprehensive Toxic Air Pollutant Emission Control Program; and Area Sources of Toxic Air Pollutants	This Rule will correct and revise language that is inaccurate or unnecessary. In previous rulemaking, language was inadvertently added to two Sections of the Air regulations

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, each parish/city and other local school system, recovery school district school, LSU and Southern Lab school, and Office of Juvenile Justice school shall adhere to the following.

a. - b.ix. …

x. Students receiving educational services at any elementary and secondary school operated by the Office of Juvenile Justice (OJJ) in a secure care facility, considered to be a public elementary or secondary school, will be included in the base membership count of OJJ. The base membership count for OJJ is identified as average daily membership and is calculated by dividing the number of days the students are under the guidance and direction of teachers by the total instructional days during the specified school year.

D. - D.1.e. …

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011).

Catherine R. Pozniak
Executive Director

1104#120

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Control of Emissions of Smoke
(LAC 33:III.1101, 1106 and 1107)(AQ310)

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.1101 (AQ310).

LAC 33:III.1101.B currently states that the emission of smoke from any combustion unit other than a flare shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, and rapping of precipitators may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

This rulemaking modifies LAC 33:III.1101.B so that the "six-minute period in any 60 consecutive minutes" during which opacity may be in excess of 20 percent is not limited to activities involving the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, or rapping of precipitators. This change would render LAC 33:III.1101.B consistent with other state regulations that address opacity (e.g., LAC 33:III.1311.C, 1311.D, 2301.D.4.a, and 2531.F.1).

LAC 33:1101.B currently references LAC 33:III.1503.D.2, Table 4 for the appropriate analytical method to verify compliance with the aforementioned opacity limitation. However, Table 4 lists both Method 9 and Method 22 of 40 CFR 60, Appendix A. Method 9 is appropriate for the determination of the opacity of emissions and for qualifying observers for visually determining opacity of emissions, whereas Method 22 requires only the determination of whether visible emissions occur and does not require the determination of opacity levels.

This rulemaking moves the identification of the applicable test methods and procedures from Chapter 15 into Chapter 11 (as LAC 33:III.1106) and specifies that opacity shall be determined using the procedures set forth in Method 9 with some modifications pertaining to the observer training requirements. As an alternative to Method 9, an owner or operator may elect to use the analytical procedures of Method 22 and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance.

Finally, this rulemaking establishes an opacity limitation during start-up and shutdown (as defined in LAC 33:III.111) at LAC 33:III.1101.C and provides for an exemption for combustion units that combust only natural gas or other gaseous fuel. Such an exemption is consistent with LDEQ air permit language which states that compliance with LAC 33:III.1101.B is assured through "using sweet natural gas as fuel."

This Rule will provide consistency within state air regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. …

B. Control of Smoke. Except as specified in LAC 33:III.1105, the emission of smoke generated by the burning of fuel or combustion of waste material in a combustion unit, including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that such emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

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 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1143 (April 2011).

§1106. Test Methods and Procedures

A. Opacity shall be determined using Method 9 of 40 CFR Part 60, Appendix A.

B. As an alternative to the method set forth in Subsection A of this Section, an owner or operator may elect to use a continuous opacity monitoring system (COMS) meeting the requirements outlined in 40 CFR 60.13(c) and (d).

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:1143 (April 2011).

§1107. Exemptions

A. …

B. The opacity standards set forth in LAC 33:III.1101 do not apply to the following:

1. combustion units when combusting only natural gas, carbon monoxide, hydrogen, and/or other gaseous fuels with a carbon to hydrogen molecular ratio of less than 0.34 (e.g., CH_4 equals 0.25, H_2 and CO equal zero). For mixtures of gaseous fuels, the molecular ratio shall be computed based on the volume percent (at standard conditions) of carbon monoxide, hydrogen, and each organic compound in the fuel gas stream;

2. combustion units subject to a federal standard promulgated pursuant to Section 111 or 112 of the Clean Air Act that limits average opacity to less than or equal to 20 percent, except for one six-minute period or less per hour;

3. recovery furnaces subject to LAC 33:III.2301.D.4;

4. biomedical waste incinerators subject to LAC 33:III.2511.E.2.f;

5. refuse incinerators subject to LAC 33:III.2521.F.8.e; and

6. crematories subject to LAC 33:III.2531.F.1.

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 Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011).

§1111. Exclusion

Any person claiming exclusion from the application of this Chapter under this provision shall apply to the administrative authority for exclusion in accordance with R.S. 30:2056 of the act. The applicant shall furnish such information as the administrative authority may reasonably require to enable it to make a determination. The administrative authority may make such determination and apply such conditions as may be appropriate to the activity in question. A person granted an exclusion under this provision may be required to furnish the administrative authority with plans satisfactory to the administrative authority for implementing any reasonable control measures which may be developed or which otherwise become available.

A. - 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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1144 (April 2011).

Herman Robinson, CPM
Executive Counsel

1104#016

RULE

Department of Environmental Quality
Office of the Secretary

Greenhouse Gases
(LAC 33:III.111, 211, 223, 501, 503, 523, 537, and 2132)(AQ315)

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.111, 211, 223, 501, 503, 523, 537, and 2132 (AQ315).

This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants". These thresholds will be revised to be based on emissions of criteria and toxic air pollutants.

On April 2, 2010, EPA published a final Rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action, greenhouses gas (GHGs) become "subject to regulation," and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.501.B.5, Item C.3 currently specifies that emissions of carbon dioxide (CO2) "need not be included in a permit application." Information concerning potential emissions of GHGs, which includes CO2, will be necessary in order to assess major source status and applicability of the PSD program. GHGs also include nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Further, as a consequence of GHGs becoming a "regulated" pollutant, revisions to other state air quality regulations will be necessary. This is because thresholds for small source permits, exemptions, insignificant activities, and General Condition XVII activities are dependent on a source's emissions of "regulated pollutants" or "regulated air pollutants". Moreover, whether a source can be classified as a small business is also based, in part, on its emissions of "regulated pollutants." Affected provisions include LAC 33:III.211.B.13.e, 223.Note 15, 501.B.2.d.i, 501.B.4.a.i, 501.B.5, 503.B.2, 523.A.1.b, 537.A.General Condition XVII, and 2132.A.Small Business Stationary Source.4 and 5.

Absent this regulatory change, fuel-burning equipment and other sources/activities emitting GHGs could no longer be considered as insignificant activities or General Condition XVII activities, nor could the facilities from which such emissions originate qualify for an exemption from the need to obtain an air permit, for a small source permit, or as a small business if they were otherwise eligible. The basis and rationale for this Rule are to ensure LDEQ can require CO2 emissions data in air permit applications and to preserve existing thresholds within the air quality regulations once GHGs become "subject to regulation" on January 2, 2011. This Rule meets an exception listed in R.S. 30:2019(D)(2)

Comment Summary Response & Concise Statement –
Amendments to the Control of Emissions of Smoke
LAC 33:III.1101, 1106, and 1107
Log Number AQ310

COMMENT 1: The commenter believes the action of reducing the certification requirements for Method 9 from every six months to every two years will:

- reduce the traceability and statistical accuracy of the method;
- potentially cause confusion between state and federal requirements;
- potentially result in legal problems both in proof of compliance and enforcement;
- create a measure in Louisiana different from the other states; and
- create confusion in the Measure of Visible Emissions.

FOR: Reducing the certification requirement for Method 9 from every six months to every two years will have unintended, adverse consequences.

AGAINST: Though LDEQ does not necessarily agree the proposed rule would result in the negative impacts suggested by the commenter, the department will not adopt the modified version of Method 9 as proposed in AQ310.

RESPONSE 1: LDEQ will not adopt the proposed language establishing a reduced frequency for observer training. Training requirements will remain as specified in Method 9 of 40 CFR 60, Appendix A.

COMMENT 2: The commenter recommends that an action be taken by the state to incorporate an audit program to assure the accuracy of the Method and that complete understanding of the Method be provided to those trained.

FOR: An audit program would enhance the understanding of Method 9 and assure the accuracy of readings from certified observers.

AGAINST: An audit program is beyond the scope of this rulemaking.

RESPONSE 2: LDEQ will take the commenter's recommendation under consideration, but the department's resources are such that an

* indicates a fast-track regulation

audit program cannot be implemented at this time.

COMMENT 3: The commenter states that the wording in the proposal could suggest that industries only need to read opacities four times a year and the less frequent reading could lead to an increase in particulate matter being released into the air.

FOR: The proposed rule implies that only four opacity readings are required annually; more frequent monitoring would minimize particulate emissions.

AGAINST: Though LDEQ does not necessarily agree the proposed rule could be interpreted to require only four opacity readings per year, the department will not adopt the modified version of Method 9 as proposed in AQ310.

RESPONSE 3: See Response to Comment 1.

COMMENT 4: The commenter believes if the number of smoke schools were cut back, there would be a negative impact on the state and local economies in Louisiana where the schools are held. The commenter also believes if the number of schools were reduced then the number of employees at the school would be reduced.

FOR: Reducing the certification requirement for Method 9 from every six months to every two years would negatively impact the state and local economies as well as employment.

AGAINST: Though LDEQ does not necessarily agree the proposed rule would result in the negative impacts suggested by the commenter, the department will not adopt the modified version of Method 9 as proposed in AQ310.

RESPONSE 4: See Response to Comment 1.

COMMENT 5: The commenter stated if the state is going to change the time between visible emissions observer certifications, the state needs to demonstrate that there is no loss of accuracy or reproducibility of the federal requirements.

No arguments necessary; comment does not suggest amendment or change.

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RESPONSE 5: See Response to Comment 1.

COMMENT 6: If Test Method 22 is substituted for Test Method 9 according to the revisions, the commenter recommends that the rule further explain the duration of Test Method 22 readings that would lead to a violation.

FOR: If Method 22 is substituted for Method 9, the rule should explain the duration of Method 22 readings that would lead to a violation.

AGAINST: LDEQ will not adopt the proposed language establishing Method 22 as an alternate to Method 9 at this time.

RESPONSE 6: LDEQ will not adopt the proposed language establishing Method 22 as an alternate to Method 9 at this time. LDEQ continues to believe that assuming any smoke observed is greater than 20 percent opacity is protective of the environment. However, the department needs to provide additional details regarding how to determine compliance with §1101.B using Method 22 and to what extent observation of visible emissions constitutes a violation.

COMMENT 7: The commenter states that a revision in Section 1101.C of the proposed rule provide for an opacity exemption of certain combustion units during the start up and shutdown periods, and that the state needs to demonstrate the proposed revision is consistent with EPA's 1999 policy concerning excess emissions including that the submittal does not cause or contribute to an exceedence of NAAQS or PSD increment.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 7: LDEQ reviewed EPA's September 20, 1999, memorandum entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown."

In this document, EPA acknowledges that for "some source categories, given the types of control technologies available, there may exist short periods of emissions during startup and shutdown when, despite best efforts regarding planning, design, and operating procedures, the otherwise applicable emission limitation cannot be met." Thus, EPA notes that "it may be appropriate ... to create narrowly-tailored SIP revisions that take

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these technological limitations into account and state that the otherwise applicable emissions limitations do not apply during narrowly defined startup and shutdown periods."

However, EPA suggests that the SIP "revision must be limited to specific, narrowly-defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction)."

Because opacity exceedances are not inherent to the startup and shutdown of all combustion units, LDEQ has reconsidered the proposed standard set forth in LAC 33:III.1101.C and believes it to be too broad. Therefore, LDEQ will not adopt this provision.

LDEQ believes it would be more prudent to address opacity exceedances during startup and shutdown periods on a case-by-case basis (cf., LAC 33:III.2103.G.6 & 7).

COMMENT 8: The commenter states that the exemption for sweet natural gas operations in Section 1107.B of the proposed rule is too broad because they believe that many gaseous fuels could be exempted.

The department agrees with the comment; no arguments are necessary.

RESPONSE 8: LDEQ agrees that the proposed exemption is too broad. According to EPA, waste gases containing methane, hydrogen, and carbon monoxide (CO) usually burn without smoke, whereas hydrocarbons with a C-to-H ratio of greater than 0.33 tend to soot (AP-42 Section 13.5). Therefore, LDEQ will narrow the exemption to apply to units that combust only natural gas, CO, hydrogen, and/or other gaseous fuels with a carbon to hydrogen molecular ratio of less than 0.34 by weight.

COMMENT 9: The commenter finds the proposed revisions to Section 1101 of the proposed rule problematic for SIP approvability.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 9: LDEQ trusts that this Comment Summary Response & Concise Statement and the amendments to the proposed rule satisfy

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EPA's concerns.

COMMENT 10: The commenter states that Title V sources that are major for particulate matter ($PM/PM_{10}/PM_{2.5}$) which are required to make opacity observations on emission sources are required by the air permit to provide documentation for compliance of the opacity limit. State inspectors depend and rely on this documentation to provide proof of compliance of the rule. When the time period of renewing the certification process for making Method 9 determinations is lengthened, the chance for error becomes much greater.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 10: See Response to Comment 1.

COMMENT 11: The commenter believes that if a source has a federally enforceable permit which has gone through PSD review and it is located in a nonattainment area for PM, promulgating this rule could break regional PM limits.

FOR: Reducing the certification requirement for Method 9 from every six months to every two years may result in excess emissions of particulate matter.

AGAINST: Though LDEQ does not necessarily agree the proposed rule would result in excess emissions of particulate matter, the department will not adopt the modified version of Method 9 as proposed in AQ310.

RESPONSE 11: See Response to Comment 1. Louisiana currently has no nonattainment areas for PM_{10} or $PM_{2.5}$.

COMMENT 12: The commenter believes that LDEQ should expand the scope of the rulemaking to exempt sources subject to existing opacity standards/requirements under 40 CFR Part 60 Federal New Source Performance Standards.

The department agrees with the comment; no arguments are necessary.

RESPONSE 12: See Response to Comment 25.

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COMMENT 13: The commenter believes that many combustion units start-up operation using natural gas alone and then introduce the primary fuel which is not natural gas. The commenter suggests that this proposed provision be clarified as being applicable to combustion units that combust other fuels in addition to natural gas when combusting only natural gas or other gaseous fuel.

The department agrees with the comment; no arguments are necessary.

RESPONSE 13: LAC 33:III.1107 will be amended accordingly.

COMMENT 14: The commenter is pleased that LDEQ has initiated a rulemaking to revise and clarify Chapter 11 of LAC 33:III.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 14: The department acknowledges the commenter's support of LDEQ's initiation of rulemaking to revise and clarify Chapter 11 of LAC 33:III.

COMMENT 15: The commenter is concerned that Chapter 11 will remain unclear, thereby resulting in inconsistent interpretation and application of the rule by LDEQ and the regulated community.

The department agrees with the comment; no arguments are necessary.

RESPONSE 15: See Response to Comment 17.

COMMENT 16: The commenter requests that the department adopt changes to clearly delineate the applicability of the opacity limitation in §1101.B from the applicability of the opacity limitation at LAC 33:III.1311 as it relates to the startup of the kilns.

The department agrees with the comment; no arguments are necessary.

RESPONSE 16: Neither §1101.B nor the definition of "smoke" set forth in LAC 33:III.111 necessarily preclude particulate emissions originating from the combustion of raw materials from being regulated under

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Chapter 11. For example, §1101.B regulates smoke from "burning **in** a combustion unit" (emphasis added), and "smoke" is not limited to particles resulting from the incomplete combustion of fuel. However, this position is not consistent with the definition of "combustion unit" in LAC 33:III.111, which reads as follows:

> any boiler plant, furnace, incinerator, or flare, or any other item of equipment designed or used for the combustion of fuel or waste material.

Based on the definition's explicit reference to "combustion of fuel or waste material," LDEQ is persuaded that §1101.B was not intended to regulate particulate emissions resulting from the combustion of raw materials (as in a kiln). Therefore, LDEQ will revise §1101.B to read as follows:

> Control of Smoke. Except as specified in LAC 33:III.1105, the emission of smoke generated by the burning of fuel or combustion of waste material in a combustion unit, including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that such emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

COMMENT 17: The commenter requests that LDEQ clarify the provisions of Chapter 11 as they apply to combustion units having emissions of smoke from the combustion of fuel as well as emissions generated by the combustion of raw materials, chemical reactions, and other process activities which are subject to the provisions of Chapter 13 of LAC 33:III.

FOR: LDEQ should clarify the provisions of Chapter 11 as they apply to combustion units having emissions of smoke from the combustion of fuel as well as emissions generated by the combustion of raw materials, chemical reactions, and other process activities.

AGAINST: The amendments described in Response to Comment 17 clarify the applicability of Chapters 11 and 13 to the commenter's facility.

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RESPONSE 17: As described in Response to Comment 17, §1101.B would not apply to the combustion of petroleum coke, as this is a raw material in the commenter's process. Further, §1101.B would not apply to the natural gas-fired burners used to heat the kiln per LAC 33:III.1107.B.1. In this instance, particulate emissions from the kilns would be regulated solely under LAC 33:III.Chapter 13.

COMMENT 18: The commenter believes that visible emission observations could be invalid since any persons not meeting the minimum federal requirements for certification set forth in 40 CFR Part 60, Appendix A of Reference Method 9 are not valid visible emissions observers and will be unable to comply with federal regulations.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 18: See Response to Comment 1.

COMMENT 19: The commenter believes the state risks losing delegation of authority for New Source Performance Standards with the promulgation of the rule.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 19: LDEQ does not agree that the proposed rule would result in loss of delegation because readings to comply with a federal opacity standard would still have to be conducted by personnel trained every six months. The department will not adopt the modified version of Method 9 as proposed in AQ310. See Response to Comment 1.

COMMENT 20: The commenter believes the interplay between the opacity provisions of Chapter 11, Chapter 13, and federal opacity regulations will remain unclear with the promulgation of the rule, thereby resulting in inconsistencies in the interpretation and application of the rule by LDEQ and the regulated community.

FOR: Organizational changes would improve the overall clarity of the rule.

AGAINST: Significant organizational changes are beyond the scope of this

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rulemaking.

RESPONSE 20: LDEQ acknowledges the significant overlap between Chapter 11, Chapter 13, and, where applicable, federal opacity standards. However, AQ310 was not intended to address this matter. Because LDEQ did not propose to modify any aspect of Chapter 13, revisions to Chapter 13 cannot be effected without re-proposing the rule.

With respect to federal opacity regulations, see Response to Comment 25.

COMMENT 21: The commenter requests that §1101 be amended to specify that the section establishes opacity standards; to list each category and standard; and to revise, add, and delete language for clarity. Corresponding revision to delete the existing language in §1103, §1105, and §1303 and to reserve those sections are also suggested. Although the commenter has no concern with the substance of §1103, §1105, or §1303, these organizational changes are suggested to improve the overall clarity of the rule.

FOR: §1101 should be amended to specify that this section establishes opacity standards; to list each category and standard; and to revise, add, and delete language for clarity.

AGAINST: Significant organizational changes are beyond the scope of this rulemaking.

RESPONSE 21: LDEQ acknowledges the significant overlap between Chapter 11 and Chapter 13 and agrees that these two chapters could be restructured to enhance clarity. However, AQ310 was not intended to address this matter. Because LDEQ did not propose to modify any aspect of Chapter 13, revisions to Chapter 13 cannot be effected without re-proposing the rule.

COMMENT 22: The commenter believes that the term "emission of smoke" should be replaced with "emissions resulting from the incomplete combustion of fuel."

FOR: "Emission of smoke" should be replaced with "emissions resulting from the incomplete combustion of fuel."

AGAINST: "Smoke" is defined in LAC 33:III.111 in a manner very similar to

* indicates a fast-track regulation

that suggested by the commenter.

RESPONSE 22: "Smoke" is defined by LAC 33:III.111 as:

> "any small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other combustible material, and present in sufficient quantity to be observable."

Further, smoke can originate from the combustion of a "waste material." See Response to Comment 17.

COMMENT 23: The commenter believes that the department should adopt changes to clearly delineate the applicability of the opacity limitation in §1101.B from the applicability of the opacity limitation at LAC 33:III.1311. The overlap leads to confusion when applying exemptions and exclusions or when determining compliance.

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 23: Because LDEQ did not propose to modify any aspect of Chapter 13, incorporating a modified version of LAC 33:III.1311.B into LAC 33:III.1101 and "reserving" LAC 33:III.1311.B cannot be effected without re-proposing the rule. However, LDEQ acknowledges the overlap between §1101.B and §1311 and may address this issue in a future rulemaking.

COMMENT 24: The commenter would like to include an exemption for maintenance activities for not more than 100 hours per year since necessary maintenance activities exceed boundaries of the proposed rule.

FOR: The rule should include an exemption for maintenance activities.

AGAINST: Because opacity exceedances are not inherent to all maintenance performed on combustion units, a general exemption is too broad.

RESPONSE 24: Because opacity exceedances are not inherent to all maintenance performed on combustion units, a general exemption is too broad. LDEQ believes it would be more prudent

* indicates a fast-track regulation

to address opacity exceedances due to maintenance activities on a case-by-case basis (cf., LAC 33:III.2103.G.6 & 7).

COMMENT 25: Commenter would like LDEQ to revise Chapter 11 to address the overlaps between the opacity provision of the SIP and federal NESHAP and NSPS regulations, so that any emissions unit or activity that is subject to an opacity requirement of a federal regulation only comply with the federal regulation.

The department agrees with the comment; no arguments are necessary.

RESPONSE 25: LDEQ will specify that the opacity standards set forth in LAC 33:III.1101 do not apply to combustion units subject to a federal standard promulgated pursuant to Section 111 or 112 of the Clean Air Act that limits average opacity to less than or equal to 20 percent, except for one six-minute period or less per hour.

COMMENT 26: The commenter would like LDEQ to include a provision that allows for a case-by-case exemption based on a determination by the permitting authority that compliance with the opacity standard would be technically or economically infeasible.

FOR: A provision that allows the permitting authority to exempt sources from the opacity standard when it is determined that compliance with this standard is technically or economically infeasible should be included in the final rule.

AGAINST: The possibility of a case-by-case exemption is already addressed by LAC 33:III.1111.

RESPONSE 26: LAC 33:III.1111, as amended by AQ310, states that "any person claiming exclusion from the application of this Chapter ... shall apply to the administrative authority in accordance with R.S. 30:2056 of the act."

COMMENT 27: The commenter would like all exemptions to be placed in the same Section for clarity.

FOR: Placing all exemptions in the same section would enhance clarity of the rule.

AGAINST: Significant organizational changes are beyond the scope of this

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rulemaking.

RESPONSE 27: Significant organizational changes are beyond the scope of this rulemaking. LDEQ acknowledges the significant overlap between Chapter 11 and Chapter 13 and agrees that these two chapters could be restructured to enhance clarity. However, AQ310 was not intended to address this matter. Because LDEQ did not propose to modify any aspect of Chapter 13, revisions to Chapter 13 (e.g., moving and restating §1311.E) cannot be effected without re-proposing the rule.

COMMENT 28: Standards set in LAC 33:III.1101 should not apply to combustion sources subject to an industry-specific standard, for instance the chemical wood pulping industry. The commenter requests that Section 1107 be revised so that recovery furnaces subject to Section 2301.D.4 are not included in LAC 33:III.1101. This is because LAC 33:III.2301D.4 is the more specific regulation for recovery furnaces in particular industries and this must be the prevailing rule. This causes confusion in the regulations and should be clarified.

The department agrees with the comment; no arguments are necessary.

RESPONSE 28: LDEQ will amend the rule to specify that recovery furnaces subject to LAC 33:III.2301.D.4 are not subject to the opacity standards set forth in LAC 33:III.1101.B.

COMMENT 29: The commenter requests that the final rule include a general exemption for sources subject to federal source-specific emissions standards (NSPS and NESHAP).

The department agrees with the comment; no arguments are necessary.

RESPONSE 29: See Response to Comment 25.

COMMENT 30: The commenter supports the language in proposed Section 1106 relating to the appropriate test methods and procedures used to determine opacity, but acknowledges that the opacity may also be determined using a continuous opacity monitoring system (COMS) which is more accurate than the visible emissions methods.

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The department agrees with the comment; no arguments are necessary.

RESPONSE 30: LDEQ will amend the rule to specify that a COMS meeting the requirements outlined in 40 CFR 60.13(c) and (d) is acceptable in lieu of Method 9.

* indicates a fast-track regulation

Comment Summary Response & Concise Statement
Amendments to the Control of Emissions of Smoke
LAC 33:III.1101, 1106, and 1107
Log Number AQ310

COMMENT #	SUGGESTED BY
1, 2	Arthur Eberle - Compliance Assurance Associates, Inc.
3, 4	Paul Laird - Whitlow Enterprises
5 - 9	Raymond Magyar & Guy Donaldson - EPA Region 6
3, 10, 11	William P. Stevenson – Concerned environmental citizen
12 - 13	Bill Matthews - CLECO Corporation
14 - 17	Michael H. Carbon - ENVIRON International Corporation/Oxbow Calcining LLC.
18 - 19	Tom Rose-Eastern Technical Associates
20 - 27	Steven B. Smith - Verallia
28 - 30	Will Perkins - Louisiana Pulp and Paper Association through Kyle B. Beall of Kean Miller

Total Commenter: 9
Total Comments: 31

* indicates a fast-track regulation

AGENDA FOR PUBLIC HEARING

Being Conducted by:

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

July 28, 2010

1:30 PM
Galvez Building, Oliver Pollock Conference Room
602 N. Fifth
Baton Rouge, LA

SUSAN HAM - HEARING OFFICER

LOG #	RULE TITLE
AQ310	Control of Emissions of Smoke LAC 33:III.1101, 1106 and 1107
AQ311ft	Prevention of Significant Deterioration (Significance Level for Direct PM2.5 Emissions) LAC 33:III.509.B

COMMENT PERIOD ENDS August 4, 2010 AT 4:30 PM

ft Rule: COMMENT PERIOD ENDS July 28, 2010 AT 4:30 PM

* *

DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.

July 28, 2010

AQ310 — Control of Emissions of Smoke
AQ311ft — Prevention of Significant Deterioration (Significance Level for Direct PM2.5 Emissions)

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
ARTHUR EGERLE	Compliance Assurance Assoc	1395 N Willett St	Memphis, TN 38108	901 381 9960	Y
LLOYD BLOUNT	WHITLOW SMOKE	1305 CHAS. GRIGGS RD	W. MONROE, LA 71292	(812) 617-0344	Y
Sandy Stephens	DEQ				
Jodie Alexis	DEQ				
Paul Lard	Whitlow Smoke School	1305 Charles Griggs Rd	W. Monroe, LA	(812) 617-0344	Y
Angela Whitlow	Whitlow Smoke School	1305 Charles Griggs RD	West Monroe LA	812-259-1112	)
George Whitlow	"	"	"	"	Yes

20

ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

Control of Emissions of Smoke

Log Number: AQ310

Prevention of Significant Deterioration
(Significance Level for Direct PM2.5 Emissions)

Log Number: AQ311ft

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Galvez Building, Oliver Pollock Conference Room, Baton Rouge, Louisiana, beginning at 1:32 p.m. on July 28, 2010.

BEFORE: Jennifer Pickett, Certified Stenomask Reporter, in and for the State of Louisiana.

1 H E A R I N G

2 MS. PARKER:

3 Good afternoon! My name is Sharon
4 Parker. I'm employed at the Louisiana
5 Department of Environmental Quality for
6 eight more days. I'll be serving as
7 hearing officer this afternoon to
8 receive comments regarding proposed
9 amendments to the Air Regulations.
10 The comment period for these
11 amendments began on June 20, 2010, when
12 the notice of intent was published in
13 the Louisiana Register. The comment
14 period will close at 4:30 p.m., today,
15 July 28, 2010, for the log number
16 AQ311ft. And at 4:30 p.m., August 4,
17 2010, for the Log Number AQ310. It
18 would be helpful to us if all oral
19 comments received today were followed up
20 in writing.
21 This public hearing provides a
22 forum for all interested parties to
23 present comments on the proposed
24 changes. This hearing is not being
25 conducted in a question and answer

format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting please come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The first amendment is designated by the Log Number AQ310.

LAC 33:III.1101.B currently states that the emission of smoke from any combustion unit other than a flare shall be controlled so that the shade or appearance of the emission is not darker than 20% average opacity, except that emitted during the cleaning of a fire box or building of a new fir, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, and rapping of precipitators may have an opacity in excess of 20% for not more than one six-minute period in any 60 consecutive minutes.

1 This rulemaking modifies LAC
2 33:III.1101.B so that the "six-minute
3 period in any 60 consecutive minutes"
4 during which opacity may be in excess of
5 20%, is not limited to activities
6 involving the cleaning of a fire box or
7 building of a new fire, soot blowing or
8 lancing, charging of an incinerator,
9 equipment changes, ash removal, or
10 rapping of precipitators. This change
11 would render LAC 33:III.1101.B
12 consistent with other state regulations
13 that address opacity, such as LAC
14 33:III.1311.C, 1311.D, 2301.D.4.a, and
15 2531.F.1.
16 LAC 33:1101.B currently references
17 LAC 33:III.1503.D.2, Table 4 for the
18 appropriate analytical method to verify
19 compliance with the aforementioned
20 opacity limitation. However, Table 4
21 lists both Method 9 and Method 22 of 40
22 CFR 60, Appendix A. Method 9 is
23 appropriate for the determination of the
24 opacity of emissions and for qualifying
25 observers for visually determining

1 opacity of emissions, whereas Method 22
2 requires only the determination of
3 whether visible emissions occur and does
4 not require the determination of opacity
5 levels.
6 This rulemaking moves the test
7 methods and procedures from Chapter 15
8 into Chapter 11, as LAC 33:III.1106, and
9 specifies that opacity shall be
10 determined using the procedures set
11 forth in Method 9 with some
12 modifications pertaining to the observer
13 training requirements. As an
14 alternative to Method 9, an owner or
15 operator may elect to use the analytical
16 procedures of Method 22 and assume that
17 any smoke observed in greater than 20
18 percent opacity for purposes of
19 demonstrating compliance.
20 Finally, this rulemaking
21 establishes an opacity limitation during
22 start-up and shutdown, as defined in LAC
23 33:III.111, at LAC 33:III.1101.C and
24 provides for an exemption for combustion
25 units that combust only natural gas or

other gaseous fuel. Such an exemption is consistent with LDEQ air permit language which states that compliance with LAC 33:III.1101.B is assured through "using sweet natural gas as fuel."

LAC 33:III.1101.B will be modified to ensure that the opacity standard is consistent with other state regulations that address opacity, and the regulation clearly communicates the required test methods and procedures necessary to verify compliance.

Comments will begin with Arthur Eberle on AQ310. Sit next to her.

MR. EBERLE:

I have a PowerPoint presentation. Sorry it makes my comments flow a little bit better. The section that I'm going to address is 1106 both parts A and B, which would be effected in the changes. And I wish to note the unintended consequences of this revision on the test method as well as on the potential for having a separate measure in the

1 state of Louisiana. You want to test
2 the mic a little bit? Okay. Testing.
3 And the unintended consequences of the
4 revision listed in Section A, which
5 would have an effect on essentially
6 creating a separate measure in the state
7 of Louisiana as to the liability of
8 Method 9 versus what it's done at a
9 Federal level as well as other state
10 levels. And some knowledge of the
11 methods as well as some history, I
12 think, it's important to reflect on
13 that.
14 The history of this visible
15 omission method actually began in the
16 state of Louisiana in New Orleans with
17 New Orleans versus Lambert. And it was
18 truly a grass roots issue that came
19 about as we first started the industrial
20 age and used coal fire coals.
21 In the late 1800's it was done by
22 the Ringlemann Method, essentially a
23 scale giving us how thick the black
24 smoke is, or how much blackness there is
25 to the omission. The opacity scale

1 moved us into a different direction.
2 Essentially from the 1900's to the
3 1950's the Ringlemann Scale was a
4 regulatory method and it was truly a
5 grass roots issue in local
6 jurisdictions. As the industrial age
7 expanded through World War II, we began
8 with an instance of smog in Los Angeles,
9 but that's not really what began the
10 wake up call to the environmental
11 requirements in the United States. That
12 was in Denora, Pennsylvania in 1948.
13 This (indicating on photo) is Denora,
14 Pennsylvania in 1948 at noon. The
15 street lights are on, it looks like it's
16 midnight because of the intense level of
17 pollutions. This particular incident
18 caused half of the town's population to
19 get sick, and is directly related to the
20 death of 20 people.
21 We forgot in this country exactly
22 how far we've come in compliance, how
23 far we've come in our environmental
24 behavior. We've forgotten where we were
25 back in the 1960's where in every city

1 you could see the air that you breath.
2 And we no longer have to experience
3 that. They experience that in China
4 today, but they haven't yet gotten the
5 wake up call that we did in 1948. Today
6 this is Denora, Pennsylvania (indicating
7 on photo.) You can clearly see the
8 backgrounds, you can clearly see the
9 traffic. Doesn't mean that the industry
10 has moved off. In the state of Kentucky
11 one the lectures that I have that works
12 for me was a regulatory enforcement
13 agent during 1974, during the
14 implementation of Method 9. One of the
15 facilities that is still operating today
16 had a visible omission plume that was 75
17 miles away.
18 We have truly forgotten how much
19 we have accomplished in the last 40
20 years, but more so than that I think
21 Method 9 is one of the things that most
22 people disdain because it's a subjective
23 test method. Just because it's
24 subjective does not mean it's not
25 scientific. And just because it's

1 subjective does not mean that it can not
2 be made definitive if it's been
3 implemented correctly both in the
4 certification process as well as in the
5 application by a well trained observer.
6 In the 1950's, Southern California
7 developed the pre-cursor to Method 9.
8 They needed some way of dealing with the
9 smog that they were beginning to
10 experience because of their climate as
11 well as their industrial output. They
12 started with just black smoke because
13 that was tied to the Ringlemann Scale
14 and already on the books legally. And
15 then they added white smoke and
16 redefined it as how much the background
17 was obscured by the omission. Which is
18 the way Method 9 is labeled today.
19 And in 1974, after the beginning
20 of the EPA, the original Clean Air Act,
21 this was promulgated into federal law as
22 a method of enforcement action because
23 it was a quick and easy method to be
24 able to determine compliance. And
25 that's was is needed for industry today.

1 PCA versus Ruckelshaus added a
2 statistical analysis to this,
3 essentially this court case remanded to
4 the EPA what is the accuracy of this
5 method. And from their studies they
6 determined that the six month period was
7 a necessity because over time, the
8 accuracy of a reader begins to fall off.
9 As a result, Method 9 has in it the
10 cited statistics for how quickly
11 somebody can certify, or how many
12 essentially -- the accuracy or the
13 capability of that certification
14 process. Most people don't realize
15 because they don't need to know these
16 statistical analysis on which the method
17 is based in order to utilize the method.
18 But it does have a statistical basis,
19 which changing the certification period
20 would draw into question because a long
21 history between certifications gives you
22 a greater degree of uncertainty as to
23 the reliability or accuracy that that
24 reflects, for that certified individual.
25 The method is now based on 24

1 observations, with a confidence interval
2 analysis based on a person's
3 certification of 25 points of white
4 smoke and 25 points of black smoke, you
5 can then do a confidence interval
6 between that individual and the actual
7 observation that they make. No records,
8 there is no confidence interval. No pun
9 intended here, but if there is no record
10 from him being certified there's no
11 determination by which you could make
12 statistically as to his accuracy or
13 capability.
14 The last record being one and a
15 half years before certainly brings into
16 that some uncertainty which really at
17 this point could not be determined
18 without some significant analysis as to
19 what is it actually going to be
20 statistically a year and a half or two
21 years down the road. So the proposal
22 containing AQ310 to reduce the
23 certification period from six to two
24 years also brings into it, if you will,
25 some untested offensiblity issues. Will

1 this actually stand up now as an
2 enforcement method in Court? PCA versus
3 Ruckelshaus would indicate that the
4 answer to that question is no. And so
5 essentially changing this requirement
6 would render the method unusable for
7 enforcement action in the state of
8 Louisiana. Even more so it brings into
9 question how other states would
10 reconcile a different measure in the
11 state of Louisiana than what's being
12 used in their states.
13 So from that stand point, at least
14 as to accuracy, the method, the proposed
15 changes to this method would create a
16 different standard, or measure, in the
17 state of Louisiana than exist with any
18 other states. And that could really
19 create huge problems for industry when
20 it comes to requirements method for
21 their federal requirements. Because now
22 the federal requirements require a six
23 month certification period but the state
24 requires a two year certification
25 period. And so now the confusion that

1 could exist to industry could actually
2 open them up to liability.
3 In summary, I want to make some
4 other recommendations, because I do
5 consider myself an advocate for
6 industry. I do stand behind this method
7 because I see what it did from 1968 to
8 the current day. This method more than
9 any other method out there has done more
10 to improve our air quality at less cost,
11 and certainly in my opinion, done more
12 to improve the air quality than any
13 other method out there. Within your
14 current regulations there does exist the
15 ability to use Method 22 in conjunction
16 with -- I'm sorry, Method 22 in lieu of
17 Method 9, but it puts a burden on
18 industry that any visible omission seen
19 would then be considered a violation.
20 This is not the case in many other
21 states. Often within people's
22 regulatory scheme, they are allowed to
23 use a Method 22, and if any omissions
24 are seen, then they have a specific
25 defined period of time in order to

1 conduct Method 9. So that reduces the
2 number of people on site dramatically
3 that need to have Method 9
4 certification, while allowing them to do
5 Method 22 for a continual demonstration
6 of compliance.
7 You also have Tennessee's periodic
8 monitoring rule which I will include a
9 copy of. Of that rule is even better in
10 terms of lowering the burden on industry
11 of complying with these regulations.
12 Because it actually looks at industry,
13 based on real, visible omission
14 observations that are done periodically.
15 Usually at the renewal of their Title 5
16 air permit. And they set up a criteria,
17 if they are in very good compliance then
18 they may not need to do another visible
19 omission reading for five years. And so
20 it allows industry a much lower burden,
21 especially if they are demonstrating
22 compliance. And I certainly, even
23 though this seems in conflict to my
24 business objectives, I certainly think
25 it ridiculous that industry has to do

1 visible omission readings on sources
2 that are continually zero. If they see
3 no visible omission readings, they
4 should not have to continue to do those
5 observations on a daily or weekly basis
6 in order to demonstrate continual
7 compliance.
8 And lastly, it's certainly on a
9 permit by permit case basis such
10 lowering of the burden could occur.
11 I've written these comments, I'll submit
12 those as well and if -- that is all I
13 wish to say.
14 **MS. PARKER:**
15 Thank you very much. Our next
16 commentor will be Lloyd Blount. AQ310.
17 **MR. BLOUNT:**
18 Thank you Sharon, my name is Lloyd
19 Blount, I work for Whitlow Smoke School.
20 I'm here to object to this bad, bad,
21 bad, bad, proposed rule on two issues.
22 First issue is economics. Whitlow Smoke
23 School is a small mom and pop type
24 business, not a franchise. We provide
25 re-certification training every six

1 months to industry people and provide
2 those services and we make a living out
3 of it. I understand that under the
4 guidelines of this proposed rule that it
5 will change the re-certification from
6 six months up to two years. If we have
7 to change our business from re-
8 certifying and having the revenue come
9 in every six months to every two years
10 that will eliminate about 75% of our
11 income and it would be hard for this
12 business to stand. At the very least we
13 have to let some employees go, and the
14 business may even go under if that
15 happens. The majority of our revenue is
16 generated here in the state of
17 Louisiana, we do operate in a couple of
18 other states, and a few other states,
19 but the majority is from Louisiana and
20 it will have negative impact on our
21 company.
22 The second issue I want to bring
23 up that I object to it for, EPA Federal
24 Government set standards throughout the
25 nation regarding air quality. Each

state opts into this program through what's called S.I.P., State Implementation Program, in the state of Louisiana we have agreed to go with the EPA and their rules and regulations and policies and laws. And they require re-certification every six months. If the state of Louisiana goes off on a tangent and they change this to every two years it may be in violation of what EPA has directed to this state and it may cause some economic impact also to the department, they could withhold some grants and some funding for the program, not saying that they would, they could do that. And they could actually disapprove this, as the gentleman before me just spoke about.

On this behalf, I am objecting to this bad, bad, bad proposed rule and hope that you would take that into consideration. Thank you.

MS. PARKER:

Thank you Mr. Lloyd. Paul Laird with AQ310.

1 MR. LAIRD:
2 Hi, my name is Paul Laird, I'm
3 here with Whitlow Smoke School. I'm
4 tempted to say some things that I've
5 heard at some public hearing when I was
6 with DEQ in Monroe, but I won't. I had
7 previously submitted a statement about
8 the economic impact, I mailed it in, I
9 have another copy if you would like
10 that, but there will be an economic
11 impact not only on Whitlow but other
12 smoke school providers and there will be
13 an economic impact on the state of
14 Louisiana too. Because we use state
15 parts, there is sales tax revenue. Not
16 to mention postage service, West Monroe
17 Post Office may go under if we don't
18 mail enough stuff out. These are the
19 comments, I mailed to Mr. Trahan
20 (indicating) a few weeks ago.
21 MS. PARKER:
22 Yes, we do, but if you'd like to
23 leave them again just to make sure we
24 have the same copy that would be great.
25 MR. LAIRD:

1 Just to be sure. All right now, I
2 have some verbal comments. There pretty
3 much like what the two men before me
4 said, will this proposal be in violation
5 of the Clean Air Act? EPA Method 9
6 requires re-certification every six
7 months, where as this proposal says that
8 if you don't read opacities more than
9 four times a year, you only have to re-
10 certify every two years.
11 And will there be an impact on the
12 national ambient air quality standards,
13 particulate matter levels? EPA
14 continues to tighten regulations for
15 particulate matter, specifically the
16 fine particulates. The wording in the
17 proposal could suggest to regulated
18 industries that they need to read
19 opacities only four times per year. The
20 Louisiana permits do not currently
21 require a frequency of conducting the
22 readings. Whitlow recommends conducting
23 readings at least once a day. Less
24 frequent readings could lead to an
25 increase in particulate matter being

1 released into the ambient air. Certain
2 particulate matter contributes to ozone
3 formation. At three of LDEQ's eight
4 ambient monitoring sites, PM2.5 readings
5 frequently exceed the ozone reading. At
6 least four of the sites regularly record
7 PM2.5 reading in the moderate range.
8 And finally will there be any
9 future impact on Louisiana's US EPA
10 mandatory Class I area threatened,
11 wilderness area. Thank you.
12 **MS. PARKER:**
13 Thank you. George Whitlow, AQ310.
14 **MR. WHITLOW:**
15 It's good to be back home, it's
16 the first chance to meet my friends who
17 are retired from the state since 2001
18 when they changed the world, September.
19 We specifically retired to start a smoke
20 school business and it just took off,
21 well I ain't no millionaire but it took
22 off pretty good. And we're employed, we
23 got 3 -- 2 fellow retired workers, about
24 15 employees and all the way from Baton
25 Rouge to New York City, such a lovely

1 place. And we feel like, well I feel
2 like, this is like a cut below what the
3 Federal Government requires for
4 everybody else, in a sense, and I'm
5 surprised it got this far. You can't,
6 your law can be as good as or stronger
7 than the Federal regulations, but it
8 can't be any weaker, that's common
9 sense.
10 We're used to -- and there's other
11 people employed by -- doing smoke
12 schools, there's three other companies
13 doing smoke schools here in Louisiana
14 that I know of now. And our particular
15 business, we like to take a little
16 Louisiana pride and Cajun culture with
17 us where we go, New York City, where
18 ever and we buy local products, Tony
19 Chachere's and things like that and we
20 fry up maybe a mess of crawfish or
21 catfish, or something good Cajun flavor
22 all over the United States, they love
23 it. So, that's, we buy our groceries
24 mostly here, at every Wal-Mart in
25 Louisiana and have people cook it, and

1 it'd be a big impact on our businesses.
2 And I think it'd be an impact on
3 the state cause, like the gentleman
4 before said, you don't practice baseball
5 every three or four days you ain't gonna
6 win the game. And that's about it.
7 **MS. PARKER:**
8 Thank you.
9 **MR. WHITLOW:**
10 Thank you.
11 **MS. PARKER:**
12 Does anyone else care to comment
13 on this regulation? If not, the hearing
14 on AQ310 is closed.
15 The next amendment is designated
16 by the Log Number AQ311ft.
17 This proposed rule will amend LAC
18 33:III.509.B to establish a significance
19 level for the direct PM2.5 emissions
20 equivalent to the federal rule. On May
21 16, 2008, the Environmental Protection
22 Agency (EPA) promulgated a rule entitled
23 "Implementation of the New Source Review
24 (NSR) Program for Particulate Matter
25 Less that 2.5 Micrometers (PM2.5)" (73

1 FR 28321). The final rule established a
2 significance level for direct PM2.5
3 emissions equal to 10 tons per year at
4 40 CFR 51.166(b)(23)(I).
5 Does anyone care to comment on
6 this regulation? Does anyone care to
7 comment on this regulation? If not, the
8 hearing on AQ311ft is closed. Thank you
9 all for your attention and
10 participation. This hearing is closed.
11 (The hearing concluded at 2:01 p.m.)
12
13

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

2 I, Jennifer Pickett, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this sworn testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23 Jennifer Pickett, C.C.R.
24 29011

OFFICIAL SEAL
JENNIFER W. PICKETT
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 29011
Certificate expires 12-31-10

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

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 OFFICIAL SEAL
JENNIFER W. PICKETT
Certified Court Reporter
24 in and for the State of Louisiana
Certificate Number 29011
Certificate expires 12-31-10
Jennifer Pickett, C.C.R.
25 # 29011

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Control of Emissions of Smoke
(LAC 33:III.1101, 1106 and 1107)(AQ310)

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.1101 (AQ310).

LAC 33:III.1101.B currently states that the emission of smoke from any combustion unit other than a flare shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, and rapping of precipitators may have an opacity in excess of 20% for not more than one six-minute period in any 60 consecutive minutes.

This rulemaking modifies LAC 33:III.1101.B so that the "six-minute period in any 60 consecutive minutes" during which opacity may be in excess of 20% is not limited to activities involving the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal, or rapping of precipitators. This change would render LAC 33:III.1101.B consistent with other state regulations that address opacity (e.g., LAC 33:III.1311.C, 1311.D, 2301.D.4.a, and 2531.F.1).

LAC 33:1101.B currently references LAC 33:III.1503.D.2, Table 4 for the appropriate analytical method to verify compliance with the aforementioned opacity limitation. However, Table 4 lists both Method 9 and Method 22 of 40 CFR 60, Appendix A. Method 9 is appropriate for the determination of the opacity of emissions and for qualifying observers for visually determining opacity of emissions, whereas Method 22 requires only the determination of whether visible emissions occur and does not require the determination of opacity levels.

This rulemaking moves the identification of the applicable test methods and procedures from Chapter 15 into Chapter 11 (as LAC 33:III.1106) and specifies that opacity shall be determined using the procedures set forth in Method 9 with some modifications pertaining to the observer training requirements. As an alternative to Method 9, an owner or operator may elect to use the analytical procedures of Method 22 and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance.

Finally, this rulemaking establishes an opacity limitation during start-up and shutdown (as defined in LAC 33:III.111) at LAC 33:III.1101.C and provides for an exemption for combustion units that combust only natural gas or other gaseous fuel. Such an exemption is consistent with LDEQ air permit language which states that compliance with LAC 33:III.1101.B is assured through "using sweet natural gas as fuel."

This Rule will provide consistency within state air regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. …

B. Control of Smoke. Except as specified in Subsection C of this Section and LAC 33:III.1105, the emission of smoke from any combustion unit or from any type of burning in a combustion unit, including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that such emissions may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

C. During periods of *start-up* and *shutdown* as defined in LAC 33:III.111, emissions from any combustion unit subject to the opacity standard set forth in Subsection B of this Section may have an average opacity in excess of 20 percent for not more than one sixty-minute period in any twenty-four hour period.

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 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 36:

§1106. Test Methods and Procedures

A. Opacity shall be determined using the procedures found in Section 2 of Method 9 of 40 CFR Part 60, Appendix A. Opacity shall be read by any observer certified to perform Method 9 by a recognized smoke school or training program, following the requirements found in Section 3 of Method 9, except that the observer does not have to repeat training every 6 months as prescribed by Method 9 as long as the observer performs at least four readings in each calendar year. If an observer does not perform four readings in any calendar year, repeat training shall be required before that observer may resume opacity readings. In no case shall an observer go more than 2 years without repeat training.

B. As an alternative to the method set forth in Subsection A of this Section, an owner or operator may elect to use the analytical procedures of Method 22 of 40 CFR Part 60, Appendix A and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance with LAC 33:III.1101.B or C, or with LAC 33:III.1105.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:

§1107. Exemptions

A. …

B. The opacity standards set forth in LAC 33:III.1101 do not apply to combustion units that combust only natural gas or other gaseous fuel.

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 Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 36:

Family Impact Statement

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

Public Hearing

A public hearing will be held on July 28, 2010, 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 Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ310. Such comments must be received no later than August 4, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ310. These proposed regulations are available on the Internet at:

www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Control of Emissions of Smoke

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

There will be no costs or savings to state or local governmental units as a result of this rule.

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

There will be no effect on revenue collections of state or local governmental units.

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition, so no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM	H. Gordon Monk
Executive Counsel	Legislative Fiscal Officer
1006#082	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Prevention of Significant Deterioration (Significance Level for Direct PM2.5 Emissions)(LAC 33:III.509)(AQ311ft)

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.509.B (Log #AQ311ft).

This Rule is identical to federal regulations found in 40 CFR 51.166(b)(23)(i), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No Fiscal or Economic Impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This proposed Rule will amend LAC 33:III.509.B to establish a significance level for direct PM2.5 emissions equivalent to the federal rule. On May 16, 2008, the Environmental Protection Agency (EPA) promulgated a rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5)" (73 FR 28321). The final rule established a significance level for direct PM2.5 emissions equal to 10 tons per year at 40 CFR 51.166(b)(23)(i).

The basis and rationale for this proposed rule is to maintain equivalency with the federal regulation 40 CFR 51.166(b)(23)(i). This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§509. Prevention of Significant Deterioration

A. - B. *Secondary Emissions* …

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants,

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. …

B. Control of Smoke. Except as specified in ~~Subsection C of this Section and~~LAC 33:III.1105, t~~T~~he emission of smoke ~~from any combustion unit (other than a flare, as described in LAC 33:III.1105 below)~~generated by the burning of fuel or combustion of waste material ~~or from any type of burning~~ in a combustion unit ~~(other than a flare)~~, including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, ~~as to obscure vision to a degree equivalent to the above (see LAC 33:III.1503.D.2, Table 4)~~ except that ~~emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal and rapping of precipitators which~~ such emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

~~C. During periods of *start-up* and *shutdown* as defined in LAC 33:III.111, emissions from any combustion unit subject to the opacity standard set forth in Subsection B of this Section may have an average opacity in excess of 20 percent for not more than one sixty-minute period in any twenty-four hour period.~~

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 21:1081 (October 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 37:**

§1106. Test Methods and Procedures

A. Opacity shall be determined using ~~the procedures found in Section 2 of~~Method 9 of 40 CFR Part 60, Appendix A. ~~Opacity shall be read by any observer certified to perform Method 9 by a recognized smoke school or training program, following the requirements found in Section 3 of Method 9, except that the observer does not have to repeat training every 6 months as prescribed by Method 9 as long as the observer performs at least four readings in each calendar year. If an observer does not perform four readings in any calendar year, repeat training shall be required before that observer may resume opacity readings. In no case shall an observer go more than 2 years without repeat training.~~

B. As an alternative to the method set forth in Subsection A of this Section, an owner or operator may elect to use ~~the analytical procedures of Method 22 of 40 CFR Part 60, Appendix A and assume that any smoke observed is greater than 20 percent opacity for purposes of demonstrating compliance with LAC 33:III.1101.B or C, or with LAC 33:III.1105~~a continuous opacity monitoring system (COMS) meeting the requirements outlined in 40 CFR 60.13(c) and (d).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:**.

§1107. Exemptions

A. …

B. The opacity standards set forth in LAC 33:III.1101 do not apply to the following:

1. combustion units ~~that~~when combusting only natural gas, carbon monoxide, hydrogen, and/or other gaseous fuels with a carbon to hydrogen molecular ratio of less than 0.34 (e.g., CH_4 equals 0.25, H_2 and CO equal zero). For mixtures of gaseous fuels, the molecular ratio shall be computed based on the volume percent (at standard conditions) of carbon monoxide, hydrogen, and each organic compound in the fuel gas stream;

2. combustion units subject to a federal standard promulgated pursuant to Section 111 or 112 of the Clean Air Act that limits average opacity to less than or equal to 20 percent, except for one six-minute period or less per hour;

3. recovery furnaces subject to LAC 33:III.2301.D.4;

4. biomedical waste incinerators subject to LAC 33:III.2511.E.2.f;

5. refuse incinerators subject to LAC 33:III.2521.F.8.e; and

6. crematories subject to LAC 33:III.2531.F.1.

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 Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:**.

§1111. Exclusion

Any person claiming exclusion from the application of this ~~Section~~Chapter under this provision shall apply to the administrative authority for exclusion in accordance with R.S. 30:2056 of the act. The applicant shall furnish such information as the administrative authority may reasonably require to enable it to make a determination. The administrative authority may make such determination and apply such conditions as may be appropriate to the activity in question. A person granted an exclusion under this provision may be required to furnish the administrative authority with plans satisfactory to the administrative authority for implementing any reasonable control measures which may be developed or which otherwise become available.

A. - 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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 37:**

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2012, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. …

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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2012, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

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 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2012.

B. - C.6. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013).

Herman Robinson, CPM
Executive Counsel

1305#009

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Control Facilities to be Installed When Feasible
(LAC 33:III.905)(AQ338)

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.905 (AQ338).

This Rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances. When the Environmental Protection Agency (EPA) promulgates a new Rule, the administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates … which shall provide for compliance as expeditiously as practicable, but in no event later than three years after the effective date of such standard…" Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the Rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the cross-state air pollution rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this Rule provides a narrow exemption to LAC 33:III.905.A. It allows the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question.

The basis and rational for this Rule is to provide an exemption to the requirements of LAC 33:III.905.A.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 9. General Regulations on Control of Emissions and Emission Standards
§905. Control Facilities to be Installed When Feasible

A. Except as provided in Subsection B of this Section, to aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.

B. Exemptions

1. The provisions of Subsection A of this Section shall not apply when the controls are installed to comply with a regulation that explicitly limits the required use of the controls to specific circumstances or times.

2 The administrative authority may grant a written exemption to the owner or operator of the air pollution control facility.

a. An exemption may be granted when the air pollution control facility has been installed, but not operated solely to comply with:

i. a proposed federal or state regulation that has not been adopted and promulgated; or

ii. a final federal or state regulation that has been vacated and remanded by a court of proper jurisdiction and is no longer effective.

b. An exemption shall not authorize:

i. the noncompliance with any limit, standard, or requirement otherwise provided in a permit or other regulation; or

ii. a physical change or change in the method of operation of the facility that increases emissions.

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 the Secretary, Legal Division, LR 39:1279 (May 2013).

Herman Robinson, CPM
Executive Counsel

1305#010

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulated New Source Review (NSR) Pollutant
(LAC 33:III.509)(AQ340ft)

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.509 (AQ340ft).

This Rule is identical to federal regulations found in 40 CFR 51.166(b)(49), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will revise the definition of *regulated new source review (NSR) pollutant* in LAC 33:III.509.B consistent with the corrected federal definition at 40 CFR 51.166(b)(49). On October 25, 2012, the Environmental Protection Agency (EPA) revised the definition of "regulated NSR pollutant" to correct "an inadvertent error made in

BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY
LEGAL DIVISION

April 12, 2013

RESPONSE TO COMMENTS

Kyle Beall
Louisiana Electric Utility
628 North Boulevard
Baton Rouge, Louisiana 70802

RE: Summary Report for Proposed Rule – (AQ338) - Control Facilities to be Installed When Feasible

Dear Mr. Beall:

Thank you for your comments on the referenced proposed rule, which was published in the January 20, 2013, issue of the *Louisiana Register*. No amendments have been made to the proposed rule.

Enclosed is a copy of the summary report submitted to the Legislative Oversight Committees. The committees have thirty days to consider the rule and, if they choose, hold a hearing or conduct a vote by mail ballot. Generally, if the Legislative Oversight Committees do not disapprove the rule, the next step is to publish the rule as final in the *Louisiana Register*.

If you have any questions, please contact our office at (225) 219-3985.

Sincerely,

Deidra Johnson
Attorney Supervisor

dj/sjh

Enclosure

Post Office Box 4302 • Baton Rouge, Louisiana 70821-4302 • Phone 225-219-3985 • Fax 225-219-4068
www.deq.louisiana.gov

Comment Summary Response & Concise Statement – AQ338
Control Facilities to be Installed When Feasible
LAC 33:III.905
Log Number AQ338

COMMENT 1: The LEUEG supports the proposed changes to LAC 33:III.905. Under the current regulatory framework, the LDEQ should allow flexibility in the selection and use of pollution control options to comply with air quality programs.

LEUEG supports the proposed revision to LAC 33:III.905 that provides exemptions to the general requirement to install, use and diligently maintain pollution control equipment at industrial facilities located in Louisiana. To the best of our knowledge, this requirement is based on a Control Technique Guidance (CTG) document (or similar guidance) that preceded the federal Clean Air Act Amendments of 1990 by many years. In fact, this regulation has been in existence in its current form at least since 1978 (*See*, Section 8.9 of the 1978 Air Control Commission regulations published in the Feb. 20, 1978 Louisiana Register).

It is evident that the number and complexity of air quality programs have increased dramatically since LAC 33:III.905 was first promulgated. Thus, the proposed exemptions are necessary to provide the Department and the regulated community with flexibility on when pollution control equipment is required to be installed and operated (or not operated after installation). As discussed below, air quality programs currently in effect or under future consideration include the Clean Air Interstate Rule (CAIR), the now-vacated Cross-State Air Pollution Rule (CSAPR), and other cap-and-trade emission reduction programs. The LDEQ also correctly noted in the introduction to this proposed rulemaking that "when the EPA promulgates a new rule, the Administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements."

LEUEG supports the effort of the LDEQ to streamline and modernize the Louisiana Air Quality Regulations to enhance compliance with federal and state regulations that may require seasonal or other periodic control. The proposed rule will

* Indicates a fast-track regulation

eliminate inefficiencies for both the regulated community and the Department without impacting the ambient air quality in Louisiana and surrounding states. In short, LEUEG believes the proposed rule will benefit the state of Louisiana, the regulated community and the public.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: The department appreciates the support.

COMMENT 2: The LDEQ should clarify in its Response to Comments that there are two types of exemptions set forth in proposed Section 905.B – one that is automatic and one that is granted by the "administrative authority" (*i.e.*, LDEQ).

Based on the plain language of the proposed rule, it appears that Subsection B, entitled "Exemptions," (plural) provides two types of exemption. The exemption in Section 905.B.1 is automatic and applies to controls that are installed to comply with a regulation that "explicitly limits" the required use of controls to specific circumstances or times. As noted below, this would include rules like CAIR, CSAPR and similar cap-and-trade emission reduction programs. The second category of exemption in Section 905.B.2 requires the approval of the LDEQ and may be granted if the conditions set forth therein are satisfied.

LEUEG requests that the Department confirm in its Response to Comments that the exemption specified in Section 905.B.1 is automatic and does not require the concurrence of LDEQ. We believe that this is the intent of the Department, but seek clarity on this point. This appears to be the proper interpretation, in part, because some existing regulations limit the use of controls to certain periods of the year or certain situations, in which case neither condition in Section 905.B.2.a is relevant.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: When controls are required to comply with a regulation that explicitly limits the use of such controls to specific circumstances or times, an owner or operator need *not* apply for a written exemption from the provisions of LAC 33:III.905.A (i.e., the

* indicates a fast-track regulation

exemption provided by LAC 33:III.905.B.1 is "automatic" and does not require the concurrence of LDEQ).

COMMENT 3: The LDEQ should clarify in its Response to Comments that the proposed exemption in Section 905.B could apply to control regulations that are seasonal in nature *OR* to those that have been vacated or remanded, or for which the compliance deadline has not yet passed. LEUEG seeks confirmation that the exemptions apply to both scenarios.

LEUEG requests that the LDEQ acknowledge in its Response to Comments that the exemption in Section 905.B.1 applies to existing and future regulations that establish seasonal control requirements. It follows that a "case-by-case" exemption allowed in Section 905.B.2 would not be necessary for "a regulation that explicitly limits the required use of controls to specific circumstances or times." For example, if the CSAPR had not been vacated by the U.S. Circuit Court of Appeals for the D.C. Circuit, then the nitrogen oxide (NO_X) control requirements would *only* have applied during the explicitly defined ozone season. Thus, operation of equipment in months outside of the defined ozone season may not require the operation and maintenance of control equipment such as selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR).

The LDEQ should confirm that regulations like CAIR and the now-vacated CSAPR qualify for the automatic exemption set forth in Section 905.B.1 and that a separate approval from the LDEQ will not be required. The LDEQ should also confirm that regulations like CAIR and CSAPR are examples of rules that would "explicitly limit" the required use of controls. Finally, the LDEQ should confirm that the exemption in Section 905.B.1 will allow facilities to choose between operating control equipment or purchasing allowances when allowed by rule (*e.g.*, CAIR). In other words, this scenario in one of the "specific circumstances or times" contemplated by the proposed exemption.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: LAC 33:III.905.B could apply to "control regulations that are seasonal in nature" (i.e., those which "explicitly limit the required use of the controls to specific circumstances or times"). It could

* indicates a fast-track regulation

also apply to federal or state regulations that have been vacated and remanded (and are therefore no longer effective), including those for which the compliance date has not passed.

LAC 33:III.905.B.1 applies to both existing regulations and any regulations promulgated at a future date that prescribe seasonal control requirements.

A written exemption granted in accordance with LAC 33:III.905.B.2 is not necessary to address the seasonal aspects of CAIR (or CSAPR should the rule be reinstated by the Supreme Court). LDEQ agrees that CAIR and CSAPR are examples of rules that may "explicitly limit the required use of the controls to specific circumstances or times." For example, the "control period" for the CAIR NO_X Ozone Season Trading Program is "the period beginning May 1 of a calendar year ... and ending on September 30 of the same year, inclusive." [40 CFR 96.302] Note, however, that certain provisions of CAIR do apply year-round (e.g., the NO_X Annual Trading Program).

On the other hand, LAC 33:III.905.B.2 would be controlling if an owner or operator seeks an exemption from LAC 33:III.905.A for control facilities *already* installed to comply with the ozone season NO_X requirements of CSAPR.

Finally, nothing in this rule precludes an owner or operator from availing itself to all possible compliance options that may be provided by a regulation (e.g., the purchase of allowances to comply with CAIR).

* indicates a fast-track regulation

Comment Summary Response & Concise Statement – AQ338
Control Facilities to be Installed When Feasible
LAC 33:III.905
Log Number AQ338

COMMENT #	SUGGESTED BY
1 - 3	Kyle Beall, representing the Louisiana Electric Utility Environmental Group (LEUEG)

Comments in this document reflect the written submittal verbatim.

Total Commenters: 1
Total Comments: 3

* Indicates a fast-track regulation

LOUISIANA
ELECTRIC UTILITY
ENVIRONMENTAL GROUP

LDEQ RECEIPT
2013 MAR -5 PM 1:11

RECEIVED
MAR 05 2013
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

March 5, 2013

Ms. Deidra Johnson, Attorney Supervisor
Office of the Secretary, Legal Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, Louisiana 70821-4302

HAND-DELIVERED

Re: Comments on Proposed Rulemaking AQ338
Control Facilities to be Installed When Feasible (LAC 33:III.905)

Dear Ms. Johnson:

The following comments to proposed rulemaking AQ338 are submitted on behalf of the Louisiana Electric Utility Environmental Group (LEUEG). LEUEG consists of the publicly-regulated electric utilities that operate facilities within Louisiana. All LEUEG member companies are subject to LAC 33:III.905 and will be affected by the proposed revisions to this rule. LEUEG appreciates the opportunity to comment on this proposed rule and requests that the Louisiana Department of Environmental Quality (the "Department" or "LDEQ") include the following comments in the administrative record.

Comment 1: The LEUEG supports the proposed changes to LAC 33:III.905. Under the current regulatory framework, the LDEQ should allow flexibility in the selection and use of pollution control options to comply with air quality programs.

LEUEG supports the proposed revision to LAC 33:III.905 that provides exemptions to the general requirement to install, use and diligently maintain pollution control equipment at industrial facilities located in Louisiana. To the best of our knowledge, this requirement is based on a Control Technology Guidance (CTG) document (or similar guidance) that preceded the federal Clean Air Act Amendments of 1990 by many years. In fact, this regulation has been in existence in its current form at least since 1978 (*See,* Section 8.9 of the 1978 Air Control Commission regulations published in the Feb. 20, 1978 Louisiana Register).

It is evident that the number and complexity of air quality programs have increased dramatically since LAC 33:III.905 was first promulgated. Thus, the proposed

628 North Boulevard | Baton Rouge, Louisiana 70802 | (225) 336-8450

exemptions are necessary to provide the Department and the regulated community with flexibility on when pollution control equipment is required to be installed and operated (or not operated after installation). As discussed below, air quality programs currently in effect or under future consideration include the Clean Air Interstate Rule (CAIR), the now-vacated Cross-State Air Pollution Rule (CSAPR), and other cap-and-trade emission reduction programs. The LDEQ also correctly noted in the introduction to this proposed rulemaking that "when the EPA promulgates a new rule, the Administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements."

LEUEG supports the effort of the LDEQ to streamline and modernize the Louisiana Air Quality Regulations to enhance compliance with federal and state regulations that may require seasonal or other periodic control. The proposed rule will eliminate inefficiencies for both the regulated community and the Department without impacting the ambient air quality in Louisiana and surrounding states. In short, LEUEG believes the proposed rule will benefit the state of Louisiana, the regulated community and the public.

Comment 2: The LDEQ should clarify in its Response to Comments that there are two types of exemptions set forth in proposed Section 905.B – one that is automatic and one that is granted by the "administrative authority" (*i.e.*, LDEQ).

Based on the plain language of the proposed rule, it appears that Subsection B, entitled "Exemptions," (plural) provides two types of exemption. The exemption in Section 905.B.1 is automatic and applies to controls that are installed to comply with a regulation that "explicitly limits" the required use of controls to specific circumstances or times. As noted below, this would include rules like CAIR, CSAPR and similar cap-and-trade emission reduction programs. The second category of exemption in Section 905.B.2 requires the approval of the LDEQ and may be granted if the conditions set forth therein are satisfied.

LEUEG requests that the Department confirm in its Response to Comments that the exemption specified in Section 905.B.1 is automatic and does not require the concurrence of the LDEQ. We believe that this is the intent of the Department, but seek clarity on this point. This appears to be the proper interpretation, in part, because some existing regulations limit the use of controls to certain periods of the year or certain situations, in which case neither condition in Section 905.B.2.a is relevant.

Comment 3: The LDEQ should clarify in its Response to Comments that the proposed exemptions in Section 905.B could apply to control regulations that are seasonal in nature *OR* to those that have been vacated or remanded, or for which the compliance deadline has not yet passed. LEUEG seeks confirmation that the exemptions apply to both scenarios.

LEUEG requests that the LDEQ acknowledge in its Response to Comments that the exemption in Section 905.B.1 applies to existing and future regulations that establish seasonal control requirements. It follows that a "case-by-case" exemption allowed in Section 905.B.2 would not be necessary for "a regulation that explicitly limits the required use of controls to specific circumstances or times." For example, if the CSAPR had not been vacated by the U.S. Circuit Court of Appeals for the D.C. Circuit, then the nitrogen oxide (NO_X) control requirements would *only* have applied during the explicitly defined ozone season. Thus, operation of equipment in months outside of the defined ozone season may not require the operation and maintenance of control equipment such as selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR).

The LDEQ should confirm that regulations like CAIR and the now-vacated CSAPR qualify for the automatic exemption set forth in Section 905.B.1 and that a separate approval from the LDEQ will not be required. The LDEQ should also confirm that regulations like CAIR and CSAPR are examples of rules that would "explicitly limit" the required use of controls. Finally, the LDEQ should confirm that the exemption in Section 905.B.1 will allow facilities to choose between operating control equipment or purchasing allowances when allowed by rule (*e.g.*, CAIR). In other words, this scenario is one of the "specific circumstances or times" contemplated by the proposed exemption.

Representatives of the LEUEG are willing to meet with the LDEQ to review these comments in more detail, if desired. If you have any questions or need additional information, I can be reached at (225)336-8450.

Very truly yours,

Kyle Beall

Kyle Beall

cc: LEUEG Member Companies

AGENDA FOR PUBLIC HEARING

Being Conducted by:

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

February 27, 2013

1:30 PM
Galvez Building, Oliver Pollock Conference Room
602 N. Fifth
Baton Rouge, LA

SUSAN HAM - HEARING OFFICER

LOG #	RULE TITLE
AQ338	Control Facilities to be Installed When Feasible LAC33:III.905.B
AQ339ft	Incorporation by Reference of 40 CFR 60 Subpart OOOO LAC 33:III.3003

COMMENT PERIOD ENDS March 6, 2013 AT 4:30 PM

ft Rule: COMMENT PERIOD ENDS February 27, 2013 AT 4:30 PM

* *

DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.

February 27, 2013

AQ338 — Control Facilities to be Installed When Feasible
AQ339ft — Incorporation by Reference of 40 CFR 60 Subpart OOOO

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
Brent Croom	Cleco	2030 Dominion Ferry Rd, Pineville LA 71360	Pineville, LA 71360	318-484-7742	
Kyle Beall	LEUEG	628 North Blvd.	BATON ROUGE LA 70802	225-336-8450	
Deidra Johnson	LDEQ			219-3985	
Cami Florendo	LDEQ		Baton Rouge LA	219-3985	
Richard Metcalf	LMOGA	730 N. Blvd	BR LA	3873205	N
N. Mills	—	—	—	—	N

ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

CONTROL FACILITIES TO BE
INSTALLED WHEN FEASIBLE
LOG # AQ338

* *

The Public Hearing held by the Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:32 p.m. on Wednesday, February 28, 2013.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:

Susan Ham
Department of Environmental Quality
Regulation Development
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

1 **P R O C E E D I N G S**

2 MS. HAM:

3 Good afternoon. My name is Susan Ham. I'm
4 employed by the Louisiana Department of
5 Environmental Quality. I'll be serving as the
6 hearing officer this afternoon to receive
7 comments regarding proposed amendments to the
8 Air Regulations.

9 The comment period for these amendments
10 began on January the 20th, 2013, when the
11 notices of intent were published in the
12 Louisiana Register. The comment period will
13 close at 4:30 p.m., today, February 27th, 2013,
14 for the Log Number AQ339ft, and at 4:30 p.m.,
15 March the 6th, 2013, for the Log Number AQ338.
16 It would be helpful to us if all oral comments
17 received today were followed up in writing.

18 This public hearing provides a forum for all
19 the interested parties to present comments on
20 the proposed changes. This hearing is not being
21 conducted in a question and answer format.
22 Please remember that the purpose of this public
23 hearing is to allow you, the public, an
24 opportunity to express your thoughts concerning
25 today's proposed amendments.

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 first amendment is designated by the Log Number AQ338.

This rule allows the department to provide an exception to the requirements of LAC 33:III.905.A in limited circumstances. When the Environmental Protection Agency (EPA) promulgates a new rule, the Administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court

1 subsequently vacates or remands the rule for
2 which th control equipment was required to
3 comply with, rendering it legally void (such as
4 in the case of the Cross-State Air pollution
5 Rule), LAC 33:III.905.A mandates the use or
6 continued use of any "air pollution control
7 facilities" that are installed. There are often
8 considerable costs associated with the operation
9 and maintenance of the control equipment, for
10 instance, the ammonia required for selective
11 catalytic reduction; or the ammonia or urea
12 required for selective non-catalytic reduction;
13 there are efficiency losses due to parasitic
14 load. These costs must be borne by the owner or
15 operator of the affected facility or passed
16 along to its customers.
17 Therefore, this rule will provide a narrow
18 exception to LAC 33:III.905.A. It will allow
19 the department to grant an exception to the
20 owner or operator of an air pollution control
21 facility installed solely to comply with a
22 proposed federal or state regulation that fails
23 to be promulgated or a final federal or state
24 regulation that is vacated and remanded,
25 provided the owner or operator can comply with

all emission limitations prescribed by the stationary source's air permit without the use of the air pollution control facility in question.

Does anyone care to make comments regarding this regulation?

(No response.)

If not, the hearing on AQ338 is closed.

Thank you for your attention and participation.

This hearing is now closed.

(THE HEARING ADJOURNED AT 1:37 P.M.)

1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original signature and
4 official seal on this page.

5 I, SUSAN ERKEL, Certified Court Reporter, in
6 and for the State of Louisiana, as the officer
7 before whom this hearing was taken, do hereby
8 certify that the foregoing 6 pages were reported by
9 me in the voice-writing method, and was prepared and
10 transcribed by me or under my personal direction and
11 supervision, and is a true and correct transcript to
12 the best of my ability and understanding;

13 That I am not related to counsel or to the parties
14 herein; am not otherwise interested in the outcome of this
15 matter; and am a valid member in good standing of the
16 Louisiana State Board of Examiners of Certified Shorthand
17 Reporters.

18

19

20 OFFICIAL SEAL
SUSAN ERKEL
Certified Court Reporter
21 in and for the State of Louisiana
Certificate Number 24005
Certificate expires 12-31-13

22 SUSAN ERKEL

23 CERTIFIED COURT REPORTER

24 LICENSE NO. 24005

25

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

2

3 I, SUSAN ERKEL, Certified Court Reporter in and for the
4 State of Louisiana, before whom this sworn testimony was
5 taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous discourse
7 of this proceeding, dashes (--) have been used to indicate
8 pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do not
11 indicate that words or phrases have been left out of this
12 transcript;
13 That any words and/or names which could not be verified
14 through reference material have been denoted with the phrase
15 "(spelled phonetically)."
16
17
18
19 Susan Erkel
20 SUSAN ERKEL
21 CERTIFIED COURT REPORTER
22 LICENSE NO. 24005
23
24
25

In The Matter Of:

IN RE: CONTROL FACILITIES TO BE INSTALLED WHEN FEASIBLE

LOG # AQ338

PUBLIC HEARING

February 28, 2013

Associated Reporters Incorporated

(225) 216-2036

Original File 022713 DEQ1.txt

Min-U-Script® with Word Index

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In The Matter Of:

IN RE: CONTROL FACILITIES TO BE INSTALLED WHEN FEASIBLE

LOG # AQ338

PUBLIC HEARING

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5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., February 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—High Schools

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

The proposed policy could potentially increase costs to school districts choosing to implement the community service diploma endorsement. Districts might incur costs for tracking student community service hours. It is not possible to estimate these expenses.

The proposed policy establishes a voluntary community service diploma endorsement program for students as authorized by Act 295 of the 2012 Regular Session of the Legislature. The program, intended to encourage volunteerism/community service, is optional for LEAs and for students.

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

This policy will have no effect on revenue collections.

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

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1301#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Control Facilities to be Installed When Feasible
(LAC 33:III.905)(AQ338)

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.905 (AQ338).

This Rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances.When the Environmental Protection Agency (EPA) promulgates a new Rule, the administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, Section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates … which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard …" Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the Rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the Cross-State Air Pollution Rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this Rule will provide a narrow exemption to LAC 33:III.905.A. It will allow the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all

emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question.

The basis and rational for this Rule is to provide an exemption to the requirements of LAC 33:III.905.A.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 9. General Regulations on Control of Emissions and Emission Standards
§905. Control Facilities to be Installed When Feasible

A. Except as provided in Subsection B of this Section, to aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.

B. Exemptions

1. The provisions of Subsection A of this Section shall not apply when the controls are installed to comply with a regulation that explicitly limits the required use of the controls to specific circumstances or times.

2 The administrative authority may grant a written exemption to the owner or operator of the air pollution control facility.

a. An exemption may be granted when the air pollution control facility has been installed, but not operated solely to comply with:

i. a proposed federal or state regulation that has not been adopted and promulgated; or

ii. a final federal or state regulation that has been vacated and remanded by a court of proper jurisdiction and is no longer effective.

b. An exemption shall not authorize:

i. the noncompliance with any limit, standard, or requirement otherwise provided in a permit or other regulation; or

ii. a physical change or change in the method of operation of the facility that increases emissions.

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 the Secretary, Legal Division, LR 39:

Family Impact Statement

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

Poverty Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ338. Such comments must be received no later than March 6, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ338. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on February 27, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Control Facilities to be Installed When Feasible

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 as a result of the proposed rule. Currently, the regulation requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. The proposed regulation will allow the Department of Environmental Quality to grant certain exceptions to the owner or operator of an air pollution control facility.

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

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

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

There will be no costs to directly affected persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

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

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1301#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference of 40 CFR 60
(LAC 33:III.3003)(AQ339ft)

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 #AQ339ft).

This Rule is identical to federal regulations found in 40 CFR 60 and 77 FR 159, pages 49490-49600, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule updates the references to July 1, 2012, for Standard Performance for New Stationary Sources, 40 CFR Part 60, Subpart AAA. In addition, this Rule incorporates by reference the provisions of 40 CFR 60 Subpart OOOO into Louisiana's air quality regulations. Subpart OOOO establishes new source performance standards for the crude oil and natural gas production, transmission, and distribution industry.Section 111(c)(1) of the Clean Air Act (CAA) authorizes EPA to delegate its authority to implement and enforce new source performance standards to any state which submits adequate regulatory procedures.

> "(c) State implementation and enforcement of standards of performance.
>
> (1) Each State may develop and submit to the Administrator a procedure for implementing and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has under this chapter to implement and enforce such standards."

LDEQ seeks delegation of 40 CFR 60 Subpart OOOO–Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. Therefore, this subpart will be incorporated by reference at LAC 33:III.3003.

The basis and rational for this Rule are to incorporate by reference the provisions of 40 CFR 60 Subpart OOOO.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 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, 2012, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: Subpart OOOO as promulgated on August 16, 2012, in the *Federal Register*, 77 FR 49490-49600.

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), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, 38:2754 (November 2012), LR 39:

Family Impact Statement

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

Poverty Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ339ft. Such comments must be received no later than February 27, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@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 AQ339ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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The Times

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NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Control Facilities to be Installed When Feasible (LAC33:III.905.B) (AQ338)

Notice published in The Times on January 14, 2013

January 14, 2013

(Signed) Connie Vinson-Carey

Sworn to and subscribed before me this 14th day of January, 2013.

Diana W. Barber

(Notary)

DIANA WOODARD BARBER
Notary Public
Notary ID No. 60491
Caddo Parish, Louisiana

GANNETT

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary
Legal Division

Control Facilities to be Installed When Feasible
(LAC33:III.905.B)
(AQ338)

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, LAC33:III.905.B (AQ338).

This rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances.When the Environmental Protection Agency (EPA) promulgates a new rule, the Administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, Section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates ... which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard ..." Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the Cross-State Air Pollution Rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this rule will provide a narrow exemption to LAC 33:III.905.A. It will allow the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question. The basis and rational for this rule are to provide an exemption to the requirements of LAC 33:III.905.A. 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. This Rule has no known impact on poverty as described in R.S. 49:973.

A public hearing will be held on February 27, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ338. Such comments must be received no later than March 6, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ338. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

The Times
January 14, 2013

NOTICE OF INTENT

Department of
Environmental Quality
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Herman Robinson, CPM
Executive Counsel

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Department of Environmental Quality
Office of the Secretary
Legal Division

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(LAC33:III.905.B)
(AQ338)

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Herman Robinson, CPM
Executive Counsel

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OSEC/Legal Affairs Division
Remediation & Regulation Development Section
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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 Division
Control Facilities to be Installed When Feasible
(LAC33:III.905.B) (AQ338)

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

***Sunday, January 13, 2013**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 14th day of January, 2013.

Inca J. Cormier

Notary Public - Inca J. Cormier ID#054201

1668802

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Executive Counsel

(1) 17

I, Bill Heirtzler, Director of Advertising,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

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advertisement, as per clipping attached, was

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newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated January 17, 2013 and ending with the

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Bill Heirtzler

Subscribed and sworn to before me
this 18th day of January, 2013 at
Alexandria, Louisiana.

Terry A. Broussard
Notary Number 19477
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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, City of Baton Rouge, and Parish of East Baton Rouge, in the following issues:

01/17/13

Shelley Calloni, Public Notice Clerk

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

January 17, 2013

M. Monic McChristian,
Notary Public ID# 88293
State of Louisiana
My Commission Expires: Indefinite

M. MONIC McCHRISTIAN NOTARY PUBLIC NOTARY NO. 88293 STATE OF LOUISIANA

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Herman Robinson, CPM
Executive Counsel

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Exhibit A
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Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Randy A. Trahan who deposes and says that he is Administrative Operations Manager of NOLA Media Group, a division of The Times-Picayune, L.L.C., a Louisiana limited liability company, and 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 NOTICES

Re: Control Facilities to be Installed When Feasible

Advertisement of LA Department Environmental

Quality OSEC/Legal Affairs Division
P.O. Box 4302
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, LA 70125

On the following dates January 16, 2013

I attest that the copy attached hereto as "Exhibit A" is a true and correct copy of the advertisement published in The Times-Picayune on these dates.

Sworn to and subscribed before me this
18th Day of January, 2013

Notary Public
My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Division

Control Facilities to be Installed
When Feasible
(LAC33:III.905.B) (AQ338)

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, LAC33:III.905.B (AQ338).

This rule allows the department to provide an exemption to the requirements of LAC 33:III.905.A in limited circumstances.When the Environmental Protection Agency (EPA) promulgates a new rule, the Administrator generally provides several years for owners or operators of affected facilities to install the necessary control equipment or otherwise modify their processes or work practices to comply with the rule's requirements. For example, Section 112(i)(3)(A) of the Clean Air Act states that "the Administrator shall establish a compliance date or dates ... which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard ..." Owners or operators of affected facilities commence construction and sometimes operation of the requisite control equipment in this period between the effective date and compliance date of the rule.

Currently, LAC 33:III.905.A requires air pollution control facilities to "be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities," regardless of the circumstances. Thus, even if a court subsequently vacates and remands the rule for which the control equipment was required to comply, rendering it legally void (such as in the case of the Cross-State Air Pollution Rule), LAC 33:III.905.A mandates the use or continued use of any "air pollution control facilities" installed. There are often considerable costs associated with the operation and maintenance of control equipment (e.g., the ammonia required for selective catalytic reduction; the ammonia or urea required for selective non-catalytic reduction; efficiency losses due to parasitic load). These costs must be borne by the owner or operator of the affected facility or passed along to its customers.

Therefore, this rule will provide a narrow exemption to LAC 33:III.905.A. It will allow the department to grant an exemption to the owner or operator of an air pollution control facility installed solely to comply with a proposed federal or state regulation that fails to be promulgated or a final federal or state regulation that is vacated and remanded, provided the owner or operator can comply with all emissions limitations prescribed by the stationary source's air permit without use of the air pollution control facility in question. The basis and rational for this rule are to provide an exemption to the requirements of LAC 33:III.905.A. 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. This Rule has no known impact on poverty as described in R.S. 49:973.

A public hearing will be held on February 27, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ338. Such comments must be received no later than March 6, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ338. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§905. Control Facilities to be Installed When Feasible.

A. Except as provided in Subsection B, ~~T~~to aid in controlling the overall levels of air contaminants into the atmosphere, air pollution control facilities should be installed whenever practically, economically, and technologically feasible. When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.

B. Exemptions.

1. The provisions of Subsection A of this Section shall not apply when the controls are installed to comply with a regulation that explicitly limits the required use of the controls to specific circumstances or times.

2 The administrative authority may grant a written exemption to the owner or operator of the air pollution control facility.

a. An exemption may be granted when the air pollution control facility has been installed, but not operated solely to comply with:

i. a proposed federal or state regulation that has not been adopted and promulgated; or

ii. a final federal or state regulation that has been vacated and remanded by a court of proper jurisdiction and is no longer effective.

b. An exemption shall not authorize:

i. the noncompliance with any limit, standard, or requirement otherwise provided in a permit or other regulation; or

ii. a physical change or change in the method of operation of the facility that increases emissions.

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 the Secretary, Legal Division, LR 39:**.

d. - f.ii. ...

3. The deadline for submission of information for publication of Notices of Intent or Rules in the *Louisiana Register* is the tenth of the month.

D. Due to the board meeting schedule, the Fiscal and Economic Impact Statement approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013).

Heather Cope
Executive Director

1312#013

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Air Regulations—Miscellaneous Incineration; Comprehensive Toxic Air Pollutant Emission Control Program; and Area Sources of Toxic Air Pollutants (LAC 33:III.2511, 5113, and 5308)(AQ341)

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.2511, 5113, and 5308 (AQ341).

This Rule will correct and revise language that is inaccurate or unnecessary. In previous rulemaking, language was inadvertently added to two Sections of the Air regulations. This Rule will delete the repetitive language. The basis and rational for this Rule are to correct regulation language that is inaccurate and/or repetitive. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 25. Miscellaneous Incineration

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. - E.8. …

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.463.

G. - L. …

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 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:3268 (December 2013).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5113. Notification of Start-Up, Testing, and Monitoring

Editor's Note: Repealed.

A. - C.4. …

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7. …

8. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2744, 2755 (November 2012), LR 39:3268 (December 2013).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter A. Reserved.

§5308. Reporting Requirements [Formerly §5307]

Repealed.

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 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:2096 (October 2007), amended by the Office of the Secretary, Legal Division LR 38:2755 (November 2012), repealed LR 39:3268 (December 2013).

Herman Robinson, CPM
Executive Counsel

1312#038

ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

Clean-Up Package

Log Number: AQ341

LAC:33:111.2511, 5113 and 5308

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:32 p.m. on September 25, 2013.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

1 **H E A R I N G**

2 **MS. HAM:**

3 Good afternoon! My name is
4 Susan Ham. I'm employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as hearing
7 officer this afternoon to receive
8 comments regarding proposed
9 amendments to the air and water
10 regulations.
11 The comment period for these
12 amendments began on August 20, 2013,
13 when the notices of intent were
14 published in the Louisiana Register.
15 The comment period will close at 4:30
16 p.m. October 2, 2013. It would be
17 helpful to us if all oral comments
18 received today were followed up in
19 writing.
20 This public hearing provides a
21 forum for all interested parties to
22 present comments on the proposed
23 changes. This hearing is not being
24 conducted in a question and answer
25 format. Please remember that the

1 purpose of this public hearing is to
2 allow you, the public, an opportunity
3 to express your thoughts concerning
4 today's proposed amendments.
5 I'll ask that each person
6 commenting come up and sit at the
7 front table and begin by stating his
8 or her name and affiliation for the
9 record.
10 The first amendment is
11 designated by the Log Number AQW341.
12 This rule will correct and
13 revise language that is inaccurate or
14 unnecessary. In a previous rule
15 making, language was inadvertently
16 added to two sections of the Air
17 Regulations. This rule will delete
18 the repetitive language.
19 Does anyone care to comment on
20 this regulation?
21 If not, the hearing on AQ341 is
22 closed.
23
24 **THE HEARING CLOSED AT 1:33 P.M.**
25 * * * * *

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

2 I, Mark LaCour, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this sworn testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

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

2 I, Mark LaCour, Certified Court Reporter in
3 and for the State of Louisiana, as the officer
4 before whom this testimony was taken, do hereby
5 certify that no one, after having been duly sworn by
6 me upon authority of R.S. 37:2554, did testify as
7 hereinbefore set forth in the foregoing 5 pages;
8 that this testimony was reported by me in the
9 stenomask reporting method, was prepared and
10 transcribed by me or under my personal direction and
11 supervision, and is a true and correct transcript to
12 the best of my ability and understanding; that the
13 transcript has been prepared in compliance with
14 transcript format guidelines required by statute or
15 by rules of the board, that I have acted in
16 compliance with the prohibition on contractual
17 relationships, as defined by Louisiana Code of Civil
18 Procedure Article 1434 and in rules and advisory
19 opinions of the board; that I am not related to
20 counsel or to the parties herein, nor am I otherwise
21 interested in the outcome of this matter.
22
23 10-2-13
24 Date Mark LaCour, C.C.R.
25 89054

OFFICIAL SEAL
MARK LACOUR
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 89054
Certificate expires 12-31-13

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Log Number: AQ341

Public Hearing

September 25, 2013

Associated Reporters Incorporated

(225) 216-2036

Original File DEQ1.TXT

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Log Number: AQ341

Public Hearing

September 25, 2013

Associated Reporters Incorporated

(225) 216-2036

Original File DEQ1.TXT

Min-U-Script® with Word Index

AGENDA FOR PUBLIC HEARING

Being Conducted by:

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

September 25, 2013

1:30 PM
Galvez Building, Oliver Pollock Room
602 N. Fifth
Baton Rouge, LA

SUSAN HAM - HEARING OFFICER

LOG #	RULE TITLE
AQ341	Clean-up Package LAC:33:III.2511, 5113 and 5308
WQ087	CAFO Rule Update LAC 33:IX.2505

COMMENT PERIOD ENDS October 02, 2013 AT 4:30 PM

* *

DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.
September 25, 2013

AQ341 — Clean-up Package
WQ087 — CAFO Rule Update

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
David Booth	Booth Environmental Svcs	1380 E. Hourthier Rd	Lake Charles LA 70607	337-474-7515	N
Nathan Mills	LDEQ	—	BR LA	x-3985	N
Henry Graham	LCA		BR		N
Brenda Hayden	LDEQ				

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2013, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for Nonpublic School Administrators

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

The proposed policy change will not result in any costs or savings to state or local governmental units.

The proposed policy change adds two classifications of approved nonpublic schools.

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

This policy will have no effect on revenue collections of state or local governmental units.

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

There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1308#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Air Regulations
(LAC 33:III.2511, 5113, and 5308)(AQ341)

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.2511, 5113, and 5308 (AQ341).

This Rule will correct and revise language that is inaccurate or unnecessary. In previous rulemaking, language was inadvertently added to two Sections of the Air regulations. This Rule will delete the repetitive language. The basis and rational for this Rule are to correct regulation language that is inaccurate and/or repetitive. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 25. Miscellaneous Incineration
Subchapter B. Biomedical Waste Incinerators
§2511. Standards of Performance for Biomedical Waste Incinerators

A. - E.8. …

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.463.

G. - L. …

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 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000),

amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

§5113. Notification of Start-Up, Testing, and Monitoring

Editor's Note: Repealed.

A. - C.4. …

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7. …

8. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2744, 2755 (November 2012), LR 39:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter A. Reserved.

§5308. Reporting Requirements [Formerly §5307]

Repealed.

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 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:2096 (October 2007), amended by the Office of the Secretary, Legal Division LR 38:2755 (November 2012), repealed LR 39:

Family Impact Statement

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

Poverty Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ341. Such comments must be received no later than October 2, 2013, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by email to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ341. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on September 25, 2013, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Air Regulations

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

There will be no implementation costs or savings to state or local government units as a result of the proposed Rule change. The proposed Rule corrects errors that have been discovered in the *Environmental Regulatory Code*. Typographical errors will be corrected and language found to be redundant or repetitive will be removed.

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

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed Rule.

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

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed Rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of this proposed Rule change.

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1308#036	Legislative Fiscal Office

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 25. Miscellaneous Incineration Rules
Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. - E.8. …

F. Radioactive Materials. Incineration of radioactive materials shall comply with the requirements of LAC 33:XV.~~436~~63.

G. - L. …

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 20:1098 (October 1994), amended LR 21:1081 (October 1995), LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:0000 (December 2013).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program
Subchapter A. Applicability, Definitions, and General Provisions

§5113. Notification of Start-Up, Testing, and Monitoring

~~Editor's Note: In order to reconcile amendments occurring in LAC 33:III.5113.C.5 in the November 20, 2012 edition of the *Louisiana Register*, the amendment that occurred on page 2755 (Rule Log #MM015) retains the citation of LAC 33:III.5113.C.5 and the amendment that occurred on page 2744 (Rule Log #AQ332) has the citation of LAC 33:III.5113.C.8.~~

A. - C.4. …

5. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected ~~sources~~emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7. …

~~8. The administrative authority may require a continuous monitoring system where such systems are deemed feasible and necessary to demonstrate compliance with applicable standards. The owner or operator of a facility that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 and 2060 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1364 (December 1992), LR 23:59 (January 1997), LR 23:1658 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2461 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 33:2094 (October 2007), LR 34:1904 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2744, 2755 (November 2012), LR 39:0000 (December 2013).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter A. ~~Toxic Emissions Reporting Requirements~~ Reserved

§5308. Reporting Requirements ~~[Formerly §5307]~~

~~A. An initial emissions inventory report is due on or before October 1, 1994, from the facilities within the specified categories that use the listed chemical(s) pursuant to LAC 33:III.5301. The report shall be submitted on a form or in an electronic format specified by the department to the Department of Environmental Quality, and include the following information:~~

~~1. the company's name, physical address, mailing address, city and parish location, zip code, and site phone number;~~

~~2. the company's main or corporate office if other than the site location, street address, mailing address, city and parish, zip code, and office phone number;~~

~~3. the name of the contact who will be responsible for liaison with the department;~~

~~4. the category of the facility and the toxic air pollutant(s) emitted as listed in LAC 33:III.5112, Table 51.1~~

~~or 51.3 and chemical(s) listed in LAC 33:III.5301 that are used at the facility;~~

~~5. the emissions of toxic air pollutants for the previous calendar year from operations, accidents, and any other event(s) where emissions are generated;~~

~~6. the quantity of the listed chemical(s) consumed at the facility for the previous calendar year; and~~

~~7. a statement clarifying the extent and accuracy of the submitted report.~~

~~B. Subsequent reports will be due on or before July 1 of each year. The report shall be submitted to the Office of Environmental Services and include the information requested in Subsection A of this Section for the preceding calendar year.~~

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 20:431 (April 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2464 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2450 (October 2005), LR 33:2096 (October 2007), amended by the Office of the Secretary, Legal Division LR 38:2755 (November 2012), repealed LR 39:0000 (December 2013).