Louisiana State Implementation Plan Revision

Permit Rules 2008-2010

Submitted to:

EPA Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Proposed October 2011

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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 2008 - 2010. The submittal includes revisions to regulations in LAC 33:III.Chapters 2, 3, 5, 6, and 21. 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.

SUMMARY OF
RULES PROMULGATED

Permit Rule SIP

SUMMARY OF RULES PROMULGATED IN 2008-2010			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§501	November 2009 LR 35: **AQ270**	Statutory Exemption for Air Permits	This rule will add the statutory exemption from the requirement to obtain an air permit to the air quality regulations.
§301	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§303	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§307	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§309	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§311	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§313	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§501	November 2009 LR 35: **AQ274**	Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency	This rule will establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits.
§535	April 2009 LR 35: **AQ286**	General Conditions for Air Permits	The rule's purpose is to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5.
§537	April 2009 LR 35: **AQ286**	General Conditions for Air Permits	The rule's purpose is to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5.
§523	September 2008 LR 34:1903 **AQ 294**	Revisions to Performance Testing Notifications and Report Submittals	This rule will amend the timeframes in the regulations so that all reports are due 60 days after the completion of testing.
§2107	September 2008 LR 34:1903 **AQ 294**	Revisions to Performance Testing Notifications and Report Submittals	This rule will amend the timeframes in the regulations so that all reports are due 60 days after the completion of testing.
§2108	September 2008 LR 34:1903 **AQ 294**	Revisions to Performance Testing Notifications and Report Submittals	This rule will amend the timeframes in the regulations so that all reports are due 60 days after the completion of testing.
§315	September 2010 LR 34:1903 **AQ 299**	Regulatory Permits for Cement and Concrete Facilities	This rule will establish a regulatory permit to authorize air emission from minor source cement and concrete facilities.
§504	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.

SUMMARY OF RULES PROMULGATED IN 2008-2010			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§605	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2132	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2133	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2135	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2137	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2143	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2145	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§2301	September 2008 LR 34:1887 **MM 008**	Amendments and Corrections	This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department.
§215	October 2009 LR 35: **MM009**	Methods of Payment	The rule's purpose is to implement Act 119 of the 2008 legislative session.

AQ 270
Statutory Exemption for Air Permits
LAC 33:III.501

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501)(AQ270)

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.501 (Log #AQ270).

Act 547 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ix). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq., less than 15 tons per year emitted of all such defined pollutants combined, and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060, unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this Item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This Rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality 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 5. Permit Procedures

§501. Scope and Applicability

A. - B.1.d. …

2. Statutory Exemptions. The requirement to obtain a permit in accordance with this Chapter does not apply to:

a. …

b. controlled burning of agricultural by-products in the field or of cotton gin agricultural wastes;

c. controlled burning in connection with timber stand management, or of pastureland or marshland in connection with trapping or livestock production; or

d. any source that is not a *Part 70 source*, as defined in LAC 33:III.502, and for which:

i. facility-wide potential emissions are less than:

(a). 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act;

(b). 15 tons per year of all such defined pollutants combined; and

(c). the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51;

ii. for purposes of this exemption, any physical limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment, shall be treated as part of its design; and

iii. for purposes of determining applicability of 40 CFR Part 70 and LAC 33:III.507, *potential to emit* as defined in LAC 33:III.502 shall be used.

B.3. - C.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009).

Herman Robinson, CPM
Executive Counsel

0911#052

RULE

Office of the Governor
State Military Department

Military Forces of the State

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and Louisiana Revised Statutes 29:11, the State Military Department has adopted Louisiana National Guard Regulation 27-10, Military Justice. This regulation was developed in accordance with R.S. 29:101, et seq. in order to provide the Military Forces of the State of Louisiana the proper procedures to implement Military Justice. This regulation is applicable to the servicemembers of the Louisiana National Guard, the Louisiana State Guard and any and all other state military forces. This is the first time these rules will be published and implements changes to the Louisiana Code of Military Justice, Act No. 309 of the 2007 Regular Session of the Legislature and revisions to Army Regulation 27-10, effective 16 December 2005. The rules in this Part of the Louisiana Administrative Code will be contained in nine Chapters and seven Appendixes: Chapter 1 General, Chapter 2 Basics Of Military Justice, Chapter 3 Investigating And Obtaining Evidence, Chapter 4 Non-Judicial Punishment, Chapter 5 Pretrial Procedures, Chapter 6 Trial Procedures, Chapter 7 Post-Trial Procedures, Chapter 8 Reserved For Future Publication, Chapter 9 Complaints Under Article 138, LCMJ, Appendixes: A - Military Justice Abbreviations, B - Military Justice Definitions, C - Nonjudicial Punishment Guide, D - Summary Courts-Martial Guide, E - Jurisdictional Alignment For Louisiana Army National

Comment Summary Response & Concise Statement – AQ270
Amendments to the Air Quality Regulations
Statutory Exemption for Air Permits (LAC 33:III.501)

COMMENT 1: EPA has not yet acted on all of the Louisiana SIP submittals containing the Permit Procedure provisions of LAC, Title 33, Part III, Chapter 5, including those that may have been revised since the initial approval of Chapter 5 into the Louisiana SIP. EPA's comments on this rule do not limit or alter the scope of EPAs review of any pending or future SIP submission.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: LDEQ acknowledges EPA's comment.

COMMENT 2: "Potential emissions" are not explicitly defined in the rule language. The notice of intent for the proposed rule does define "potential emissions," but is not based on the federal definition, "potential to emit," and is therefore, not approvable by EPA. The state should define "potential to emit" in the proposed rule language relative to the federal definition, 40 CFR 51.165(a)(1)(iii).

FOR: The state should use the definition of "potential to emit" found at 40 CFR 51.165(a)(1)(iii) in the rule language.

AGAINST: The enabling statute defines "potential emissions."

RESPONSE 2: For purposes of this exemption, R.S. 30:2054(B)(2)(b)(ix) defines "potential emissions" as the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained, and historical practices, including hours of operation and number of employees at the facility.

The rulemaking to address the statutory changes to R.S. 30:2054(B)(2)(b)(ix) will be accomplished in two phases. The first phase will incorporate the statutory exemption into the air quality regulations (AQ270). The second phase will expand on how historical practices, including hours of operation and number of employees at the facility, shall be used to determine potential emissions.

* indicates a fast-track regulation

However, in order to address the differences in the definitions of "potential emissions" and "potential to emit" and to ensure the provision is approvable by EPA, LDEQ will amend LAC 33:III.501.B.2.d as follows:

> For purposes of determining applicability of 40 CFR part 70 and LAC 33:III.507, *potential to emit* as defined in LAC 33:III.502 shall be used.

The definition of "potential to emit" in LAC 33:III.502 is analogous to that found in 40 CFR 51.165(a)(1)(iii).

COMMENT 3: Submittal of these rule revisions for SIP approval must include a demonstration as to how the exemption thresholds meet the requirements of 40 CFR 51.160.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: 40 CFR 51.160(e) requires implementation plans to set forth legally enforceable procedures that "identify types and sizes of facilities, buildings, structures, or installations which will be subject to review under this section. The plan must discuss the basis for determining which facilities will be subject to review."

To that end, this rulemaking codifies the statutory exemption provided by the Louisiana legislature from the need to obtain an air permit for certain very small sources of air emissions.

It is important to note that the proposed rulemaking provides an exemption *only* from the need to obtain an air permit. It does not provide an exemption from applicable federal or state limitations, monitoring, recordkeeping, and reporting requirements. Thus, the responsibility of the owner or operator to comply with "applicable portions of the control strategy" [as discussed in 40 CFR 51.160(a) & (d)] has not been compromised.

In order to ensure that there is no misunderstanding regarding this issue, R.S. 30:2054(B)(2)(b)(ix) expressly states that LDEQ may adopt, promulgate and enforce standards, limitations and other regulations

* indicates a fast-track regulation

applicable to sources which are not required to obtain a permit, including the requirement to determine, document, and maintain records to demonstrate the potential or actual emissions of the facility.

In order to qualify for the exemption, a facility's potential emissions must be less than 5 tons per year (TPY) of each criteria pollutant and less than 15 TPY of all criteria pollutants combined. By prescribing the maximum emission rates and associating such thresholds with potential emissions, not actual emissions, LDEQ has ensured that construction or modification of any source claiming the exemption will not interfere with attainment or maintenance of a NAAQS [as discussed in 40 CFR 51.160(a)]."

Further, LAC 33:III.905 requires that 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.

Notwithstanding the aforementioned safeguards, should LDEQ determine that any such facility has the potential to violate an applicable portion of the SIP or interfere with attainment or maintenance of a NAAQS, LDEQ retains the authority to prevent construction of the facility, a requirement of 40 CFR 51.160(b). LAC 33:III.519.C.5 states that:

> In any case where the permitting authority has determined that any proposed new or modified source would prevent the attainment or maintenance of any state or national ambient air quality standard, would violate any applicable portion of the Louisiana State Implementation Plan, or would not result in compliance with all federally applicable requirements and all requirements and standards of LAC 33:III, Air Quality regulations, the permitting authority shall have the power to prevent construction, modification, or operation of such source ...

COMMENT 4: 501.B.d.i(c)-The state needs to demonstrate whether Tables 51.1 and 51.3 of LAC 33:III.Chapter 51 are SIP approved or submit relevant provisions of Chapter 51 to EPA for SIP approval. Otherwise, the use of the tables for minimal emission rates for toxic air pollutants is not approvable by EPA.

* indicates a fast-track regulation

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 4: LDEQ acknowledges that LAC 33:III.Chapter 51 is not SIP-approved. LDEQ is not and will not seek approval of Chapter 51 as part of Louisiana's SIP; therefore, the provision of LAC 33:III.501.B.2.d.iii will not be submitted to EPA for this purpose.

COMMENT 5: 501.B.d.ii-The department should give specifications how the "physical limitation on the capacity of a source to emit an air pollutant" will be assessed and enforced, such as:

1. The facility is unable to exceed the specified levels when operating at its maximum production capacity and using fuels and/or raw materials which result in the maximum potential emissions;
2. Requirements for operation of air pollution control equipment that limits emissions below the specified thresholds;
3. Limiting the a mount and types of fuels and raw materials (including specifications on each type of rule or raw material that is authorized to be used); and
4. Documentation of compliance by owner/operator, be able to produce records upon request of department or EPA, and retain documentation for 5 years.

FOR: The department should specify how the "physical limitation on the capacity of a source to emit an air pollutant" will be assessed and enforced.

AGAINST: As described in Response 2, a subsequent rulemaking will expand on how "potential emissions" should be determined for purposes of LAC 33:III.501.B.2.d, but "potential to emit" will be addressed in this rulemaking.

RESPONSE 5: As described in Response 2, a subsequent rulemaking will expand on how "potential emissions," including physical limitations on the capacity of a source to emit an air pollutant, shall be determined for purposes of LAC 33:III.501.B.2.d. However, in order to address the differences in the definitions of "potential emissions" and "potential to emit" and to ensure the provision is approvable by EPA, LAC 33:III.501.B.2.d will be amended as previously described.

* indicates a fast-track regulation

Regarding air pollution control equipment and recordkeeping requirements, see Response 3.

Comment Summary Response & Concise Statement – AQ270
Amendments to the Air Quality Regulations
Statutory Exemption for Air Permits (LAC 33:III.501)

COMMENT #	SUGGESTED BY
1 – 5	Jeff Robinson, EPA

* indicates a fast-track regulation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
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FEB 0 3 2009

Christopher A. Ratcliff
Attorney Supervisor
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, LA 70821-4302

RE: Comments on Louisiana's Proposed Rule Revision AQ270, Statutory Exemption for Air Permits (Louisiana Administrative Code (LAC) 33:III.501)

Dear Mr. Ratcliff:

Thank you for the opportunity to review the proposed changes to Louisiana Administrative Code (LAC) 33.III.501 (AQ270). We understand you plan to submit the proposed rules as revisions to the Louisiana State Implementation Plan (SIP).

Louisiana Department of Environmental Quality (LDEQ) proposed rule revisions AQ270 went on public notice on December 20, 2008. The U.S. Environmental Protection Agency (EPA) has reviewed them for consistency with the requirements of the Federal Clean Air Act (CAA) and corresponding Federal regulations. Based on our review, we have enclosed our comments, which we believe will clarify EPA's position on how these proposed regulations can become approvable as SIP revisions.

If you would like to further discuss these comments or if you have any questions, please contact me at (214) 665-6435, or Shannon Snyder of my staff at (214) 665-3134.

Sincerely yours,

Jeff Robinson
Chief
Air Permits Section

Enclosure

cc: Mr. Bryan Johnston, Administrator
Office of Environmental Services, Air Permits Division
Louisiana Department of Environmental Quality

Enclosure

GENERAL COMMENTS

1) **Scope of Comments.** The EPA has not yet acted on all of the Louisiana SIP submittals containing the Permit Procedure provisions of LAC, Title 33, Part III, Chapter 5, including those that may have been revised since our initial approval of Chapter 5 into the Louisiana SIP. *See* 54 *Federal Register* 09795 (March 8, 1989). Therefore, our review of these proposed revisions is of limited scope. Our comments today are not equivalent to final action on the parts of Chapter 5 that we have not yet acted upon. The comments in this letter do not limit or alter the scope of our review of any pending or future SIP submission, and our silence in this letter on particular rules may not be construed as any indication as to whether we will approve those rules into the SIP.

2) **Approvability and Federal Enforceability of Proposed Revisions.** The EPA is currently considering Louisiana SIP submittals that include both underlying and cross-referenced provisions in these proposed revisions, and EPA may have not yet acted on those submittals. Therefore, the approvability and Federal enforceability of these proposed revisions will be contingent upon the approvability of both underlying and cross-referenced provisions already submitted to EPA for SIP approval.

3) **CAA §110(l) Analysis.** Upon submittal of these revisions for SIP approval, Louisiana will need to demonstrate that any revision to the Louisiana SIP does not interfere with any applicable requirements concerning New Source Review (NSR), operating permits, attainment, reasonable further progress, or any other applicable requirement of the CAA. *See* CAA 110(l).

SPECIFIC COMMENTS

4) The exemption thresholds apply to facility-wide potential emissions. How does LDEQ define "facility-wide potential emissions"? Does it refer to emissions from the entire stationary source, or to each individual emissions unit or discrete emission point? The State needs to explicitly define what it means by "potential emissions" in the rule language. It defines it in the notice of intent (NOI) for the proposed rule. However, the way it is written in the proposed language for 501.B.2.d.ii. it is not clear that is the definition for "potential emissions."

5) 40 Code of Federal Regulations (CFR) 51.165(a)(1)(iii) defines *Potential to Emit* as "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source." The definition of

"potential emissions" in the NOI is not based on this definition of *potential to emit*; therefore, EPA does not believe the current proposed rule, as it is written, is approvable.

6) The LDEQ must include a demonstration how the proposed exemption thresholds meet the requirements of 40 CFR 51.160 as follows.

   a. Section 51.160(e) provides that the procedures must identify the types and sizes of facilities, buildings, structures, or installations that will be subject to review under its NSR program. The LDEQ must include a discussion of the basis for determining which facilities will be subject to review. Accordingly, LDEQ must include a discussion if the basis for why it is excluding facilities from review which do not exceed the thresholds specified in the proposed rule.
   b. Such discussion must include a demonstration that the facilities which emit less than the specified thresholds will not result in: (1) a violation of applicable portions of the SIP-approved control strategy; or (2) interference with attainment or maintenance of a National Ambient Air Quality Standards (NAAQS) in Louisiana or in a neighboring State. See 40 CFR 51.160(a).
   c. Such discussion must include the number of facilities, buildings, structures, or installations that will be exempted for permitting requirements under the revised rule (including the basis for determining this number) and documentation of the cumulative impacts that such facilities will have on the ambient air quality (including impacts on the NAAQS and Prevention of Significant Deterioration increments).
   d. Such discussion must determine how LDEQ will verify that any such facilities, buildings, structures, or installations will be less than the specified thresholds, provide a means for prohibiting construction of any such facility that does not comply with 40 CFR 51.160(a). See 40 CFR 51.160(b).

7) Paragraph 501.B.d.i(c) refers to minimum emission rate for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51. A review of the Louisiana SIP-Map appears to indicate that Chapter 51 (which relates to toxic air pollutants) is not in the SIP. The LDEQ must either demonstrate that Chapter 51 is SIP-approved, or agree to submit relevant provisions of Chapter 51 to EPA for SIP approval (with demonstration of why regulation of toxic air pollutants is necessary to meet the requirements of sec. 110 of the Act or 40 CFR part 51). Otherwise, Paragraph 501.B.d.i(c) should not be submitted as a SIP revision.

8) Paragraph 501.B.d.ii provides that "for purposes of this exemption, any physical limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment, shall be treated as part of its design." The LDEQ must show that this provision is enforceable as a practical matter. This includes either a demonstration that: (1) the facility is unable to exceed the specified levels when operating at its maximum production capacity and using fuels and/or raw materials which result in the maximum potential emissions; (2) practically enforceable

measures which require operation of air pollution control equipment in a manner which limits emissions below the specified thresholds; (3) practically enforceable measures which limit the amount and types of fuels and raw materials (including where necessary practically enforceable specifications on each type of fuel or raw material that is authorized to be used); and (4) requirement that the owner or operator maintain records which document whether compliance is maintained, retain such records for at least five years, and make the records available to LDEQ and EPA upon request.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

FINANCIAL SERVICE DIVISION

* *

The above-entitled cause came in for a public hearing at the Galvez Building, Oliver Pollock Conference Room, 602 North 5th Street, Baton Rouge, Louisiana 70802 on Tuesday, January 27, 2009, commencing at 1:33 p.m. AQ270 and AQ296

REPORTED BY:

TARA TORRES-BLANK
CERTIFIED COURT REPORTER IN AND FOR THE STATE OF LOUISIANA

ORIGINAL

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1 **MS. SONIAT:**

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

10 The comment period for these
11 amendments began on December 20,
12 2008, when the notices of intent
13 were published in the *Louisiana*
14 *Register*. The comment period will
15 close at 4:30 p.m., February 3,
16 2009. It would be helpful to us if
17 all oral comments received today
18 were followed up in writing.

19 This public hearing provides a
20 forum for all interested parties to
21 present comments on the proposed
22 changes. This hearing is not being
23 conducted in a question and answer
24 format. Please remember that the
25 purpose of this public hearing is to

1 allow you, the public, an
2 opportunity to express your thoughts
3 concerning today's proposed
4 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 AQ270.
12 Act 547 of the 2008 Regular Session
13 of the Louisiana Legislature
14 provides for exemptions from
15 permitting requirements for certain
16 air emissions sources by enacting
17 R.S. 30:2054(B)(2)(b)(ix). The
18 exemption applies to any source for
19 which facility-wide potential
20 emissions are less than five tons
21 per year for each of any regulated
22 air pollutant as defined by the
23 Clean Air Act 42 U.S.C. 7401 et seq.
24 less than 15 tons per year emitted
25 of all such defined pollutants

1 combined, and less than the minimum
2 emission rate for each toxic air
3 pollutant established pursuant to
4 R.S. 30:2060, unless such source is
5 required to obtain a permit pursuant
6 to the Clean Air Act 42 U.S.C. 7661
7 et seq.
8 The statute also states, "for
9 purposes of this Item, "potential
10 emissions" shall mean the emissions
11 the facility is capable of emitting
12 considering all controlled measures
13 in place, utilized and properly
14 maintained and historical practices,
15 including hours of operation and
16 number of employees at a facility."
17 This proposed rule will add a
18 statutory exemption to the air
19 quality regulations (LAC 33:III).
20 Any comments?
21 If not, the hearing on AQ270 is
22 closed.
23 The next amendment is designated
24 by the Log Number AQ296. This rule
25 reflects changes made to the

1 lithographic printing materials and
2 letterpress printing materials
3 Control Technology Guidelines,
4 (CTGs) and the flexible package
5 printing materials CTGs that were
6 published in Volume 71 of the
7 Federal Register on October 5, 2006
8 at pages 58745 through 58753.
9 In addition, based on public
10 comment, EPA incorporated an option
11 into the industrial cleaning
12 solvents CTGs. In Volume 72 of the
13 Federal Register October 9, 2007 at
14 pages 57215 through 57222, EPA made
15 changes to the paper, film and foil
16 coatings CTGs, and the metal
17 furniture coatings and large
18 appliance coatings CTGs.
19 The final CTGs for paper, film
20 and foil coatings have been revised
21 to provide separate applicability
22 recommendations for coating
23 operations and cleaning operations.
24 And the final CTGs for metal
25 furniture coatings and large

1 appliance coatings have been revised
2 to reflect a lower volatile organic
3 compound content coatings
4 recommendations.
5 The Clean Air Act or (CAA)
6 Section 172 C1 provides that state
7 implementation plans, (SIPs) for
8 nonattainment areas must include
9 reasonably available control
10 measures (RACM), including
11 reasonably available control
12 technology, (RACT) for sources of
13 emissions. CAA Section 182(B)(2)(A)
14 provides that for certain non-
15 attainment areas, states must revise
16 their SIPs to include RACT for each
17 category of VOC sources covered by a
18 CTG document issued between November
19 15, 1990 and the date of attainment.
20 EPA provides states with
21 guidance concerning what types of
22 controls should constitute RACT for
23 a given source category through
24 issuance of CTG document. States
25 can follow the CTG and adopt state

regulations to implement the recommendations contained therein, or they can adopt all types of alternative approaches. The states must submit their RACT rules to EPA for review and approval as part of the SIP process. This proposed rule amends the state air regulations to follow the CTG recommendations provided by EPA, which will then be included in the SIP to meet the requirements of the Clean Air Act.

Does anyone care to comment? If not the hearing on AQ296 is closed. Thank your for your attention and participation. This hearing is closed.

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

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

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
4 and original raised seal on this page.
5 That this testimony was reported by me in
6 the Stenomask method (voice-writing), was
7 prepared and transcribed by me or under my
8 personal direction and supervision, and is a
9 true and correct transcript to the best of my
10 ability and understanding;
11 That I am not related to counsel or to the
12 parties herein; am not otherwise interested in
13 the outcome of this matter; and am a valid
14 member in good standing of the Louisiana State
15 Board of Examiners of Certified Shorthand
16 Reporters.
17 Tara Jones-Blank
18 Tara Torres-Blank (#22012)
Certified Court Reporter
19 OFFICIAL SEAL
TARA ROSARY TORRES-BLANK
Certified Court Reporter
in and for the State of Louisiana
Certificate Number 22012
Certificate expires 12-31-09
20
21
22
23
24
25

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1/2/09

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

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

12/13/08

Susan A. Bush, Public Notices Clerk

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

December 13, 2008

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

RECEIVED
JAN 05 2009
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501) (AQ270)

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.501 (Log #AQ270).

Act 547 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ix). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq.; less than 15 tons per year emitted of all such defined pollutants combined; and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060; unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this Item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on January 27, 2009, 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov. 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 AQ270. This regulation is available on the Internet at **www.deq.louisiana.gov/portal/tabid/1669/default.aspx**

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

4010373-dec 13-1t

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BATON ROUGE LA 70821-4314

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REGULATION DEVELOPMENT SECTION

State of Louisiana
Parish of Rapides

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501)
(AQ270)

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Herman Robinson, CPM
Executive Counsel

(12) 18

I, Harold Constance, Classified Sales Manager,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Notice of Intent (AQ270)

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated December 18, 2008 and ending with the

issue dated December 18, 2008.

Harold Constance

Subscribed and sworn to before me

this 18th day of December, 2008 at
Alexandria, Louisiana.

Terry A. Broussard
Notary Number 19477
My commission is for life.

CERTIFIED COPY

RECEIVED
DEC 19 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Affidavit of Publication

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501)
(AQ270)

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

A public hearing will be held on January 27, 2009, at 1:30 p.m. in the Galvez Building, Oliver

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Hobbins

who being duly sworn, deposes and says:

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

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

00497575 - $46.00 AQ270
December 16, 2008

Karen Hobbins
Duly Authorized Agent

Subscribed and sworn to before me on this 16th day of December, 2008 at Lake Charles, LA

Gwendolyn R. Dugas
Notary Public

00053262

LDEQ-OSEC-LAD

Gwendolyn R. Dugas
#056523

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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov.

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 AQ270. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

Dec 16 11
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REGULATION DEVELOPMENT SECTION

The newspapers of **Louisiana** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Ouachita
Printed In: The News Star
Printed On: 2008/12/15

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Statutory Exemption for Air Permits (LAC 33:III.501) (AQ270) 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.501 (Log #AQ270). Act 547 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ix). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq., less than 15 tons per year emitted of all such defined pollutants combined, and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060, unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this Item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. A public hearing will be held on January 27, 2009, 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov. 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 AQ270. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx. This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. Herman Robinson, CPM Executive Counsel Monroe, LA December 15,2008 0001103058

Public Notice ID: 8676493

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REGULATION DEVELOPMENT SECTION

The newspapers of **Louisiana** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Ouachita
Printed In: The News Star
Printed On: 2008/12/15

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Control Technology Guidelines (LAC 33:III.111, 2123, and 2143) (AQ296) 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.111, 2123, and 2143 (Log #AQ296). This rule reflects changes made to the lithographic printing materials and letterpress printing materials Control Technology Guidelines (CTG) and the flexible package printing materials CTG that were published in the Federal Register, Volume 71, on October 5, 2006, pages 58745-58753. In addition, based on public comment, EPA incorporated an option into the industrial cleaning solvents CTG. In the Federal Register, Volume 72, on October 9, 2007, pages 57215-57222, EPA made changes to the paper, film, and foil coatings CTG, and the metal furniture coatings and large appliance coatings CTG. The final CTG for paper, film, and foil coatings have been revised to provide separate applicability recommendations for coating operations and cleaning operations, and the final CTG for metal furniture coatings and large appliance coatings have been revised to reflect a lower volatile organic compound (VOC) content coatings recommendations. The Clean Air Act (CAA) Section 172(c)(1) provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT) for sources of emissions. CAA Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment. EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through issuance of a CTG. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. The states must submit their RACT rules to EPA for review and approval as part of the SIP process. This rule amends the state air regulations to follow the CTG recommendations provided by EPA, which will then be included in the SIP to meet the requirements of the CAA. The basis and rationale for this rule are to meet the CAA requirements for SIP submittals. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. A public hearing will be held on January 27, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ296. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov. 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 AQ296. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx. This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471. Herman Robinson, CPM Executive Counsel Monroe, LA December 15,2008 0001103052

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The Times

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REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits (LAC 33:III.501) (AQ270)

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

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

NOTICE OF INTENT (AQ270)

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

December 13, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 15th day of December, 2008

Diana W. Barber

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

(Notary)

32 GANNETT

this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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Herman Robinson, CPM
Executive Counsel

The Times:
December 13, 2008

The Times-Picayune

Ad Content Proof

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501) (AQ270)

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.501 (Log #AQ270).

Act 847 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ii). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq., less than 15 tons per year emitted of all such defined pollutants combined, and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060, unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on January 27, 2009, 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov. 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 AQ270. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Bonaventure Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

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LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.1.d. …

2. Statutory Exemptions. The requirement to obtain a permit in accordance with this Chapter does not apply to:

a. …

b. controlled burning of agricultural by-products in the field or of cotton gin agricultural wastes; ~~or~~

c. controlled burning in connection with timber stand management, or of pastureland or marshland in connection with trapping or livestock production~~.~~; or

d. any source that is not a *Part 70 source*, as defined in LAC 33:III.502, and for which:

i. facility-wide potential emissions are less than:

(a). 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act;

(b). 15 tons per year of all such defined pollutants combined; and

(c). the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51; and

ii. for purposes of this exemption, any physical limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment, shall be treated as part of its design.

B.3. - C.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:**.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Control Technology Guidelines

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

There are no expected implementation costs or savings to state or local governmental units from the proposed rule.

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

No effect on revenue collections of state or local governmental units is expected as a result of the proposed rule.

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

Based on the comments received from the Advanced Notice of Rulemaking, there are minimal estimated costs or economic benefits to directly affected persons or non-governmental groups from the proposed rule. The proposed changes, which are consistent with Control Technology Guideline recommendations provided by EPA and which will be included in the State Implementation Plan to meet federal Clean Air Act requirements, are primarily incremental and are not anticipated to result in a significant impact to industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment by the proposed rule.

Herman Robinson, CPM	H. Gordon Monk
Executive Counsel	Legislative Fiscal Officer
0812#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Statutory Exemption for Air Permits
(LAC 33:III.501) (AQ270)

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.501 (Log #AQ270).

Act 547 of the 2008 Regular Session of the Louisiana Legislature provides for exemptions from permitting requirements for certain air emissions sources by enacting R.S. 30:2054(B)(2)(b)(ix). The exemption applies to any source for which facility-wide potential emissions are less than 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act, 42 U.S.C. 7401 et seq., less than 15 tons per year emitted of all such defined pollutants combined, and less than the minimum emission rate for each toxic air pollutant established pursuant to R.S. 30:2060, unless such source is required to obtain a permit pursuant to the Clean Air Act, 42 U.S.C. 7661 et seq. The Statute also states, "for purposes of this Item, "potential emissions" shall mean the emissions the facility is capable of emitting considering all control measures in place, utilized and properly maintained and historical practices, including hours of operation and number of employees at the facility." This Rule will add the statutory exemption to the air quality regulations (LAC 33:III). The basis and rationale for this proposed rule are to add the statutory exemption from the requirement to obtain an air permit to the air quality regulations. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.1.d. …

2. Statutory Exemptions. The requirement to obtain a permit in accordance with this Chapter does not apply to:

a. …

b. controlled burning of agricultural by-products in the field or of cotton gin agricultural wastes;

c. controlled burning in connection with timber stand management, or of pastureland or marshland in connection with trapping or livestock production; or

d. any source that is not a *Part 70 source*, as defined in LAC 33:III.502, and for which:

i. facility-wide potential emissions are less than:

(a). 5 tons per year for each of any regulated air pollutant as defined by the Clean Air Act;

(b). 15 tons per year of all such defined pollutants combined; and

(c). the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51; and

ii. for purposes of this exemption, any physical limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment, shall be treated as part of its design.

B.3. - C.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:

Family Impact Statement

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

A public hearing will be held on January 27, 2009, 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 Christopher A. Ratcliff at the address given below or at (225) 219-3471. 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 AQ270. Such comments must be received no later than February 3, 2009, at 4:30 p.m., and should be sent to Christopher A. Ratcliff, 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 chris.ratcliff@la.gov. 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 AQ270. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Statutory Exemption for Air Permits

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)

All facilities with air emissions less than the thresholds established by R.S. 30:2054(B)(2)(b)(ix) will be affected by the proposed action. However, no significant effect on costs and/or economic benefits to directly affected persons or non-governmental groups is expected. The proposed rule would merely add the statutory exemption to the state's air quality regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	H. Gordon Monk
Executive Counsel	Legislative Fiscal Officer
0812#072	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Medical Examiners

Consultation and Collaboration with Medical Psychologists
(LAC 46:XLV.Chapter 72)

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (oard), pursuant to the authority vested in the Board by the Louisiana Medical Practice Act, R.S. 37:1270(A)(1), 1270(B), the Louisiana Psychology Practice Act, as amended during the 2004 Session of the Louisiana Legislature by Acts 2004, Number 11, R.S. 37:2371-2378, and in accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., intends to amend LAC Title 46:XLV, Subpart 3, by adding Chapter 72, §§7201-7217, to govern the practice of physicians who engage in consultation and collaboration with medical psychologists with respect to a patient of the physician. The proposed Rules are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Profession
Subpart 3. Practice
Chapter 72. Consultation or Collaboration with Medical Psychologists
Subchapter A. General Provisions
§7201. Preamble and Scope of Subchapter

A. Pursuant to Act 11 of the 2004 session of the Louisiana Legislature, the Louisiana Psychology Practice Act was amended to include, among other items, R.S. 37:2375C(1), which provides: "A medical psychologist holding a valid certificate to prescribe shall prescribe only in consultation and collaboration with the patient's primary or attending physician, and with the concurrence of that physician. The medical psychologist shall also re-consult with the patient's physician prior to making changes in the patient's medication regimen, including dosage adjustments, adding or discontinuing a medication. The medical psychologist and the physician shall document the consultation in the patient's medical record."

B. Pursuant to the authority granted by R.S. 37:1270(B)(6), and in the interest of promoting the public health, safety, and welfare, the rules of this Chapter are adopted by the Louisiana State Board of Medical Examiners to govern the practice of physicians in this state who consult and collaborate with a medical psychologist with respect to a patient of the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:

§7203. Definitions

A. As used in this Chapter, the following words and terms shall have the meanings specified.

AQ 274

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency

LAC 33:III.301, 303, 307, 309, 311, 313, 501

Hazardous Waste Regulations shall be subject to that Subpart if such waste cannot be recycled in accordance with Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and, in particular, 2571.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:455 (March 2009).

Herman Robinson, CPM
Executive Counsel

0903#027

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators (LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501)(AQ274)

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 adopted and amended the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing authorizes air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment authorizes air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines authorizes air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) authorizes air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. 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 3. Regulatory Permits

§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the date specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

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 35:456 (March 2009).

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms

and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

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 35:456 (March 2009).

§305. Construction and Operation

A. No operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

B. Construction of any source addressed by a regulatory permit may be prohibited by the terms of that regulatory permit until such time as the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H is complete.

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 35:457 (March 2009).

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the physical location of the well;

c. the date(s) and expected duration of the activity;

d. a description of the processes and equipment involved, including control measures, if required; and

e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

1. the date(s) and duration of the testing event;

2. the actual volumes of natural gas flared and natural gas released, as well as the total amount of crude oil and condensate produced; and

3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 35:457 (March 2009).

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H_2S) content of no more than 1.5 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the type of, and reason for, the activity;

c. the physical location;

d. the date(s) and expected duration of the activity;

e. a description of the processes and equipment involved, including control measures, if required;

f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated; and

g. the approximate H_2S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;

2. the actual volumes of natural gas flared and natural gas released; and

3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 35:458 (March 2009).

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including, but not limited to, electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and

b. *nonroad engines*, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period using Method 22 of 40 CFR 60, Appendix A, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. Each emergency stationary compression ignition (CI) internal combustion engine (ICE) described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d).

2. Each emergency stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

G. National Emissions Standards for Hazardous Air Pollutants. Each emergency stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 63.6585(e).

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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 35:459 (March 2009).

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

a. has a manufacturer's rated capacity greater than 10 tons per hour;

b. is operated at a commercial/industrial or institutional facility;

c. combusts *construction/demolition (C&D) debris* as defined in LAC 33:VII.115;

d. incinerates waste, including yard waste, collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or

e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Commercial/Industrial Facility—any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange, or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. Such facilities include stores, offices, restaurants, warehouses, and other similar establishments.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

Yard Waste—grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

C. Operating Requirements

1. Visible Emissions

a. Opacity from the ACI shall not exceed 20 percent, except for a 30-minute start-up period once per day during which opacity shall not exceed 35 percent.

b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or combinations thereof, that passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.

b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.

b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.

c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8 a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. Operation of the ACI shall be limited to no more than 1,500 hours per calendar year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is $713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $478, if fee number 1520 is applicable, or $143, if fee number 1722 is applicable.

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 35:460 (March 2009).

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.8. …

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, for each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority.

3. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009).

Herman Robinson, CPM
Executive Counsel

0903#026

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Transportation Conformity
(LAC 33:III.1432, 1434, 1435, and 1437)(AQ302ft)

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.1432, 1434, 1435, and 1437 (Log #AQ302ft).

This Rule is identical to federal regulations found in 40 CFR 93.105, 122(a)(4)(ii), and 125(c), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This

Comment Summary Response & Concise Statement – AQ274
Amendments to the Air Regulations
Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators
LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501

COMMENT 1: — The applicability of the regulatory permit should be clarified to include well completion activities so that it is clear which emissions from drilling and completion are covered under the regulatory permit. In lieu of this, it should be made clear that flow back and similar well completion activities do not require permitting or notification under current department regulations.

FOR: The regulatory permit should clarify that emissions from drilling and well completion are covered under the permit, or alternatively, that well completion activities do not require permitting or notification under current department regulations.

AGAINST: Amending the rule to provide such clarification is not necessary.

RESPONSE 1: — Oil and gas drilling permits are issued by the Louisiana Department of Natural Resources (LDNR). Currently, LDEQ does not require an air permit for drilling and well completion activities. An air permit must be secured for the equipment used to produce the well (e.g., storage vessels, line heaters, pneumatic pumps, internal combustion engines, etc.) prior to initiating construction of such equipment.

COMMENT 2: — The date, duration, and actual emissions must be reported within 30 days of an event (§307.F and §309.H). The current application instructions do not mention these requirements and there is no form on which to convey that information to the department.

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: — The instructions describe how to complete the Regulatory Permit Notification Form and do not necessarily address compliance with the regulatory permit itself. In the future, LDEQ may create a form on which to report the information required by LAC 33:III.307.F and 309.H. Until such time, any format that

contains the required information would be acceptable to LDEQ.

COMMENT 3: §301.B — If someone submits an application and gets a notice of completion can the person proceed with the activity? Does this mean that the person may be told at a later date that a site-specific permit is needed? What are the criteria that will be used to determine that someone cannot use the regulatory permit if they appear to meet all the requirements? If it is determined that a site-specific permit is needed, confirm that coverage will continue under the regulatory permit until a new permit is issued.

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: §301.B — Yes, if an applicant submits an application and receives notice that the application has been determined complete, the activity has been authorized. As per LAC 33:III.301.B, the department reserves the right to require any person authorized to emit under a regulatory permit to apply for and obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. One reason may be for repeated violations of a provision of a regulatory permit, resulting in a determination by the department that more frequent monitoring, recordkeeping, and reporting provisions are warranted.

If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the date specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

COMMENT 4: §303.H — In the event of a blowdown, there may not be enough

time to get the signature of a *responsible official* and get the paperwork submitted 3 days prior to the event, due to safety or operational concerns. Can a designated person sign and then have the *responsible official* sign on the follow-up paperwork?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 4: §303.H — According to R.S. 30:2054(B)(9)(b)(vii), the "written notification shall be signed and certified in accordance with LAC 33:III governing permit application submittal." LDEQ interprets this to mean that the signature of a *responsible official* is required. However, a *responsible official*, as defined in LAC 33:III.502, may appoint a duly authorized representative. With regard to the Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment, LDEQ will waive the three-working day requirement in emergency situations as per LAC 33:III.309.C.4.

COMMENT 5: §305 — Remove the words "construction" and "modification" from the second sentence. The enabling legislation does not preclude the construction or modification of an entity covered by a regulatory permit prior to fee submittal and completeness determination. The legislation only prohibits operation prior to the criteria being met. Since the time frame for the department to perform completeness reviews is unknown, facilities should be allowed to begin construction, at their own risk, awaiting completeness notification.

FOR: The words "construction" and "modification" should be removed from the second sentence of §305 because the enabling statute only prohibits operation prior to the applicant being "notified by the department that the notification was complete."

AGAINST: LDEQ agrees, but §305 will be amended to specify that construction of any source addressed by a regulatory permit may be prohibited by the terms of that regulatory permit until such time as the appropriate fee has been paid and the department has notified the applicant that the application has been determined to be complete.

RESPONSE 5: §305 — "Modification" is not included in §305. LDEQ agrees to remove "construction" from §305.A, but §305 will be amended to specify that construction of any source addressed by a regulatory permit **may** be prohibited by the terms of that regulatory permit

until such time as the appropriate permit fee has been paid and the department has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

COMMENT 6: §305.A — How long does it take to get a determination from the department that the application is complete? Will the response be sent via regular mail, email, or will verbal approvals be provided? How quickly will application completion determinations be issued?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 6: §305.A — The time necessary for LDEQ to determine completeness of an application cannot be fixed or limited at this point. Review time may vary somewhat depending on the quality and thoroughness of the Regulatory Permit Notification Form. However, it is anticipated that a final decision will be reached more expeditiously than if the same activity had been authorized by other mechanisms (e.g., via a variance, small source permit, etc.). That is, in fact, the premise for the regulatory permits program. Standardization of the Regulatory Permit Notification Forms and response letters should also assist in the effort to minimize review time.

LDEQ will notify an applicant by mail that an application has been determined complete, though e-mail or fax notifications may also be provided as a courtesy, especially in situations where the activity will commence upon approval of LDEQ.

COMMENT 7: §307.A and §309.A — These subsections should be amended to include a *de minimis* provision for releases of less than 1 million standard cubic feet (MMSCF) of sweet natural gas. There is no environmental benefit to be gained by omitting *de minimis* provisions for quantities of emissions which do not require a regulatory permit. Current departmental policy is to not require notification, approval, or any emission controls for natural gas releases of less than 1 MMSCF. Current policy also requires notification but no controls for releases greater than 1 and less than 2.5 MMSCF. The proposed rule is increasing regulatory requirements on industry without serving an environmental need or gaining an environmental benefit. Also, the proposed rule does

not have an associated federal regulation.

FOR: §307.A and §309.A should be amended to include a *de minimis* provision for releases of less than 1 MMSCF of sweet natural gas.

AGAINST: The Regulatory Permit for Oil and Gas Well Testing and the Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment do not supersede LDEQ's longstanding policy regarding the release of less than 1.0 MMSCF of natural gas.

RESPONSE 7: §307.A and §309.A — The Regulatory Permit for Oil and Gas Well Testing and the Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment do not supersede LDEQ's longstanding policy regarding the release of less than 1.0 MMSCF of natural gas.

It would be inconsistent with R.S. 30:2054(B)(9)(b)(vii), however, for the regulatory permits to authorize releases of less than 1 MMSCF, as this provision requires an applicant to "submit a written notification and any fee" and ties authorization to operate to the notification "by the department that the notification was complete."

Regarding releases greater than or equal to 1.0 MM cubic feet and less than 2.5 MM cubic feet, LDEQ's policy has always required "prior notification to and approval by the LDEQ Regional Office." See http://www.deq.louisiana.gov/portal/tabid/2348/Default.aspx.

The instructions for the Regulatory Permit Notification Form associated with the Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment specify that releases of natural gas less than 1.0 MM cubic feet require no controls *or* notification to LDEQ.

The instructions for the Regulatory Permit Notification Form associated with the Regulatory Permit for Oil and Gas Well Testing will be amended to clarify that releases of natural gas less than 1.0 MM cubic feet require no controls *or* notification to LDEQ if production of crude oil and condensate is not expected.

COMMENT 8: §307.B — At the time of the application submittal the volumes that will be produced during the well test are unknown. An

operator at the time of application may believe no controls are required only to determine that the well flow is at greater than anticipated rates. Some mechanism to address this unknown and its potential effect on the basis for the original application should be developed.

Releases that require no controls (Paragraph B.1) should be exempt from permitting. It is inconsistent that "non-permitted" releases below this threshold are exempt from reporting under the Chapter 39 release reporting requirements but planned emissions must be permitted.

FOR: Some mechanism to address unknown volumes produced during a well test should be developed.

AGAINST: The need for controls should be based on the initial assessment of the production capability of the well.

RESPONSE 8: §307.B — The need for controls should be based on the initial assessment of the production capability of the well. LDEQ understands that initial estimates of production volumes are based on geologic factors, engineering analyses, and production rates realized from other wells tapping the same oil and gas reservoir, but that the actual volume produced will not be known until testing has commenced.

LDEQ will rely on the following certification statement associated with the Regulatory Permit Notification Form for assurance that anticipated production volumes were determined based on all available information and not purposefully underestimated to avoid the need for controls.

> I certify, under provisions in Louisiana and United States law which provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information contained in this Regulatory Permit Notification Form, including all attachments thereto, are true, accurate, and complete.

Regarding releases that require no controls, see Response to Comment 7. As per LAC 33:I.3931.B, the Reportable Quantity (RQ) for sweet pipeline gas is 1 MMSCF.

COMMENT 9: §307.C.4 — The proposed notification requirement is at least three days prior to the testing event, although the department has

no timing requirement in which to issue an administratively complete determination. A provision should be included to allow the regulated community to proceed no later than the expected start date identified in the permit notification.

FOR: The regulatory permit should allow the regulated community to proceed no later than the expected start date identified in the permit notification.

AGAINST: Allowing an activity to proceed without notification "by the department that the notification was complete" would be inconsistent with R.S. 30:2054(B)(9)(b)(vii).

RESPONSE 9: §307.C.4 — Such an approach would be inconsistent with R.S. 30:2054(B)(9)(b)(vii), as this provision ties authorization to operate to the notification "by the department that the notification was complete."

COMMENT 10: §307.E — The 10 day limit should be deleted and replaced with "the expected duration of the activity identified in the notification" or a mechanism to request an extension should be incorporated into the rule. The proposed 10 day period may not be a sufficient amount of time in which to complete a testing event.

FOR: The 10 day limit should be deleted and replaced with "the expected duration of the activity identified in the notification" or a mechanism to request an extension should be incorporated into the rule.

AGAINST: The vast majority of variance requests for well testing events indicate that testing should be completed in less than 10 operating days.

RESPONSE 10: §307.E — It has been LDEQ's experience that the vast majority of variance requests for well testing events have indicated that the testing should be completed in less than 10 operating days. If an extended test is anticipated, the owner should *not* submit a Regulatory Permit Notification Form. Instead, the owner should apply for a variance using the "Application for Approval of Miscellaneous Permitting Actions."

COMMENT 11: §309.A — What happened to the exemption from notification for releases <1 million standard cubic feet (MMSCF)? If this

exemption is still available, can specific language be included in this permit for clarification? If the exemption is no longer available, the agency will be inundated with notifications. This will increase the workload for both industry and the agency and cause further delays that need to take place quickly for operational or safety concerns. This exemption should be retained.

FOR: It should be clearly stated that releases of less than 1.0 MMSCF are exempt from any permitting requirements.

AGAINST: The Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment does not supersede LDEQ's longstanding policy regarding the release of less than 1.0 MMSCF of natural gas.

RESPONSE 11: §309.A — See Response to Comment 7.

COMMENT 12: §309.B — It should be clearly stated that releases of "less than 1.0 million cubic feet" are exempt from any permitting requirements. It is inconsistent that "non-permitted" releases below this threshold are exempt from reporting under the Chapter 39 release reporting requirements but planned emissions must be permitted.

FOR: It should be clearly stated that releases of "less than 1.0 million cubic feet" are exempt from any permitting requirements.

AGAINST: The Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment does not supersede LDEQ's longstanding policy regarding the release of less than 1.0 MM SCF of natural gas.

RESPONSE 12: §309.B — See Response to Comment 7.

COMMENT 13: §309.B.2 — All releases >2.5 MMSCF must be flared. Can a variance be obtained from this requirement? What if there is a safety issue or the release will be located near an impact area or there is a burn ban in effect? How long does it take to get a variance?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 13: §309.B.2 — The Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment requires that releases of natural gas greater than or equal to 2.5 MM cubic feet in volume be controlled by flaring. However, LDEQ recognizes that there may be situations in which flaring is not desirable. In such a case, the owner should *not* submit a Regulatory Permit Notification Form. Instead, the owner should apply for a variance using the "Application for Approval of Miscellaneous Permitting Actions." A final decision on a variance request is typically reached in several weeks or less; however, in emergency situations, this time can be shortened as the situation warrants.

COMMENT 14: §309.B.4 — Can the commenter's gas tariff be used to show compliance with the H_2S content? How current does a gas analysis have to be to show compliance? What if nothing current is on file? What other recordkeeping is acceptable?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 14: §309.B.4 — Yes, a gas tariff is acceptable proof of H_2S content. The age of the gas analysis is not a concern as long as it remains representative of the natural gas to be released and the analysis was performed by an LDEQ-accredited laboratory, if required (see LAC 33:I.Subpart 3 or http://www.deq.louisiana.gov/portal/tabid/72/Default.aspx). If a gas analysis is not available, a representative gas analysis may be used.

COMMENT 15: §309.B.4 — The proposed hydrogen sulfide content level should be raised to no more than 1.50 grains which is the traditional limit for the definition of "sour" gas used by many states. Louisiana does not have a defined concentration limit in the regulations primarily due to the limited number of producing locations where hydrogen sulfide is present. The proposed limit of 0.25 grains would prevent the use of the regulatory permit for some production locations where the hydrogen sulfide is still considered "sweet" natural gas. Since these facilities are typically remote and will have less volume of total gas released than natural gas transmission pipelines, the higher threshold is warranted.

FOR/AGAINST -- The department agrees with the comment; no arguments are

necessary.

RESPONSE 15: §309.B.4 — The suggested edit has been made.

COMMENT 16: §309.C.3 — Clarify what is meant by "maintenance operation". During a single maintenance activity multiple blowdowns at one location or possibly multiple blowdowns at multiple locations could occur. In the commenter's opinion, this would constitute one maintenance activity. Without an exemption for releases of <1.0 MMSCF, notifications, associated paperwork, and fees will dramatically increase. The financial impact will affect everyone, as well as the large workload.

FOR: The rule should be amended to clarify what is meant by "maintenance operation."

AGAINST: Amending the rule to provide such clarification is not necessary.

RESPONSE 16: §309.C.3 — This regulatory permit is not intended to restrict what can be construed as a "maintenance operation."

The instructions associated with the Regulatory Permit Notification Form for the Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment specify that the permit covers releases of natural gas greater than or equal to 1.0 MM cubic feet associated with a single metering, purging, and/or maintenance event, *which may involve a single release or multiple releases* over the duration of the operation.

Regarding releases of less than 1 MMSCF, see Response to Comment 7.

COMMENT 17: §309.C.4 — What is the definition of an emergency situation? Clarify that the handling of emergency situations has not changed and is not affected in any way by this regulatory permit and this permit is for "planned" releases only. Due to operational or safety concerns it is not always possible to have 3 days in which to provide notice. Releases may be planned, but timing is of the essence to get them completed. Would this be considered an emergency? Does the commenter have to prove an emergency exists? Does the commenter have to get the waiver before they blow down? Can a notice of a complete application be obtained

in that time or will verbal approvals be given?

FOR: Include a definition for “emergency situation” and clarify that the handling of emergency situations has not changed and is not affected in any way by this regulatory permit and that this permit is for "planned" releases only.

AGAINST: Amending the rule to provide such clarification is not necessary.

RESPONSE 17: §309.C.4 — “Emergency” is defined as “an unforeseen combination of circumstances or the resulting state that calls for immediate action.”[1] This regulatory permit is not intended to restrict what can be construed as an emergency situation.

Regarding the request to clarify that the handling of emergency situations has not changed and is not affected in any way by this regulatory permit, it is not clear to what procedures the commenter is referring.

The Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment may be used to authorize releases from planned and unanticipated events. LDEQ will waive the three-working day requirement in emergency situations as per LAC 33:III.309.C.4, and approval will be expedited as the situation warrants.

LDEQ will notify an applicant by mail that an application has been determined complete, though e-mail or fax notifications may also be provided as a courtesy, especially in situations where the activity will commence upon approval of LDEQ.

Regarding releases of less than 1 MMSCF, see Response to Comment 7.

COMMENT 18: §309.H.2 and 3 — Since the actual volumes of gas flared and released and the actual emissions are not measured, will an engineering estimate of the volumes and an estimated calculation based on some emission factor for the emissions be acceptable?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

[1]Merriam-Webster’s Collegiate Dictionary, Tenth Edition, Merriam-Webster, Incorporated, 1998.

RESPONSE 18: §309.H.2 and 3 — The Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment does not expressly require direct measurement of the amount of natural gas flared and/or released. For purposes of reporting under LAC 33:III.309.H, estimates based on the observed conditions and duration of the event would be acceptable. VOC and TAP emissions associated with the event should be based on a representative gas analysis to the greatest extent practicable.

COMMENT 19: §311.A — What is the definition of an "emergency" engine? During an operational emergency (e.g., freezing weather) would it be permissible to bring in a replacement or temporary engine to move gas? Is this just for electrical generation?

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 19: §311.A — An emergency engine is not limited to electrical generation. LAC 33:III.311.B defines “emergency engine” broadly as “any stationary internal combustion engine (ICE) whose operation is limited to emergency situations …” See also Response to Comment 20.

COMMENT 20: §311.A.1 — Occasionally it is necessary to temporarily use a pump or compressor to assist site operations with the movement of process fluids. The following, underlined language should be included in the proposed rule so that it is clear that the regulatory permit can be used for the installation of emergency "process" pumps and compressors.

“This regulatory permit authorizes the installation and use of stationary emergency engines, including<u>, but not limited to,</u> electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete.”

FOR/AGAINST -- The department agrees with the comment; no arguments are necessary.

RESPONSE 20: §311.A.1 — The suggested edit has been made.

COMMENT 21: §311.A.3 — The following language should be added as a third item to this paragraph.

"associated fuel storage tanks deemed insignificant in accordance with B.8 or B.44 in the insignificant activities list in LAC 33:III.501.B.5."

FOR: Amend §311.A.3 to clarify that the regulatory permit does not apply to fuel storage tanks deemed insignificant in accordance with LAC 33:III.501.B.5, Items B.8 [*sic*] or B.44.

AGAINST: The amendment is not necessary, as such tanks do not have to be addressed on the Regulatory Permit Notification Form.

RESPONSE 21: §311.A.3 — LDEQ presumes the commenter is referring to A.8, not B.8. LAC 33:III.501.B.5, Items A.8 and B.44 deem the following sources insignificant activities:

- portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year; and
- portable diesel fuel storage tanks used on a temporary basis in maintenance and construction activities.

It is not necessary to address such portable fuel tanks on the Regulatory Permit Notification Form where they are not physically attached to an emergency engine, even if they are to be used exclusively to fuel the emergency engine addressed by the regulatory permit. It is only necessary to address the "associated fuel storage tank" when the emergency engine and storage tank comprise a single functional unit.

COMMENT 22: §311.A.4 — The department should reconsider the prohibition on "noncommercial" fuels. This equipment is for operation during emergencies. It may not always be possible to procure fuel supplies during events of longer duration. Also, the proposed language seems to prohibit the use of food grade oils, recycled cooking oil and grease, motor oils, etc. that can be blended with diesel or other fuels and combusted in these engines.

FOR: The department should reconsider the prohibition on noncommercial fuels.

AGAINST: It is not appropriate to allow use of noncommercial fuels via a regulatory permit.

RESPONSE 22: §311.A.4 — It is not appropriate to allow use of noncommercial fuels via the regulatory permit. The permit contains general monitoring and recordkeeping requirements tailored to engines fired by gasoline and diesel fuels. It is not the LDEQ's position that use of noncommercial fuels is not appropriate or warranted in certain situations. However, such situations would be more appropriately addressed by variance procedures.

COMMENT 23: §311.A.5 — Clarify how this paragraph works. Subparagraph 311.A.3.a allows for generators that are considered insignificant. It is possible that a generator may have the potential to emit (PTE) greater than 100 tons per year (tpy), or when aggregated with other sources, have a total PTE greater than 100 tpy. However, if the unit runs <500 hours/year then it would be insignificant.

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 23: §311.A.5 — §311.A.3.a clarifies that a regulatory permit is not required for electrical power generators deemed insignificant in accordance with LAC 33:III.501.B.5, Item B.45. This provision addresses emergency electrical power generators at sites not otherwise required to have an air permit.

Operating time of each emergency engine is limited to 500 hours per 12-consecutive month period per §311.E.1. Thus, potential emissions from each emergency generator should be calculated based on no more than 500 hours per year of operation. If such emissions result in a minor source of criteria pollutants becoming a major source of criteria pollutants, a minor source of hazardous air pollutants (HAP) becoming a major source of HAP, or a minor source of toxic air pollutants (TAP) becoming a major source of TAP, then use of the regulatory permit is not allowed.

COMMENT 24: §311.C.2 — Ensure that this monitoring requirement applies only after the engine is received at the site applying for the regulatory permit. Certifying compliance with these requirements prior to the

equipment being brought onsite would delay the response during a potential emergency.

FOR: The rule should state that monitoring requirements apply only after the engine is received at the application site.

AGAINST: Amending the rule to provide such clarification is not necessary.

RESPONSE 24: §311.C.2 — Such monitoring and recordkeeping requirements apply only after the emergency engine has been received and installed (and is therefore operational) at the site addressed in the Regulatory Permit Notification Form.

COMMENT 25: §311.C.2.b — Subparagraphs 311.C.1.a and 311.C.1.b allow opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes. Subparagraph 311.C.2.b triggers more stringent testing if even one 6-minute period of excess opacity is detected. This inconsistency should be corrected in 311.C.2.b. The following language is suggested.

If visible emissions are detected for ~~a period longer than 6 consecutive minutes~~ <u>more than one 6-minute period over a 60 minute test period using Method 22 of 40 CFR 60, Appendix A</u>, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

FOR/AGAINST -- The department agrees with the comment; no arguments are necessary.

RESPONSE 25: §311.C.2.b — The language in §311.C.2.b will be revised to parallel that in §311.C.1.a and b.

COMMENT 26: §311.I — This subsection allows for permanent engines to be authorized and incorporated upon the next renewal. Clarify that this means that these engines may be installed at major source facilities.

FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.

RESPONSE 26: §311.I — LAC 33:III.303.A precludes regulatory permits from

being employed to authorize construction of a “major source”. However, neither statutory nor regulatory language prohibit such permits from being used to authorize equipment or activities at a major source, provided that equipment or activity does not constitute a “major modification.” Accordingly, LAC 33:III.311 may be used to authorize emergency engines at a major source.

Comment Summary Response & Concise Statement Key – AQ274
Amendments to the Air Regulations
Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators
LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501

COMMENT #	SUGGESTED BY
1-3, 9	Gordon R. Moore, Area Manager with C-K Associates, LLC
4, 5, 7, 11, 13, 14, 16-19, 23, 26	Laura L. Guthrie, Air Program with CenterPoint Energy Gas Transmission Co.
6, 8-10, 12, 15, 20-22, 24, 25	Richard T. Metcalf / LMOGA and Henry Graham, Jr. / LCA

Total comments - 27
Total commenters - 4

CenterPoint Energy

Gas Transmission
P.O. Box 21734
Shreveport, LA 71151-0001
318 429 2700

June 2, 2008

VIA EMAIL

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

Re: Proposed Regulation - AQ274
Submittal of Comments

Dear Dr. Schuerman:

On behalf of CenterPoint Energy Gas Transmission Company, CenterPoint Energy-Mississippi River Transmission Corporation and CenterPoint Energy Field Services, Inc. (collectively, "CenterPoint Energy"), I would like to provide the attached comments and questions for your consideration. These comments specifically address concerns regarding the proposed rulemaking that has been initiated to adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

CenterPoint Energy appreciates your consideration of these concerns. If you have any questions or need additional information, please feel free to contact me at (318) 429-3706. Thank you for your assistance in this matter.

Sincerely,
CenterPoint Energy

Laura L. Guthrie
Manager, Air Program

Enclosure

Proposed Regulation - AQ274
Submittal of Comments by CenterPoint Energy Gas Transmission Company, CenterPoint Energy-Mississippi River Transmission Corporation and CenterPoint Energy Field Services, Inc.
May 29, 2008

1. §301.B – This section "does not confer a vested right to coverage under such a permit....coverage under the regulatory permit will automatically terminate." If you submit an application and get a notice of completion can you proceed with the activity? Does this mean that you may be told at a later date that you need a site-specific permit? What are the criteria that will be used to determine that someone cannot use the regulatory permit if they appear to meet all the requirements? If you are determined to need a site-specific permit, please confirm that you are covered under the regulatory permit until a new permit is issued.

2. §303.H – All permits are required to be signed by an RO. In the case of blowdowns, we may not have time to get the signature and get the paperwork submitted 3 days prior to the event due to safety or operational concerns. Can a designated person sign and then have the RO sign on the follow-up paperwork?

3. §305.A - How long does it take to get a completion determination from Department? Will the response be sent via regular mail, email or will verbal approvals be provided? How quickly will completion determinations be issued?

4. §309.A – This section appears to include <u>all</u> natural gas releases no matter what volume. What happened to the exemption from notification for releases <1 MMSCF? If this exemption is still available, can specific language be included in this permit for clarification? If the exemption is no longer available, the agency will be inundated with notifications. This will dramatically increase workload for both industry and the agency and further delay activities that need to take place quickly for operational or safety concerns. We respectfully request that this exemption be retained.

5. §309.B.2 – This section requires all releases >2.5 MMSCF to be flared. Can we get a variance from this? What if there is a safety issue or the release will be located near an impact area or there is a burn ban on? How long does it take to get a variance?

6. §309.B.4 – Can we use our gas tariff to show compliance with the H2S content? How current does a gas analysis have to be to show compliance? What if I don't have anything current on file? What other recordkeeping is acceptable?

7. §309.C.3 – Please clarify what is meant by "maintenance operation." In some instances, we may be conducting a single maintenance activity, but have multiple blowdowns at one location or possibly multiple blowdowns at multiple locations. We believe this would all be one maintenance activity. Also, to reiterate comment 4 above, if there is no exemption for releases <1.0 MMSCF, there will be a dramatic influx in notifications, associated paperwork and fees. This will have a large workload, as well as financial impact on everyone.

8. §309.C.4 – What is the definition of an emergency situation? In some cases, we may not have 3 days to provide notice due to operational or safety concerns. These releases may be planned and under our control, but timing is of the essence to get them completed. Can we consider that an emergency? Do we have to prove an emergency exists? Do we have to get the waiver before we blow down? Can we get a notice of a complete application in that time or will verbal approvals be given? If we have a true emergency, such as someone hitting our pipeline and we have to blow down immediately, I presume this would fit under the category of "emergency" and we would follow the emergency reporting procedures to the SPOC with follow-up within 7 days. Please clarify that the handling of emergency situations has not changed and is not affected in any way by this regulatory permit. This permit is for "planned" releases only.

9. §309.H.2 and 3 – This section requests "actual" volumes of gas flared and released and actual emissions. If we are not measuring the volumes, it will be only an engineering estimate of the volumes and an estimated calculation based on some emission factor for the emissions. Will this be acceptable?

10. §311.A – What is the definition of an "emergency" engine? If I have an operational emergency whereby it's January and people are freezing, can I bring in a replacement or temporary engine to move gas to keep the customers warm? Or is this just for electrical generation?

11. §311.A.5 – This section precludes the use of emergency engines that, when aggregated with other emission sources, could potentially be >major source thresholds. Section 311.A.3.a. allows for generators that are considered insignificant. It is possible that a generator may have PTE greater than 100 tpy, or when aggregated with other sources, have total PTE greater than 100 tpy, however if the unit runs <500 hours/year then it would be insignificant. We would appreciate clarification on how this section works.

12. §311.I – This section allows for permanent engines to be authorized and incorporated upon the next renewal. Please clarify that this means that these engines may be installed at major source facilities.

C-K ASSOCIATES · LLC
ENVIRONMENTAL & ENGINEERING CONSULTANTS

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(delivered via email to judith.schuerman@la.gov)

June 3, 2008

LDEQ Office of the Secretary
Legal Affairs Division
PO Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Dr. Judith Schuerman

Re: Comments on AQ274

Dear Dr. Schuerman,

The following written comments are provided on the proposed regulation AQ274:

1. Application Process. §305.H specifies that no covered activities may commence until the administrative authority has notified the applicant that the application has been determined to be complete. §307.C.4 and §309.C.4 both specify that notification must be submitted 3 days prior to the event. This infers that LDEQ will issue an approval/completeness notice within 3 days. Rather than require communication between the permittee and the agency, it would be preferable to have automatic coverage within 3 days of submittal, contingent on the notice being complete, as is the case with many other general permits.

2. Applicability. §307.A. specifies the regulatory permit for oil and gas well testing is applicable to emissions resultant from the testing of wells. Certain processes during the drilling and completion of a well may result in emissions which are not covered under the rule. These emissions may be the result of activities necessary to drill or develop the well prior to any "well testing" activities. An example would be a relatively common well development and completion process known as flow back. Flow back is part of a well completion process where fluids are injected in the well and formation to facilitate the transport of natural gas from the formation to the well bore. After injection of the fluids and completing the treatment of the well and formation, the liquids must be recovered prior to placing the well in production. The liquids are flowed into portable tanks. In the process, gas may flow into the tanks and be vented or flared. Under the current applicability terms, this process would not be covered under the regulatory permit. It is requested that the applicability of this regulatory permit be clarified to include well completion activities, to clarify which emissions from drilling and completion are covered under the regulatory permit, or in lieu of being covered under this regulatory

permit, please clarify that these and similar well completion activities do not require permitting or notification under current LDEQ regulations.

3. Applicability. §307.A and §309.A do not make any provisions for de minimis quantities of emissions which do not require a regulatory permit. Existing LDEQ policy provides for natural gas releases, less than 1 million standard cubic feet, which do not require LDEQ notification or approval or any emissions control. In addition, under current policy, notification but no controls are required for releases greater than 1 and less than 2.5 million standard cubic feet. Under the proposed rules, there would be no apparent environmental benefit, but there would be significant additional time and expense by the permittee for notification, tracking, and reporting. The proposed regulatory permits appear to increase regulatory requirements on industry without any associated federal regulatory requirement, environmental need being served, or environmental benefit. It is requested that the applicability provisions be amended under §307.A and §309.A to establish a de minimis (no permit required) for releases less than 1 million standard cubic feet of sweet natural gas.

4. Recordkeeping and Reporting. §307.E and §309.H specify that the date, duration, and actual emissions be reported within 30 days of the event. The current application instructions do not mention this requirements, nor is there an appropriate form for that information to be conveyed to the LDEQ.

Thank you for your efforts in developing these new regulations and for your attention in review of these comments.

Very truly yours,
C-K Associates, LLC

Gordon R. Moore, P.E.
Area Manager

LOUISIANA MID-CONTINENT OIL AND GAS ASSOCIATION

801 NORTH BOULEVARD, SUITE 201, BATON ROUGE, LA 70802-5727
TELEPHONE (225) 387-3205 FAX (225) 344-5502
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June 3, 2008

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

Re: Log #AQ274 Comments

Dear Dr. Schuerman:

The Louisiana Chemical Association (LCA) and the Louisiana Mid-Continent Oil and Gas Association (LMOGA) appreciate the opportunity to submit the following joint association comments Notice of Rulemaking on Regulatory Permits (Log #AQ274) which appeared in the April 20, 2007 Louisiana Register.

The LCA is a nonprofit Louisiana corporation, composed of 66 members located at over 94 plant sites in Louisiana. LCA members are vital to the Louisiana economy. The LCA and the Louisiana Chemical Industry Alliance (LCIA) believe what is good for its industry is good for the state economy and, in turn, good for Louisiana residents. LCA members provide support to the Louisiana economy by providing nearly 30,000 jobs at an average annual salary of nearly $55,000 and create an additional 6.8 jobs in Louisiana for every new job in the chemical industry. In addition, LCA member companies bring over $800 million to the state treasury and local governments through household earnings generated directly and indirectly by the chemical industry.

LMOGA is an industry trade association representing individuals and companies who together produce, transport, refine and market crude oil, natural gas, petroleum products and electricity in Louisiana. LMOGA consists of 17 refineries and numerous production facilities, natural gas plants, compressor stations, and product terminals that may avail themselves of the Regulatory Permits Program. LMOGA members in the oil and gas production and pipeline sectors will definitely use this program.

The Associations appreciate the Department's efforts to develop Regulatory Permits. The Associations appreciate the Department's willingness to address several of the comments submitted on the Advance Notice of Rulemaking on Regulatory Permits which appeared as a Potpourri Notice (0709Pot2 – Log #AQ274-AQ278) in the September 20, 2007 Louisiana Register. The Associations recommend that the Department move quickly to adopt the proposed permits and those additional facility categories listed in the December 20, 2006 Potpourri Notice 0612Pot5. The Associations also request that the Department initiate discussions with industry on the additional facility/activity categories identified in the letter from Kean Miller dated October 27, 2006 on Potpourri Notice 0609Pot2.

Finally, the Associations request that the Department develop a procedure that would allow the applications for Regulatory Permits occur electronically. This would greatly facilitate the submittal and completeness reviews of these applications thereby allowing industry to quickly begin operation of these sources. The ability to pay the requested fees electronically or by credit card would also speed the process.

Association staff and member company representatives are available to discuss these comments and issues. If you have any questions and/or would like to meet with the Associations on this matter, please feel free to contact me.

Sincerely,

Richard T. Metcalf
LMOGA Health, Safety and Environmental
Affairs Coordinator

Attachment

cc: Kyle Beall, Kean Miller
Henry Graham, Jr., LCA

Attachment
Joint Industry Trade Association Comments on the Advance Notice of Proposed Rulemaking and Solicitation of Comments on Regulatory Permits

(Log# AQ274)

The Louisiana Chemical Association (LCA) and the Louisiana Mid-Continent Oil and Gas Association (LMOGA) appreciate the opportunity to submit the following joint association comments on the Notice of Rulemaking on Regulatory Permits (Log #AQ274) which appeared in the April 20, 2008 Louisiana Register.

Comment 1 – Section 305.

The words "construction, modification" should be removed from the second sentence. The enabling legislation, which is correctly repeated in Section 303. (specifically Subsection 303.H.), does not preclude the construction or modification of an entity covered by a regulatory permit prior to fee submittal and completeness determination. The legislation only prohibits operation prior to the criteria being met. Since the time frame for the Department to perform completeness reviews is unknown, facilities should be allowed to begin construction, at their own risk, awaiting completeness notification. If the completeness reviews are timely (three days or less), then this becomes less of a problem.

Comment 2 – Subsection 307.B.

The volumes that will be produced during the well test may not be known with great specificity at the time of the application submittal. That is why the test is being performed in the first place. An operator at time of application may honestly believe no controls are required only to have the well flow at greater than anticipated rates. Some mechanism to address this unknown and its potential effect on the basis for the original application should be developed.

Additionally, the Associations believe that releases that require no controls (those described in B.1.) should be exempt from permitting. It appears inconsistent that "non-permitted" releases below this threshold are exempt from reporting to the agency under the Chapter 39 release reporting requirements but planned emissions must be permitted.

Comment 3 – Subsection 307.C.4.

The proposed notification requirement is at least three (3) days prior to the testing event, but there is no timing requirement for the DEQ to issue an administratively complete determination. A provision that allows the regulated community to proceed no later than the expected start date identified in the permit notification, even without authorization from DEQ should be included.

Comment 4 – Subsection 307.E.

The Department of Natural Resources does not limit well tests to a set period of time. The test limit is a maximum amount of hydrocarbons produced. The proposed 10-day period may not be sufficient in some cases. The 10-day limit should be deleted and replaced with "the expected duration of the activity identified in the notification". Alternatively, a mechanism to request an extension should be incorporated

Comment 5 – Subsection 309.B.

This subsection should clearly state that releases "less than 1.0 million cubic feet" are exempt from any permitting requirements. It appears inconsistent that "non-permitted" releases below this threshold are exempt from reporting to the agency under the Chapter 39 release reporting requirements but planned emissions must be permitted.

Comment 6 – Subsection 309.B.4

The Associations recommend the Department raise the proposed hydrogen sulfide content level to no more than "1.50" grains. This is the traditional limit for the definition of "sour" gas used by many states. Louisiana has no such defined concentration limit in its regulations. This is primarily due to the limited number of producing locations where hydrogen sulfide is present.

The currently proposed limit of 0.25 grains, would preclude use of this regulatory permit for some production locations with some hydrogen sulfide that is still considered "sweet" natural gas. Since these facilities are typically remote and will have less volume of total gas released than natural gas transmission pipelines, the Associations believe the higher threshold is warranted.

Comment 7 – Subsection 311.A.1.

The Associations want to ensure that this permit can also be used for the installation of emergency "process" pumps and compressors as well. In certain instances, it may be necessary to temporarily employ a pump or compressor to assist site operations with the movement of process fluids (natural gas, crude oil, intermediate or finished products, etc.).

The Associations suggest the following change:

"This regulatory permit authorizes the installation and use of stationary emergency engines, including, but not limited to, electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete."

Comment 8 – Subsection 311.A.3.

A third item should be listed described as follows: "associated fuel storage tanks deemed insignificant in accordance with B.8 or B.44 in the insignificant activities list in LAC 33:III.501.B.5."

Comment 9 – Subsection 311.A.4.

The Associations request the Department reconsider the prohibition on "noncommercial" fuels. The very nature of this equipment is to operate during emergencies. For longer duration events, one may not be able to procure fuel supplies. This language would appear to prohibit the use of food grade oils, recycled cooking oil and grease, motor oils, etc. that can be blended with diesel or other fuels and combusted in these engines. Additionally, RCRA encourages resource recovery.

Comment 10 - Subsection 311.C.2.b

As currently written, the rule doesn't specify a test Method or time period over which to conduct the visible emissions test required by 311.C.2.a. Further, Subsections 311.C.1.a and 311.C.1.b allow opacity in excess of 20 percent for not more than one for one 6-minute period in any 60 consecutive minutes, while 311.C.2.b triggers more stringent testing if even one 6-minute period of excess opacity is detected. This inconsistency should be corrected in 311.C.2.b.

The Associations suggest the following change:

If visible emissions are detected for ~~a period longer than 6 consecutive minutes~~ more than one 6-minute period over a 60 minute test period using Method 22 of 40 CFR 60 Appendix A, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

Comment 11 – Subsection 311.C.2.

The Associations want to ensure this monitoring requirement applies only after the engine is received at the site applying for the regulatory permit. Having to certify compliance with these requirements before the equipment is brought onsite would only delay response during a potential emergency.

ORIGINAL D

DEPARTMENT OF ENVIRONMENTAL QUALITY

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain

Log Number: AQ274

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 1:33 p.m. on May 27, 2008.

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

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

RECEIVED
JUN 06 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

1 H E A R I N G
2 MS. STEPHENS:
3 Good afternoon! My name is Sandy
4 Stephens, and 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 amendments
9 to the Environmental Quality
10 regulations.
11 The comment period for these
12 amendments began on April 20, 2008, when
13 the notices of intent was published in
14 the Louisiana Register. The comment
15 period will close at 4:30 p.m., today,
16 May 27, 2008, for the Log Numbers
17 HW100ft, MM006ft, RP045ft, and RP049ft,
18 and at 4:30 p.m., June 3, 2008, for the
19 Log Numbers AQ274 and MM004. It would
20 be helpful to us if all oral comments
21 received today were followed up in
22 writing.
23 This public hearing provides a
24 forum for all interested parties to
25 present comments on the proposed

1 changes. This hearing is not being
2 conducted in a question and answer
3 format. Please remember that the
4 purpose of this public hearing is to
5 allow you, the public, an opportunity to
6 express your thoughts concerning today's
7 proposed amendments.
8 I'll ask that each person
9 commenting please come up and sit at the
10 front table and begin by stating his or
11 her name and affiliation for the record.
12 The first amendment is designated
13 by the Log Number AQ274.
14 Act 115 of the 2006 Regular
15 Session of the Louisiana Legislature
16 allows the department to develop and
17 promulgate regulatory permits for
18 certain sources of air emissions
19 pursuant to R.S. 30:2054(B)(9). This
20 proposed rule outlines the requirements
21 and limitations imposed by R.S.
22 30:2054(B)(9) on regulatory permits to
23 be developed by the department, and
24 establishes several specific regulatory
25 permits:

1 One, The regulatory permit for oil
2 and gas well testing will authorize air
3 emissions from temporary separators,
4 tanks, meters, and fluid-handling
5 equipment necessary to test the content
6 of a subsurface stratum believed to
7 contain crude oil or natural gas and/or
8 to establish the proper design of a
9 permanent fluid-handling facility.
10 Two, The regulatory permit for
11 release of natural gas from pipelines
12 and associated equipment will authorize
13 air emissions resulting from unavoidable
14 releases and flaring of natural gas due
15 to metering, purging, and maintenance
16 operations.
17 Three, The regulatory permit for
18 emergency engines will authorize air
19 emissions from stationary emergency
20 electrical power generators, emergency
21 firewater pumps, and emergency air
22 compressors.
23 Four, The regulatory permit for
24 portable air curtain incinerators (ACIs)
25 will authorize air emissions from

1 portable ACIs, the engine that drives
2 the fan mechanism, and the associated
3 fuel storage tank.
4 The authorization to emit air
5 emissions pursuant to the provisions of
6 any regulatory permit will become
7 effective only upon notification by the
8 department that the application required
9 by the regulatory permit has been
10 determined to be complete.
11 Does anyone care to comment on
12 this regulation?
13 If not, the hearing on AQ274 is
14 closed.
15
16 THE HEARING ENDED AT 1:38 P.M.
17 * * * * *

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, 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
24 MARK LACOUR
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 89054
25 Certificate expires 12-31-08

Mark LaCour, C.C.R.
89054

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APR 21 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

The Times-Picayune

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators
(LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501) (AQ274)

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 adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

I 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.

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached LEGAL NOTICE (AQ274)

Re:Notice of Intent Dept of Environmental Quality Regulatory Permits Oil& Gas Well Testing release Natural Gas

Advertisement of Office of Environmental Quality

P.O. BOX 4302/OSCE-Regulation Dev. Sec.
Baton Rouge, La. 708021-4302

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates April 15, 2008

Robert J. Chiasson

Sworn to and subscribed before me this 16th Day of April, 2008

Notary Public

My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492

RECEIVED

APR 28 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

The Times

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

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

NOTICE OF INTENT (AQ274)

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

April 14, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 14th day of April, 2008

Diana W. Barber

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

(Notary)

GANNETT

resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

The Times:
April 14, 2008

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REGULATION DEVELOPMENT SECTION

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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The hereto attached advertisement

Was published in the NEWS-STAR.

A daily newspaper of general circulation.

Published in Monroe, Louisiana.

Parish of Ouachita in the issues of:

April 16, 2008

Kim Drauf

LEGAL AD DEPT.

Sworn and subscribed before me by

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

21 **day of** April **20** 08 **AD**

NOTARY PUBLIC
Steven L. Turner # 43154

emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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Herman Robinson, CPM

Executive Counsel

Monroe, LA
April 16,2008

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REGULATION DEVELOPMENT SECTION

Affidavit of Publication

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators
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STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dehlis

who being duly sworn, deposes and says:

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

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

00438911 - $51.00
April 18, 2008

Karen Dehlis

Duly Authorized Agent

Subscribed and sworn to before me on this 18th day of April, 2008 at Lake Charles, LA

Winnie P. Guillory

Winnie P. Guillory
Notary #66592
My Commission Is For Life

Notary Public

00053262

LDEQ-OSEC-LAD

pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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Herman Robinson, CPM
Executive Counsel

Apr 18 11
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REGULATION DEVELOPMENT SECTION

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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HERMAN ROBINSON, CPM
Executive Counsel

86 (4) 16

I, Harold Constance, Classified Sales Manager of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Notice of Intent (AQ274) advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertion(s) commencing with the issue dated April 16, 2008 and ending with the issue dated April 16, 2008.

Harold Constance

Subscribed and sworn to before me this 16th day of April, 2008.

Notary Number 019888

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

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

04/18/08

Susan A. Bush, Public Notices Clerk

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

April 18, 2008

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

RECEIVED
MAY 01 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

DEQ - OSEC/LAD REG 3862017
REMENDER WEATHERSPOON
PO BOX 4302
BATON ROUGE LA 70821-4314

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators (LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501) (AQ274)

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 adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This proposed rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits to be developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

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REGULATION DEVELOPMENT SECTION

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NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
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was published in THE ADVERTISER on the following dates:

***Friday, April 18, 2008**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 22nd day of April, 2008.

Christie Veazey

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NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators (LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501) (AQ274)

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Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This proposed rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits to be developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the ~~day~~date specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

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 35:**.

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

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 35:**.

§305. Construction and Operation

A. No ~~construction or~~ operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

B. Construction of any source addressed by a regulatory permit may be prohibited by the terms of that regulatory permit until such time as the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H is complete.

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 35:**.

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas

and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the physical location of the well;

c. the date(s) and expected duration of the activity;

d. a description of the processes and equipment involved, including control measures, if required; and

e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

1. the date(s) and duration of the testing event;

2. the actual volumes of natural gas flared and natural gas released, as well as

the total amount of crude oil and condensate produced; and

3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 35:**.

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H_2S) content of no more than ~~0.25~~1.5 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the type of, and reason for, the activity;

c. the physical location;

d. the date(s) and expected duration of the activity;

e. a description of the processes and equipment involved, including control measures, if required;

f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated; and

g. the approximate H_2S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;

2. the actual volumes of natural gas flared and natural gas released; and

3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 35:**.

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including, but not limited to, electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and

b. *nonroad engines*, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for ~~a period longer than 6 consecutive minutes~~ more than one 6-minute period over a 60 consecutive minute test period using Method 22 of 40 CFR 60, Appendix A, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive

minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. Each emergency stationary compression ignition (CI) internal combustion engine (ICE) described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition ~~(CI)~~ Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d).

~~a. Each emergency stationary CI internal combustion engine (ICE) that commences construction after July 11, 2005, and that meets any of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d):~~

~~i. the stationary CI ICE is manufactured after April 1, 2006, and is not a fire pump engine;~~

~~ii. the stationary CI ICE is manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006; or~~

~~iii. the stationary CI ICE is modified or reconstructed after July 11, 2005.~~

~~b. The date that construction commences is the date the engine is ordered by the owner or operator.~~

~~c. Terms used in this Paragraph are defined in 40 CFR 60.4219, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.~~

2. Each emergency stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition ~~(SI)~~ Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

~~a. Each emergency stationary SI ICE that commences construction after June 12, 2006, and that meets either of the following conditions, must comply with the~~

~~applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f):~~

~~i. the stationary SI ICE is manufactured on or after January 1, 2009; or~~

~~ii. the stationary SI ICE is modified or reconstructed after June 12, 2006.~~

~~b. The date that construction commences is the date the engine is ordered by the owner or operator.~~

~~c. Terms used in this Paragraph are defined in 40 CFR 60.4248, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.~~

G. National Emissions Standards for Hazardous Air Pollutants. Each emergency stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 63.6585(e).

~~1. Existing Emergency Stationary Reciprocating Internal Combustion Engine (RICE)~~

~~a. For a stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of hazardous air pollutant (HAP) emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before December 19, 2002.~~

~~b. For a stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.~~

~~c. For a stationary RICE located at an area source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.~~

~~d. A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.~~

~~e. In accordance with 40 CFR 63.6590(b)(3), no initial notification is necessary for an existing emergency stationary RICE.~~

~~2. New or Reconstructed Emergency Stationary RICE~~

~~a. New Stationary RICE~~

~~i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after December 19, 2002.~~

~~ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.~~

~~iii. A stationary RICE located at an area source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.~~

~~b. Reconstructed Stationary RICE~~

~~i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after December 19, 2002.~~

~~ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.~~

~~iii. A stationary RICE located at an area source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.~~

~~c. Each new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions shall comply with the initial notification requirements of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. In accordance with 40 CFR 63.6645(f), the notification shall include the information in 40 CFR 63.9(b)(2)(i) - (v), a statement that the stationary RICE has no additional requirements, and an explanation of the basis of the exclusion.~~

~~d. Each new or reconstructed stationary RICE that is located at an area source or that is an emergency stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions shall meet the requirements of 40 CFR 60, Subpart IIII for CI engines or 40 CFR 60, Subpart JJJJ for SI engines. No further requirements apply for such engines under 40 CFR 63.~~

~~3. Terms used in this Subsection are defined in 40 CFR 63.6675.~~

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided

by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713~~.00~~ (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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 35:**.

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

a. has a manufacturer's rated capacity greater than 10 tons per hour;

b. is operated at a commercial~~,~~/industrial~~-~~ or institutional facility;

c. combusts *construction/demolition (C&D) debris* as defined in LAC 33:VII.115~~combusts 100 percent yard waste, defined as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands~~;

d. incinerates waste, including yard waste, collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or

e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Commercial/Industrial Facility—any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange, or sale of goods and/or commodities, and any facility involved and/or used in providing professional and non-professional services. Such facilities include stores, offices, restaurants, warehouses, and other similar establishments.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

Yard Waste—grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

C. Operating Requirements

1. Visible Emissions

a. Opacity from the ACI shall not exceed 20 percent, except for a 30-

minute start-up period once per day during which opacity shall not exceed 35 percent.

b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or combinations thereof, that passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.

b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.

b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.

c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8 a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. ~~Annual o~~Operation of the ACI shall be limited to no more than 1,500 hours per calendar year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity

shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is $713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $478, if fee number 1520 is applicable, or $143, if fee number 1722 is applicable.

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 35:**.

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. – B.8. …

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, ~~F~~for each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, ~~N~~no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the ~~permit application has been approved, an~~ appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2)~~,~~ and a permit (certificate of approval) has been issued by the permitting authority.

3. – 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:**.

34-7), and constituents of chlordane (CAS RN 57-74-9 and CAS RN 12789-03-6).

[6] Polychlorinated biphenyls (CAS RN 1336-36-3); this category contains congener chemicals, including constituents of Aroclor 1016 (CAS RN 12674-11-2), Aroclor 1221 (CAS RN 11104-28-2), Aroclor 1232 (CAS RN 11141-16-5), Aroclor 1242 (CAS RN 53469-21-9), Aroclor 1248 (CAS RN 12672-29-6), Aroclor 1254 (CAS RN 11097-69-1), and Aroclor 1260 (CAS RN 11096-82-5).

[7] Toxaphene: This entry includes congener chemicals contained in technical toxaphene (CAS RN 8001-35-2), i.e., chlorinated camphene.

[8] Xylene (total): This entry includes o-xylene (CAS RN 96-47-6), m-xylene (CAS RN 108-38-3), p-xylene (CAS RN 106-42-3), and unspecified xylenes (dimethylbenzenes) (CAS RN 1330-20-7).

DECISION TREE DIAGRAM. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1109 (June 2007), LR 34:

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

A public hearing will be held on May 27, 2008, 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 Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM006ft. Such comments must be received no later than May 27, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM006ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0804#093

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators (LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501)(AQ274)

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 adopt and amend the Air regulations, LAC 33:III.301, 303, 305, 307, 309, 311, 313, and 501 (Log #AQ274).

Act 115 of the 2006 Regular Session of the Louisiana Legislature allows the department to develop and promulgate regulatory permits for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). This proposed rule outlines the requirements and limitations imposed by R.S. 30:2054(B)(9) on regulatory permits to be developed by the department and establishes several specific regulatory permits. 1) The regulatory permit for oil and gas well testing will authorize air emissions from temporary separators, tanks, meters, and fluid-handling equipment necessary to test the content of a subsurface stratum believed to contain crude oil or natural gas and/or to establish the proper design of a permanent fluid-handling facility. 2) The regulatory permit for release of natural gas from pipelines and associated equipment will authorize air emissions resulting from unavoidable releases and flaring of natural gas due to metering, purging, and maintenance operations. 3) The regulatory permit for emergency engines will authorize air emissions from stationary emergency electrical power generators, emergency firewater pumps, and emergency air compressors. 4) The regulatory permit for portable air curtain incinerators (ACIs) will authorize air emissions from portable ACIs, the engine that drives the fan mechanism, and the associated fuel storage tank. The authorization to emit air emissions pursuant to the provisions of any regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined to be complete. The basis and rationale for this rule are to establish regulatory provisions outlining the statutory requirements and limitations of regulatory permits. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 3. Regulatory Permits
§301. Purpose

A. This Chapter establishes regulatory permits as authorized by R.S. 30:2054(B)(9). Regulatory permits may be used to authorize emissions of *air contaminants* as defined in LAC 33:III.111 from the sources and activities identified in this Chapter by notifying the department of the planned activity using the appropriate form provided by the department. Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

B. Eligibility for a regulatory permit does not confer a vested right to coverage under such a permit. The department may require any person authorized to emit under a regulatory permit to apply for and/or obtain a site-specific air permit in accordance with LAC 33:III.Chapter 5. If the department requires a permittee authorized to emit under a regulatory permit to apply for a site-specific air permit, the department will notify the permittee in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, a deadline for the permittee to file the application, and a statement that on the effective date of issuance or denial of the site-specific air permit, coverage under the regulatory permit will automatically terminate. If a permittee fails to submit a site-specific air permit application as required by the date specified by the department, then the applicability of the regulatory permit to the individual permittee will be automatically terminated at the end of the day specified by the department for application submittal. The department may grant additional time to submit the application for a site-specific air permit upon request of the applicant.

C. The department is not precluded from using a regulatory permit to authorize air emissions from an activity at a source operating under a site-specific air permit issued pursuant to LAC 33:III.Chapter 5 provided all eligibility requirements of the regulatory permit are satisfied.

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 34:

§303. Requirements and Limitations of Regulatory Permits

A. Regulatory permits cannot be used to authorize construction of a *major source*, as defined in LAC 33:III.502, or a *major modification*, as defined in LAC 33:III.504.K and 509.B.

B. Use of a regulatory permit may be precluded by specific permit conditions contained within a Part 70 operating permit.

C. Regulatory permits shall not authorize the maintenance of a nuisance or a danger to public health or safety.

D. All emissions control equipment specifically required by, or otherwise installed in order to comply with, the terms and conditions of a regulatory permit shall be maintained in good condition and operated properly.

E. Regulatory permits shall not preclude the administrative authority from exercising all powers and duties as set forth in R.S. 30:2011(D) including, but not limited to, the authority to conduct inspections and investigations and enter facilities, as provided in R.S. 30:2012, and to sample or monitor, for the purpose of assuring compliance with a regulatory permit or as otherwise authorized by the Louisiana Environmental Quality Act, the Clean Air Act, or regulations adopted thereunder, any substance or parameter at any location.

F. Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act. Violation of the terms or conditions of a regulatory permit constitutes a violation of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, or the federal Clean Air Act, as applicable.

G. Regulatory permits shall, as appropriate, prescribe such emission limitations, necessary control requirements, and other enforceable conditions, and associated monitoring, recordkeeping, and reporting provisions, as are necessary for the protection of public health and the environment.

H. Regulatory permits shall require any person seeking such a permit to submit a written notification describing the planned activity and any appropriate fee to the department. Submission of a written notification and appropriate fee shall be in lieu of submission of an individual permit application. The written notification shall be signed and certified by a *responsible official* as defined in LAC 33:III.502. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information contained in the notification are true, accurate, and complete.

I. All regulatory permits shall establish notification procedures, permit terms, and provisions for confirmation of notification by the administrative authority and shall be promulgated in accordance with the procedures provided in R.S. 30:2019.

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 34:

§305. Construction and Operation

A. No construction or operation of any source or activity addressed by a regulatory permit shall commence until the appropriate permit fee has been paid and the administrative authority has notified the applicant that the application (i.e., notification form) submitted in accordance with LAC 33:III.303.H has been determined to be complete.

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 34:

§307. Regulatory Permit for Oil and Gas Well Testing

A. Applicability. This regulatory permit authorizes the operation of temporary separators, tanks, meters, and fluid-handling equipment, including loading facilities, necessary to test the content of a subsurface stratum believed to contain petroleum liquids or natural gas and/or to establish the proper design of a permanent fluid-handling facility, subject to the requirements established herein, upon notification by the administrative authority that the

application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas less than 2.5 million (MM) cubic feet in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the physical location of the well;

c. the date(s) and expected duration of the activity;

d. a description of the processes and equipment involved, including control measures, if required; and

e. the estimated emissions associated with the testing event, including the anticipated volume of natural gas to be flared or released and the amount of crude oil and condensate to be produced. Emissions of toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each testing event.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the testing event.

D. The authorization for the specific testing event addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 180 days following the date on which the administrative authority determines that the application is complete.

E. Operation of temporary separators, tanks, meters, and fluid-handling equipment beyond 10 operating days shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

F. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the testing event:

1. the date(s) and duration of the testing event;

2. the actual volumes of natural gas flared and natural gas released, as well as the total amount of crude oil and condensate produced; and

3. the actual criteria pollutant and TAP emissions associated with the testing event.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 34:

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. Applicability. This regulatory permit authorizes the release of natural gas from pipelines and associated equipment resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection C of this Section has been determined to be complete.

B. Control Requirements. For purposes of this Section, volumes of natural gas should be calculated at *standard conditions*, as defined in LAC 33:III.111.

1. Releases of natural gas greater than or equal to 1.0 million (MM) cubic feet, but less than 2.5 MM cubic feet, in volume require no controls.

2. Releases of natural gas greater than or equal to 2.5 MM cubic feet in volume shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

3. Notwithstanding the volumes specified in Paragraphs B.1 and 2 of this Section, releases that will result in total VOC emissions of 5,000 pounds or more; benzene emissions equal to or exceeding its minimum emission rate (MER) established by LAC 33:III.5112, Table 51.1; or total benzene, toluene, ethylbenzene, and xylene (BTEX) emissions of 2,000 pounds or more shall be controlled by flaring. Flaring must continue until less than 0.25 MM cubic feet of gas remains to be released, at which time flaring is no longer required.

4. Natural gas releases covered by this regulatory permit shall have a hydrogen sulfide (H_2S) content of no more than 0.25 grains per 100 standard cubic feet.

C. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

a. the name of the owner or operator;

b. the type of, and reason for, the activity;

c. the physical location;

d. the date(s) and expected duration of the activity;

e. a description of the processes and equipment involved, including control measures, if required;

f. the estimated emissions associated with the metering, purging, or maintenance operation, including the volume of natural gas to be flared or released. Emissions of

toxic air pollutants (TAPs) listed in LAC 33:III.5112, Tables 51.1 and 51.3, shall be speciated; and

g. the approximate H_2S content in the natural gas.

2. A copy of the notification required by Paragraph C.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each metering, purging, or maintenance operation.

4. The notification shall be submitted such that it is received by the department at least three working days prior to the metering, purging, or maintenance event. In emergency situations, the department will waive the three-working day requirement.

D. The authorization for a release from the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection C of this Section shall remain effective for 60 days following the date on which the administrative authority determines that the application is complete.

E. This regulatory permit does not authorize releases from metering, purging, or maintenance operations associated with pipelines carrying refined petroleum products (e.g., ethylene, propylene, 1,3-butadiene).

F. Conducting metering, purging, and maintenance operations beyond 10 operating days at a single location shall not be authorized by this regulatory permit and must be approved separately by the administrative authority.

G. Resetting of flow meters (changing orifice plates, etc.) and calibration of meters are considered routine activities and are not classified as purging or maintenance operations.

H. Recordkeeping and Reporting. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the metering, purging, or maintenance operation:

1. the date(s) and duration of the metering, purging, or maintenance operation;

2. the actual volumes of natural gas flared and natural gas released; and

3. the actual criteria pollutant and TAP emissions associated with the metering, purging, or maintenance operation.

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be $300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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 34:

§311. Regulatory Permit for Emergency Engines

A. Applicability

1. This regulatory permit authorizes the installation and use of stationary emergency engines, including electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary emergency engines.

3. This regulatory permit does not apply to:

a. emergency electrical power generators deemed insignificant in accordance with item B.45 in the insignificant activities list in LAC 33:III.501.B.5; and

b. *nonroad engines*, as defined at 40 CFR 1068.30.

4. This regulatory permit cannot be used to authorize use of an emergency engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit cannot be used to authorize use of an emergency engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Emergency Engine—any stationary internal combustion engine (ICE) whose operation is limited to emergency situations (e.g., involuntary power curtailment, power unavailability, maintenance activity that requires the main source of power to be shut down) and required readiness testing and maintenance checks.

C. Opacity

1. Limitations

a. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

c. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection will not apply.

2. Monitoring and Recordkeeping

a. The permittee shall inspect each emergency engine's stack for visible emissions once each month or at each readiness testing event if the engine is tested at a frequency less than monthly.

b. If visible emissions are detected for a period longer than 6 consecutive minutes, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next required visible emissions check.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This

notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall include the emergency engine's ID number, the engine's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. Fuel Sulfur Content

1. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. A statement from the fuel oil supplier that each shipment of distillate oil delivered to the facility complies with the specifications of this Subsection shall be kept on-site and available for inspection by the Office of Environmental Compliance.

E. Operating Time

1. Operating time of each emergency engine shall be limited to 500 hours per 12-consecutive-month period. The department may suspend this limit by a declaration of emergency.

2. Operating time of each emergency engine shall be monitored by any technically-sound means, except that a run-time meter shall be required for all permanent units.

3. Operating time of each emergency engine shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

F. New Source Performance Standards

1. 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition (CI) Internal Combustion Engines

a. Each emergency stationary CI internal combustion engine (ICE) that commences construction after July 11, 2005, and that meets any of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d):

i. the stationary CI ICE is manufactured after April 1, 2006, and is not a fire pump engine;

ii. the stationary CI ICE is manufactured as a certified National Fire Protection Association (NFPA) fire pump engine after July 1, 2006; or

iii. the stationary CI ICE is modified or reconstructed after July 11, 2005.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4219, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

2. 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition (SI) Internal Combustion Engines

a. Each emergency stationary SI ICE that commences construction after June 12, 2006, and that meets either of the following conditions, must comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f):

i. the stationary SI ICE is manufactured on or after January 1, 2009; or

ii. the stationary SI ICE is modified or reconstructed after June 12, 2006.

b. The date that construction commences is the date the engine is ordered by the owner or operator.

c. Terms used in this Paragraph are defined in 40 CFR 60.4248, except that *modification* is defined in 40 CFR 60.2 and further described in 40 CFR 60.14, and *reconstruction* is defined in 40 CFR 60.15.

G. National Emissions Standards for Hazardous Air Pollutants

1. Existing Emergency Stationary Reciprocating Internal Combustion Engine (RICE)

a. For a stationary RICE with a site rating of more than 500 brake horsepower (HP) located at a major source of hazardous air pollutant (HAP) emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before December 19, 2002.

b. For a stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

c. For a stationary RICE located at an area source of HAP emissions, the stationary RICE is existing if the owner or operator commenced construction or reconstruction of the stationary RICE before June 12, 2006.

d. A change in ownership of an existing stationary RICE does not make that stationary RICE a new or reconstructed stationary RICE.

e. In accordance with 40 CFR 63.6590(b)(3), no initial notification is necessary for an existing emergency stationary RICE.

2. New or Reconstructed Emergency Stationary RICE

a. New Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is new if the owner or operator commenced construction of the stationary RICE on or after June 12, 2006.

b. Reconstructed Stationary RICE

i. A stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and

reconstruction is commenced on or after December 19, 2002.

ii. A stationary RICE with a site rating of equal to or less than 500 brake HP located at a major source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

iii. A stationary RICE located at an area source of HAP emissions is reconstructed if the owner or operator satisfies the definition of *reconstruction* in 40 CFR 63.2 and reconstruction is commenced on or after June 12, 2006.

c. Each new or reconstructed emergency stationary RICE with a site rating of more than 500 brake HP located at a major source of HAP emissions shall comply with the initial notification requirements of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. In accordance with 40 CFR 63.6645(f), the notification shall include the information in 40 CFR 63.9(b)(2)(i) - (v), a statement that the stationary RICE has no additional requirements, and an explanation of the basis of the exclusion.

d. Each new or reconstructed stationary RICE that is located at an area source or that is an emergency stationary RICE with a site rating of less than or equal to 500 brake HP located at a major source of HAP emissions shall meet the requirements of 40 CFR 60, Subpart IIII for CI engines or 40 CFR 60, Subpart JJJJ for SI engines. No further requirements apply for such engines under 40 CFR 63.

3. Terms used in this Subsection are defined in 40 CFR 63.6675.

H. Temporary Emergency Engines

1. For each temporary emergency engine brought on-site, record the date the unit is delivered; its make, model, and manufacturer's rated horsepower; the fuel type; and the date the unit was removed from the site. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. The authorization for the use of any emergency engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an emergency engine originally identified as temporary will remain on site longer than 12 months, a new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Emergency Engines. Permanent emergency engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit, if a permit is required pursuant to LAC 33:III.501.

J. Gasoline storage tanks associated with an emergency engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all emergency engines, including temporary units, authorized by this regulatory permit in its annual emissions statement.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each emergency engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713.00 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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 34:

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. Applicability

1. This regulatory permit authorizes the installation and use of portable air curtain incinerators, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete. This regulatory permit also authorizes the engine that drives the fan mechanism and the associated fuel storage tank.

2. This regulatory permit does not apply to an air curtain incinerator that:

a. has a manufacturer's rated capacity greater than 10 tons per hour;

b. is operated at a commercial, industrial, or institutional facility;

c. combusts 100 percent yard waste, defined as grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs, originating from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands;

d. incinerates waste collected from the general public; collected from residential, commercial, institutional, or industrial sources; or otherwise generated at a location other than the operational site; or

e. remains at a single operational site (not to include storage locations) for more than 90 consecutive days.

B. Definitions

Air Curtain Incinerator (ACI)—an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

Institutional Facility—a facility operated by an organization having a governmental, educational, civic, or religious purpose, such as a school, hospital, prison, military installation, church, or other similar establishment.

C. Operating Requirements

1. Visible Emissions

a. Opacity from the ACI shall not exceed 20 percent, except for a 30-minute start-up period once per day during which opacity shall not exceed 35 percent.

b. The emission of smoke, suspended particulate matter, or uncombined water, or any air contaminants or

combinations thereof, that passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

c. The owner or operator shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

2. Approved Wastes

a. The ACI shall be used to burn only untreated wood, wood refuse, untreated wood products (i.e., crates, pallets, etc.), trees, branches, leaves, grass, and/or other vegetable matter.

b. The owner or operator shall use only clean oils (e.g., diesel fuel, No. 2 fuel oil, kerosene) to ignite waste.

3. Operating Locations

a. The owner or operator shall not locate the ACI at any permitted municipal or sanitary landfill.

b. The ACI must be situated at least 1,000 feet from any dwelling other than a dwelling or structure located on the property on which the burning is conducted, unless the location has been approved by the appropriate DEQ Regional Office.

c. Relocation. The owner or operator shall notify the department prior to moving the ACI to a new operating site. Approval must be obtained before operations at the new site can commence.

4. The owner or operator shall restrict incineration to the time period from 8 a.m. to 5 p.m. each day. Piles of combustible material should be of such size as to allow complete reduction in this time interval.

5. The owner or operator shall obtain all necessary permits from local and/or state agencies.

6. The owner or operator shall install on the ACI a manufacturer's nameplate giving the manufacturer's name and the unit's model number and capacity.

7. The owner or operator shall maintain the ACI to design standards and shall not operate the ACI if any equipment is malfunctioning.

8. The owner or operator shall use care to minimize the amount of dirt on the material being burned.

9. Material shall not be added to the ACI in such a manner as to be stacked above the air curtain.

10. An operator shall remain with the ACI at all times when it is operating.

11. Annual operation of the ACI shall be limited to no more than 1,500 hours per year.

D. Recordkeeping and Reporting

1. A daily record of the hours of operation of the ACI shall be kept on-site and available for review by the Office of Environmental Compliance. Daily records shall include the time combustion commences and the time the fire is completely extinguished.

2. Annual hours of operation for the preceding calendar year shall be reported to the Office of Environmental Compliance annually by February 15.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each air curtain incinerator.

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $2,394 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is $713 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $478, if fee number 1520 is applicable, or $143, if fee number 1722 is applicable.

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 34:

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.8. …

C. Scope

1. Except as specified in LAC 33:III.Chapter 3, for each source to which this Chapter applies, the owner or operator shall submit a timely and complete permit application to the Office of Environmental Services as required in accordance with the procedures delineated herein. Permit applications shall be submitted prior to construction, reconstruction, or modification unless otherwise provided in this Chapter.

2. Except as specified in LAC 33:III.Chapter 3, no construction, modification, or operation of a facility which ultimately may result in an initiation of, or an increase in, emission of *air contaminants* as defined in LAC 33:III.111 shall commence until the appropriate permit fee has been paid (in accordance with LAC 33:III.Chapter 2) and a permit (certificate of approval) has been issued by the permitting authority.

3. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 34:

Family Impact Statement

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

A public hearing will be held on May 27, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the

address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ274. Such comments must be received no later than June 3, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ274. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulatory Permits for Oil and Gas Well Testing, Release of Natural Gas from Pipelines, Emergency Engines, and Air Curtain Incinerators

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

There will be no costs to local government units or to state agencies. The required notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. This permitting mechanism should increase efficiency of the department.

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

No increase in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary … in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required if a permit had been sought and issued pursuant to LAC 33:III.501, or another approval mechanism (e.g., variance) had been employed, to authorize air emissions from the activity covered by the regulatory permit.

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

Use of a notification form specifically tailored to the activity addressed by the regulatory permit should allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, and delay costs will therefore be avoided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM
Executive Counsel
0804#021

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Terms and Conditions of Licenses
(LAC 33:XV.326)(RP049ft)

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 Radiation Protection regulations, LAC 33:XV.326 (Log #RP049ft).

This proposed Rule is identical to federal regulations found in 10 CFR 30.34, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state regulations to be compatible with the changes in the federal regulations. The change in the state regulations is a category C (recommended to do) requirement of the NRC agreement. The federal "Terms and Conditions of Licenses" requirements are listed in 10 CFR 30.34. This Rule includes regulations to prevent radioactive material in gauges from unauthorized removal when not in use or not attended, such as when in storage or in transport. This is a security requirement for portable gauges containing radioactive material. The basis and rationale for this Rule are to be compatible with the federal regulations and maintain an adequate Agreement State program. This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
Subchapter D. Specific Licenses
§326. Special Requirements for Issuance of Certain Specific Licenses for Radioactive Material

A. - A.8. …

B. Security Requirements for Portable Gauges. Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to

AQ 286
General Conditions for Air Permits
LAC 33:III.535, 537

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
120703	Bayou Du Large–From 1/2 mile north of St. Andrews Mission to Caillou Bay (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.0-9.0	4	35	N/A
120704	Bayou Terrebonne–From Humble Canal to Lake Barre (Estuarine)	A B C E	N/A	N/A	3.8 April-Aug.; 5.0 Sept.-Mar.	6.5-9.0	4	35	N/A
120705	Houma Navigation Canal–From 1/2 mile south of Bayou Grand Caillou to Terrebonne Bay (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120706	Bayou Blue–From Bully Camp Canal to Lake Raccourci (Estuarine)	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.5-9.0	4	35	N/A
120707	Lake Boudreaux	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120708	Lost Lake and Four League Bay	A B C E	N/A	N/A	5.0	6.0-9.0	4	35	N/A
120709	Bayou Petite Caillou–From Houma Navigation Canal to Terrebonne Bay	A B C E	N/A	N/A	3.8 June-Aug.; 4.0 Sept.-May	6.0-9.0	4	32	N/A
120801	Caillou Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120802	Terrebonne Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120803	Timbalier Bay	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120804	Lake Barre	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120805	Lake Pelto	A B C E	N/A	N/A	5.0	6.5-9.0	4	35	N/A
120806	Terrebonne Basin Coastal Bays and Gulf Waters to the State 3-mile limit	A B C E	N/A	N/A	5.0	6.5-9.0	4	32	N/A

ENDNOTES:

[1] – [24] …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009).

Herman Robinson, CPM
Executive Counsel

0904#004

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

General Conditions for Air Permits
(LAC 33:III.535 and 537)(AQ286)

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 adopted the Air regulations, LAC 33:III.535 and 537 (Log #AQ286).

Every air permit issued by LDEQ contains General Conditions. Part 70 (Title V) permits for major sources include both 40 CFR Part 70 and Louisiana General Conditions, whereas minor source and prevention of significant deterioration (PSD) permits contain only Louisiana General Conditions. This rule will codify the General Conditions into LAC 33:III.Chapter 5. The General Conditions are subject to revision as underlying federal and state rules are amended or internal department procedures change. Because the most current version of the General Conditions is incorporated into permits as they are finalized, the universe of effective permits includes differing versions of these conditions. Once codified, all permittees will be subject to the same General Conditions. Further, future revisions to the General Conditions must be effected by the rulemaking process in accordance with the Administrative Procedure Act, ensuring transparency and opportunity for public review and comment. The basis and rationale for this rule are to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5. 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

§535. Part 70 General Conditions

A. The Part 70 General Conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each *Part 70 source* as defined in LAC 33:III.502 upon issuance of the initial Part 70 permit for the source and shall continue to apply until such time as the Part 70 permit is terminated, rescinded, or replaced in its entirety by a state (minor source) permit issued pursuant to LAC

33:III.501. These Part 70 General Conditions shall supersede any previous versions of such conditions contained in Part 70 permits.

40 CFR Part 70 General Conditions
A. The term of the permit shall be five years from date of issuance unless otherwise specified. Unless a timely and complete renewal application has been submitted pursuant to LAC 33:III.507, the permit shall expire at the end of the effective duration. Permit expiration terminates the owner's and operator's right to operate the source pursuant to 40 CFR 70.7(c)(ii). Any permit application to renew an existing permit shall be submitted at least six months prior to the date of permit expiration, or at such earlier time as may be required by the existing permit or approved by the permitting authority. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration. Operation may continue under the conditions of the permit during the period of the review of the application for renewal.
B. The conditions of the permit are severable; and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of that provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
C. The permittee shall comply with all conditions of the 40 CFR Part 70 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
E. The permit does not convey any property right of any sort, or an exclusive privilege.
F. The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality. A claim of confidentiality does not relieve the permittee of the requirement to provide the information.
G. The permittee shall pay fees in accordance with LAC 33:III.Chapter 2 and 40 CFR 70.6(a)(7).
H. Upon presentation of such credentials and other documents as may be required by law, the permittee shall allow the permitting authority or authorized representative to: 1. enter upon the permittee's premises where a 40 CFR Part 70 source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit; 2. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; 3. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and 4. as authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.
I. All required monitoring data and supporting information shall be kept available for inspection at the facility or alternate location approved by the agency for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes calibration and maintenance records and all original strip-chart recordings from continuous monitoring instrumentation, and all reports required by the permit.
J. Records of required monitoring shall include the following: 1. the date, place as defined in the permit, and time of sampling or measurements; 2. the dates analyses were performed; 3. the company or entity that performed the analyses; 4. the analytical techniques or methods used; 5. the results of such analyses; and 6. the operating conditions that existed at the time of sampling or measurement.
K. The permittee shall submit, at least semiannually, a report of any required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements. For previously-reported deviations, in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be certified by a responsible official and submitted to the Office of Environmental Compliance by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. The semiannual report shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation. The semiannual report may include any semiannual deviation report required to be submitted by March 31 or September 30 in accordance with Part 70 General Condition R as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report.
L. The permittee shall submit at least semiannual reports on the status of compliance pursuant to 40 CFR 70.5(c)(8) and a progress report on any applicable schedule of compliance pursuant to 40 CFR 70.6(c)(4).
M. Compliance certifications required by LAC 33:III.507.H.5 shall be submitted to the administrator as well as the permitting authority. For previously-reported compliance deviations, in lieu of attaching the individual deviation reports, the annual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The compliance certifications shall be submitted to the Office of Environmental Compliance by March 31 for the preceding calendar year. The compliance certification shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.
N. If the permittee seeks to reserve a claim of an affirmative defense as provided in LAC 33:III.507.J.2, the permittee shall, in addition to complying with any emergency or upset provisions in any applicable regulation, notify the permitting authority within two working days of the time when emission limitations were exceeded due to the occurrence of an *upset*, as defined in LAC 33:III.507.J.1. In the event of such an upset, which results in excess emissions, the permittee shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that: 1. an upset occurred and the cause was identified; 2. the permitted facility was being operated properly at the time; 3. during the period of the upset, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standard or requirement of the permit; and 4. the permittee notified the permitting authority in accordance with LAC 33:I.Chapter 39.
O. The permittee shall maintain emissions at a level less than or equal to that provided for under the allowances that the 40 CFR Part 70 source lawfully holds in accordance with Title IV of the Clean Air Act or the regulations promulgated thereunder. No permit revision shall be required for increases in emissions that are authorized by allowances acquired in accordance with the federal acid rain program (40 CFR Parts 72-78), provided that such increases do not require a permit revision under any other applicable requirement. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.
P. Any permit issued in accordance with 40 CFR Part 70 may be subject to reopening prior to the expiration of the permit for any of the conditions specified in 40 CFR 70.7(f) or LAC 33:III.529.
Q. The permittee may request an administrative amendment to the permit to incorporate test results from compliance testing if the criteria in LAC 33:III.523.A.1.a-f are met.
R. The permittee shall submit prompt reports of all permit deviations as specified below to the Office of Environmental Compliance. All such reports shall be certified by a *responsible official* as defined in LAC 33:III.502.A. 1. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39. 2. A written report shall be submitted for any emission in excess of permit emission limitations, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event. 3. A written report shall be submitted semiannually to address all permit deviations not included in Paragraph 1 or 2 of Part 70 General Condition R. Unless required by an applicable reporting requirement, a written report is not required during periods in which there is no deviation. The semiannual

deviation reports may be consolidated with the semiannual reports required by Part 70 General Condition K as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report. For previously-reported permit deviations (not reported in accordance with Paragraph 1 or 2 of Part 70 General Condition R), in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be submitted by March 31, for the preceding period encompassing July through December, and by September 30, for the preceding period encompassing January through June. 4. Any written report submitted in advance of the time frames specified in Paragraphs 1-3 of Part 70 General Condition R, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided the report is certified in accordance with 40 CFR 70.5(d) and contains all information relevant to the permit deviation. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.
S. The permittee shall continue to comply with applicable requirements on a timely basis, and shall meet on a timely basis applicable requirements that become effective during the permit term.
T. The permittee shall comply with the standards for recycling and emissions reduction in 40 CFR Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B. 1. Persons opening appliances for maintenance, service, repair, or disposal must comply with the practices required in 40 CFR 82.156. 2. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment in 40 CFR 82.158. 3. Persons maintaining, servicing, repairing, or disposing of appliances must be certified by an approved technician certification program in accordance with 40 CFR 82.161. 4. Persons disposing of small appliances and MVACs, and MVAC-like appliances as defined in 40 CFR 82.152, must comply with recordkeeping requirements in 40 CFR 82.166. 5. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements in 40 CFR 82.156. 6. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances in accordance with 40 CFR 82.166.
U. If the permittee performs a service on motor vehicles that involves an ozone-depleting substance refrigerant (or a regulated substitute substance) in the motor vehicle air conditioner (MVAC), the permittee is subject to all the applicable requirements specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term "motor vehicle" as used in Subpart B does not include a vehicle whose final assembly has not been completed. The term "MVAC" as used in Subpart B does not include an air-tight sealed refrigeration system used for refrigerated cargo, or a system used on passenger buses that uses HCFC-22 refrigerant.
V. Data Availability for Continuous Monitoring, or Monitoring to Collect Data at Specific Intervals. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including calibration checks and required zero and span adjustments), the permittee shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the emissions unit is operating. For purposes of reporting monitoring deviations under Part 70 General Conditions K and R, and unless otherwise provided for in the permit or an applicable federal or state regulation, the minimum degree of data availability shall be at least 90 percent (based on a monthly average) of the operating time of the emissions unit or activity being monitored. This Condition does not apply to leak detection and repair (LDAR) programs for fugitive emissions (e.g., 40 CFR 60 Subpart VV, 40 CFR 63 Subpart H).
W. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a "permit shield" as described in 40 CFR 70.6(f) and LAC 33:III.507.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:658 (April 2009).

§537. Louisiana General Conditions

A. The Louisiana General Conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana General Conditions shall supersede any previous versions of such conditions contained in air permits.

Louisiana Air Emission Permit General Conditions
I. Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.
II. The permittee is subject to all applicable provisions of the Louisiana Environmental Quality Act (the EQA, R.S. 30:2001 et seq.) and the Louisiana air quality regulations. Violation of any of the terms and conditions of the permit constitutes a violation of the EQA.
III. The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements sections of the permit establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit.
IV. A permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if: A. construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years (18 months for PSD permits) after issuance of the permit; or B. construction is discontinued for a period of two years (18 months for PSD permits) or more. The permitting authority may extend this time period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. However, each phase must commence construction within two years (18 months for PSD permits) of its projected and approved commencement date.
V. Reserved.
VI. The permittee shall notify the Department of Environmental Quality, Office of Environmental Services, of construction completion, within ten calendar days from the date that construction is complete, and provide the estimated date of start-up of operation. The appropriate Regional Office shall also be so notified within the same time frame.
VII. Any emissions testing performed for purposes of demonstrating compliance with the limitations set forth in Louisiana General Condition III shall be conducted in accordance with the methods described in the Specific Requirements of the permit. Any deviation from or modification of the methods used for testing shall have prior approval from the Office of Environmental Assessment.
VIII. The emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.

IX. The permittee shall, within 180 days after start-up and shakedown of each project or unit, report to the Office of Environmental Compliance any significant difference in operating emission rates as compared to those limitations specified in Louisiana General Condition III. This report shall also include, but not be limited to, malfunctions and upsets. A request for permit modification shall be submitted, if necessary, as required in Louisiana General Condition I.

X. The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of the permit for a minimum of at least five years.

XI. If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below.

A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.

B. A written report shall be submitted for any emission in excess of permit emission limitations, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.

C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.

D. Each report submitted in accordance with this Condition shall contain the following information:

1. a description of noncomplying emissions;
2. the cause of noncompliance;
3. the anticipated time the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance;
4. the steps taken by the permittee to reduce and eliminate the noncomplying emissions; and
5. the steps taken by the permittee to prevent recurrences of the noncomplying emissions.

E. Any written report submitted in advance of the time frames specified in Paragraphs A-C of Louisiana General Condition XI, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided all information specified in Paragraph D of Louisiana General Condition XI is included. For Part 70 sources, reports submitted in accordance with Part 70 General Condition R set forth in LAC 33:III.535.A shall serve to meet the requirements of this Condition provided all specified information is included. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.

XII. The permittee shall allow the authorized officers and employees of the Department of Environmental Quality, at all reasonable times and upon presentation of identification, to:

A. enter upon the permittee's premises where regulated facilities are located, where regulated activities are conducted, or where records required under the permit are kept;

B. have access to and copy any records that are required to be kept under the terms and conditions of the permit, the Louisiana Environmental Quality Act, or the federal Clean Air Act;

C. inspect any facilities, equipment (including inspections of monitoring methods and operation and maintenance inspections), or operations regulated under the permit; and

D. sample or monitor, for the purpose of assuring compliance with the permit or as otherwise authorized by the Clean Air Act or regulations adopted thereunder, any substances or parameters at any location.

XIII. If samples are taken under Louisiana General Condition XII, the officer or employee obtaining such samples shall give the owner, operator, or agent in charge a receipt describing the samples obtained. If requested to do so prior to leaving the premises, the officer or employee shall give a portion of each sample equal in volume or weight to the portion retained to the owner, operator, or agent in charge. If an analysis is made of such samples, a copy of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

XIV. The permittee shall allow authorized officers and employees of the Department of Environmental Quality, upon presentation of identification, to enter upon the permittee's premises to investigate potential or alleged violations of the Clean Air Act or the regulations adopted thereunder. In such investigations, the permittee shall be notified at the time entrance is requested of the nature of the suspected violation. Inspections under this Condition shall be limited to the aspects of alleged violations. However, this shall not in any way preclude prosecution of all violations found.

XV. Reserved.

XVI. In the event of any change in ownership of the source described in the permit, the permittee and the succeeding owner shall notify the Office of Environmental Services in accordance with LAC 33:I.Chapter 19.

XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must:

1. generally be less than 5 TPY;
2. be less than the minimum emission rate (MER);
3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or
4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example).

This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.

XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.

XIX. If any Part 70 General Condition conflicts with any Louisiana General Condition, then the Part 70 General Condition controls. If any Part 70 General Condition duplicates any Louisiana General Condition, then the Part 70 and Louisiana provisions shall be enforced as one Condition.

XX. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009).

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Executive Counsel

0904#006

Comment Summary Response & Concise Statement – AQ286
Amendments to the Air Regulations
General Conditions for Air Permits
LAC 33:III.535 and 537

COMMENT 1: DEQ should only issue air permits that include monitoring requirements that are sufficient to assure compliance with the terms and conditions of the air permit, even if federally required periodic monitoring is inadequate. Add the following language to the General Conditions for all air permits:

> "According to 40 CFR 70.6(c), all permits must contain monitoring requirements sufficient to assure compliance with the terms and conditions of the permit. Where federally required monitoring does not provide for monitoring requirements sufficient to assure compliance with permit terms and conditions, monitoring requirements sufficient to assure compliance shall be added to the permit. The permittee may not estimate emissions to demonstrate compliance with any permit term or condition. In the event that the permitting authority discovers that monitoring requirements in the permit are not sufficient to assure compliance, it shall reopen the permit and supplement monitoring requirements to a level that such monitoring is sufficient to assure compliance with permit terms and conditions."

FOR: LDEQ should add a general condition addressing 40 CFR 70.6(c)(1), which requires Part 70 permits to include monitoring requirements sufficient to assure compliance with the terms and conditions of the permit.

AGAINST: It is not appropriate to address 40 CFR 70.6(c)(1) as a *general* condition because this provision establishes requirements that are incumbent upon the permitting authority, not the permittee. Further, the requirements are necessarily facility-specific.

RESPONSE 1: LDEQ is aware of the August 19, 2008, decision of the U.S. Court of Appeals for the District of Columbia Circuit (*Sierra Club v. EPA*, No. 04-1243). Here, the Court found that 40 CFR 70.6(c)(1) ensures that all Title V permits include monitoring requirements "sufficient to assure compliance with the terms and conditions of the permit," even when 40 CFR 70.6(a)(3)(i)(A) and (B) are not applicable. Further, a permitting authority may supplement an inadequate monitoring requirement so that the requirement will "assure compliance with the permit terms and conditions."

Importantly, the Court left "for another day the question of who wins when EPA and state and local permitting authorities conflict over whether a given requirement is sufficient 'to assure compliance,' because the question is not presented in this case." (Maj. Op. at 11-12). Also, the dissenting opinion states that the "statute grants EPA the authority to determine whether state and local permitting authorities can impose additional monitoring requirements" (Dissenting Opinion at 2) and the "majority's contrary decision is narrow and appears to allow state and local permitting authorities to add periodic monitoring requirements only in those cases where **EPA itself** concludes that the pre-existing applicable monitoring requirements are not adequate and EPA has taken no action" (Dissenting Opinion at 4, emphasis added).

LDEQ agrees that Part 70 permits must include monitoring requirements sufficient to assure compliance with the terms and conditions of the permit. However, LDEQ does not believe it is appropriate to address 40 CFR 70.6(c)(1) in the Part 70 General Conditions because this provision establishes requirements that are incumbent upon the permitting authority, not the permittee. Further, such requirements are necessarily facility-specific. As such, these provisions would be addressed in the "Specific Requirements" section of each permit.

LAC 33:III.529.A provides LDEQ the authority to reopen permits to supplement monitoring requirements, if necessary.

COMMENT 2: The approvability and federal enforceability of this proposed rule will be contingent upon the approvability of underlying and cross-referenced provisions already submitted to the commenter for Louisiana State Implementation Plan (SIP) approval.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: LDEQ acknowledges EPA's comment.

COMMENT 3: Upon submittal of this proposed rule for SIP approval, the department will need to demonstrate that any revision to the SIP does not interfere with any applicable requirements concerning New Source Review, operating permits, attainment, reasonable further progress, or any other applicable requirement of the Clean Air Act (CAA).

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: LDEQ acknowledges EPA's comment.

COMMENT 4: In the pre-decisional draft Title V Evaluation report that the commenter submitted to the department, it was noted that some of the General Conditions that should be found in all Part 70 Operating Permits were missing. The proposed rule does not correct these omissions.

FOR: The proposed rule should correct omissions identified by EPA in its pre-decisional draft Title V Audit Report.

AGAINST: This rulemaking was proposed prior to finalization of LDEQ's response to EPA's "pre-decisional" draft Audit Report.

RESPONSE 4: LDEQ received EPA's "pre-decisional" draft Audit Report on May 27, 2008. LDEQ responded to EPA's report by letter dated October 15, 2008. This rulemaking was proposed on August 20, 2008, prior to finalization of LDEQ's response. LDEQ is not opposed to follow-up rulemaking to address the issues raised by EPA.

COMMENT 5: There is a conflict between the Notice of Intent (NOI) for the proposed rule and the rule itself. The NOI indicates that all permits will be subject to the same General Conditions once the proposed rule is codified, while §535 of the proposed rule says that the permit conditions listed therein will apply only when referenced by an effective permit. How and when will existing Part 70 Operating Permits be amended to include the most current version of the Part 70 General Conditions and/or reference to the LAC citations?

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 5: LAC 33:III.535.A and 537.A will be revised to clearly reflect that all permittees will be subject to the same General Conditions once the rule is promulgated.

LAC 33:III.535.A will be modified to read:

> "The Part 70 General Conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each *Part 70 Source* as defined in LAC 33:III.502 upon issuance of the initial Part 70 permit for the source and shall continue to apply until such time as the Part 70 permit is terminated, rescinded, or replaced in its entirety by a state (minor source) permit issued pursuant to LAC 33:III.501. These Part 70 General Conditions shall supersede any previous versions of such conditions contained in Part 70 permits."

LAC 33:III.537.A will be modified to read:

> "The Louisiana General Conditions listed in the table in this Section

(numbered as historically designated in a permit) apply to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana General Conditions shall supersede any previous versions of such conditions contained in air permits."

COMMENT 6: In the pre-decisional draft Title V Evaluation report that the commenter submitted to the department, it was noted that small emissions such as the Insignificant Activities and General Condition XVII Activities should be part of the facility's potential to emit (PTE). Additionally, some of the emissions estimated in the General Condition XVII Activities are the result of startup, shutdown, and maintenance (SSM) activities and should also be included in the facility's PTE.

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 6: Very small emissions to the air resulting from routine operations that are predictable, expected, periodic, and quantifiable and that are submitted by the applicant and approved by the Air Permits Division are considered authorized discharges. These releases are not included in the permit totals because they are small and will have an insignificant impact on air quality. However, like insignificant activities, such emissions are considered when determining the facility's potential to emit for evaluation of applicable requirements. Approved General Condition (GC) XVII activities are noted in Section VIII of Part 70 permits.

LDEQ agrees that emissions resulting from startup, shutdown, and maintenance (SSM) are considered "normal" operational activities and, where appropriate, these events require adequate monitoring and recordkeeping and must be appropriately managed with process and control equipment. However, note that in order to qualify as a GC XVII activity, annual emissions from the activity must generally be less than 5 tons per year (all pollutants) and emissions of any toxic air pollutant (TAP) must be below its minimum emission rates (MER). Significant SSM emissions are therefore not eligible for classification as GC XVII activities. Further, any SSM emissions subject to NSR requirements, regardless of magnitude, are not classified as GC XVII activities.

COMMENT 7: Since this proposed rule will revise both the SIP and the Louisiana Title V program, any submittal package must clearly differentiate between the SIP and Title V requirements because these programs are administered by different parts of the CAA.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 7: LDEQ acknowledges EPA's comment.

COMMENT 8: The commenter supports the department's proposal to include the Part 70 and Louisiana General Conditions in the Louisiana Air Quality Regulations because, if there are future changes to the General Conditions, then there will be the same opportunity for public notice and comment as for other rulemakings.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 8: The department appreciates the support.

COMMENT 9: The commenter agrees with the department's intent to make all permittees subject to the same general conditions. In the past, various companies operated under different versions of the General Conditions, leading to inconsistency among the regulated community and in the department. Codifying the General Conditions into the Air Quality Regulations will help achieve consistency.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 9: The department appreciates the support.

COMMENT 10: Make clear in the final rule that the General Conditions in the Air Quality Regulations will supersede all prior versions of the General Conditions currently included in existing permits.

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 10: See Response 5.

COMMENT 11: Do not cite the General Conditions in air permits in future permit actions. Continued inclusion of General Conditions in the Specific Requirements will create confusion between the permit and subsequent revisions in the regulations.

FOR: Continued inclusion of General Conditions in the Specific Requirements creates confusion between the permit and subsequent revisions in the regulations.

AGAINST: Several General Conditions must be repeated in the Specific Requirements in order for TEMPO to retain certain notification functionalities.

RESPONSE 11: LDEQ utilizes a computer program called TEMPO to maintain information on all facilities and to draft permits. TEMPO has the capability to provide notification messages when required reports are not received by a sp ecified date. Several "general conditions" must be repeated in the Specific Requirements in order for TEMPO to retain these notification functionalities.

Part 70 General Condition W should alleviate any concerns about perceived conflicts between a "general condition" addressed in the Specific Requirements section of a permit and the actual text of the General Condition itself (now codified in LAC 33:III.535 and 537).

COMMENT 12: The commenter supports the proposal to change the permit deviation reports from a quarterly to a semiannual basis, which is frequent enough to provide information to the department and the public in a timely manner, and will also reduce the burden on the department and the regulated community.

FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.

RESPONSE 12: The department appreciates the support.

COMMENT 13: Add a Louisiana General Condition to address the sufficiency of monitoring requirements included in Part 70 permits by the permitting authority, worded as follows:

> "The permittee shall comply with all monitoring requirements set forth in the permit. For purposes of this permit, the methods in LAC 33:III.919.C are sufficient to assure compliance with the limits set forth in the Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements."

FOR: The methods in LAC 33:III.919.C are sufficient to assure compliance with permit limits.

AGAINST: LDEQ is hesitant to reference LAC 33:III.919.C because the calculation methodologies set forth in this subsection are not exhaustive.

RESPONSE 13: LAC 33:III.919.C reads as follows:

> "Calculations. Actual measurement with continuous emissions monitoring systems (CEMS) or approved stack testing shall be used for reporting of emissions from an emissions point when such data exists. In the absence of CEMS or stack test data, emissions shall be

calculated using methods found in the most recent edition, as of December 31 of the current reporting year, of the Compilation of Air Pollution Emission Factors (AP-42), calculations published in engineering journals, and/or EPA or department-approved estimation methodologies."

LAC 33:III.919.C essentially categorizes emissions data into two categories – that derived from CEMS or stack testing; and that derived from AP-42 factors, engineering calculations, or other approved methodologies – and notes that the latter is acceptable when the former is not available. However, in certain instances, data derived from mass balance calculations, predictive emissions monitoring systems (PEMS), or continuous parameter monitoring systems (CPMS) may be preferable to stack test data for the purpose of assuring compliance with permit limits.

COMMENT 14: §535, Part 70 General Condition R.2 and §537, Louisiana General Condition XI.B — Clarify when the written report required by these two conditions must be submitted and that these two conditions apply only to emission limitations by changing the language of both conditions to the following (changes are shown in strikeout/underline format):

"A written report shall be submitted for~~within seven days of the initial occurrence of~~ any emission in excess of permit emission limitations~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event."

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 14: Part 70 General Condition R.2 and Louisiana General Condition XI.B will be revised as requested. If the report were due "within seven days of the **initial** occurrence" of a release event that occurred "over a period of seven days," the report would have to be submitted on the seventh day of the event itself, essentially requiring regulated facilities to initiate preparation of the report prior to knowing that the release event will actually occur for seven days or longer.

COMMENT 15: §535, Part 70 General Condition W — Revise this Condition to refer to the "permitting authority" instead of the "authority" as currently proposed.

FOR: Revise this Condition to refer to the "permitting authority" instead of the "authority."

AGAINST: "Authority" in Part 70 General Condition W does not refer to the permitting authority.

RESPONSE 15: "Authority" in Part 70 General Condition W does not refer to the permitting authority. Part 70 General Condition W is currently worded as follows:

> Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the **authority** to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a "permit shield" as described in 40 CFR 70.6(f) and LAC 33:III.507.I.

COMMENT 16: §537, Louisiana General Condition III — Clarify that the information included in the Inventories Section of the permit is for informational purposes only and is not enforceable (except where specifically noted elsewhere in the permit) by adding the following sentence to Louisiana General Condition III:

> "Information included in the Inventories section of the permit, including operating rates and operating time, are not enforceable limitations unless otherwise specified in the Specific Requirements."

FOR: Clarify that the information included in the "Inventories" section of each permit is for informational purposes only and is not enforceable.

AGAINST: In some instances, exceedance of an operating rate or other parameter specified in the "Inventories" section may be indicative of non-compliance.

RESPONSE 16: One purpose of the "Inventories" sheet is to aid in verification that the equipment listed in the permit application is installed and operates within the parameters established in the permit.

The operating rates and other information set forth on the "Inventories" sheet are provided by the applicant in the application's Emission Inventory Questionnaire (EIQ) sheets and do not necessarily reflect limits established by LDEQ for the express purpose of ensuring compliance with permitted limits.

However, where direct monitoring of emissions is not required, or an alternate means to verify compliance has not been established, actual records of operating rates may be the only means to ensure that permit limits have not been exceeded.

COMMENT 17: §537, Louisiana General Condition V — This General Condition should be removed from the list of General Conditions. Projects that have design changes, modifications, or alterations that will affect emission rates or ambient air quality levels already require a permit modification in accordance with LAC 33:III.Chapter 5. For this reason, additional construction reports are unnecessary, burdensome, and a waste of the department's resources.

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 17: Any "design changes, modifications, or alterations in the construction schedule that have or may have an effect on the emission rates or ambient air quality levels" (at least negatively) require pre-approval of LDEQ in accordance with LAC 33:III.501.C.2. Further, progress of construction can be tracked via Part 70 General Condition K and M submittals, which are required for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.

COMMENT 18: §537, Louisiana General Condition VIII — Modify this General Condition to account for *force majeure* events by modifying it to read as follows (additions are shown underlined):

> VIII. <u>Except as specified below,</u> the emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing <u>(unless otherwise waived by the permitting authority)</u> and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.
>
> <u>A. If a *force majeure* is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of</u>

force majeure, the owner or operator shall notify the permitting authority, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial *force majeure* or a subsequent *force majeure* event delays the notice, and in such cases, the notification shall occur as soon as practicable.

B. The owner or operator shall provide to the permitting authority a written description of the *force majeure* event and a rationale for attributing the delay in testing beyond the regulatory deadline to the *force majeure*; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the *force majeure* occurs.

C. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the permitting authority. The permitting authority will notify the owner or operator in writing of approval or disapproval of the request for the extension as soon as practicable.

D. Until an extension of the performance test deadline has been approved by the permitting authority, the owner or operator of the affected facility remains strictly subject to the requirements of this permit condition.

FOR: General Condition VIII should address the possibility of obtaining an extension to conduct a performance test when such extension is necessitated by a *force majeure* event.

AGAINST: LDEQ does not currently have the authority to approve extensions to performance test deadlines imposed by 40 CFR Part 60, 61, or 63. As such, inclusion of such language at this time may result in misdirected requests.

RESPONSE 18: The suggested language mirrors that set forth by EPA in its final rule allowing owners or operators, in the event of a *force majeure*, to petition the "Administrator" for an extension of the deadline(s) by which they are required to conduct an initial or subsequent performance test required by regulations promulgated under 40 CFR Part 60, 61, or 63 (72 FR 27437, May 16, 2007).

LDEQ requested delegation of this rule by letter dated August 24, 2007. The letter specifically noted the following:

Because of the unpredictability of tropical cyclone events in the Gulf

of Mexico, LDEQ requests that this delegation update be processed as expeditiously as practicable so that *force majeure* exemptions to 40 CFR Part 63.7 can be granted by the department when necessary.

Because EPA has not yet delegated this provision to LDEQ, the suggested *force majeure* language may confuse permittees seeking an extension to a performance test deadline imposed by 40 CFR Part 60, 61, or 63 if such language was included at this time. However, LDEQ is not opposed to modifying the General Conditions once EPA approves LDEQ's delegation request.

LDEQ has the authority to extend performance test deadlines imposed by Louisiana air quality regulations independent of Louisiana General Condition VIII.

COMMENT 19: §537, Louisiana General Condition XI — Remove General Condition XI.C, since the semiannual report required by this Subsection is unnecessary and burdensome. Excess emissions in amounts less than a Reportable Quantity and for less than 7 days in duration are more properly accounted for in the Emission Reporting Inventory Center (ERIC) system in accordance with LAC 33:III.919. If the department decides to maintain this Condition, then add a minimum threshold.

FOR: Remove General Condition XI.C, since the semiannual report required by this provision is unnecessary and burdensome.

AGAINST: The information contained in the report required by General Condition XI.C is necessary for LDEQ to appropriately enforce the permit.

RESPONSE 19: The information contained in the report required by General Condition XI.C is necessary for LDEQ to appropriately enforce the permit. Emissions Inventory does not require that each emission limitation exceedance event be reported separately. Therefore, it is not possible to tell if the amount reported was due to a single malfunction event or numerous malfunction events. While a single small release may not be cause for concern, multiple releases may be indicative of a larger problem. Further, ERIC does not capture the detailed information about each exceedance required by General Condition XI.D (e.g., the cause of noncompliance; the steps taken by the permittee to reduce and eliminate the noncomplying emissions; the steps taken by the permittee to prevent recurrences of the noncomplying emissions).

It should be noted that this rulemaking, in part, reduces the frequency of this report from quarterly to semiannually.

COMMENT 20: §537, Louisiana General Condition XVIII — This Condition is contrary to La. R.S. 30:2024(A) and to the Louisiana Constitutional protections for due process of law. Change the Condition to read as follows (changes are shown in strikeout and underline format):

> XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from receipt~~notice~~ of the permit action by certified mail. ~~A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.~~ Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions that are related to the contested conditions as well.

FOR: General Condition XVIII is contrary to La. R.S. 30:2024(A) and to the Louisiana Constitutional protections for due process of law.

AGAINST: While LDEQ does not agree that General Condition XVIII is contrary to La. R.S. 30:2024(A) and to the Louisiana Constitutional protections for due process of law, it will be revised consistent with the wording employed in Version 14 and previous versions of the General Conditions.

RESPONSE 20: While LDEQ does not agree that General Condition XVIII is contrary to La. R.S. 30:2024(A) and to the Louisiana Constitutional protections for due process of law, it will be revised consistent with the wording employed in Version 14 and previous versions of the General Conditions as follows:

> Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.

COMMENT 21: §537, Louisiana General Condition XIX — This Condition provides sufficient guidance to the regulated community for resolving any potential conflicts between federal and state provisions, but provides no guidance for conflicts that may develop between permit specific

requirements and later versions of the underlying applicable regulations which form the basis for the specific requirements. Change Louisiana General Condition XIX to read as follows:

XIX. Certain Part 70 general conditions may duplicate or conflict with state general conditions and/or subsequent revisions of underlying applicable regulation changes.

A. To the extent any Part 70 general conditions conflict with state general conditions, then the Part 70 general conditions control. To the extent any Part 70 general conditions duplicate any state general conditions, then such state and Part 70 provisions will be enforced as if there is only one condition, rather than multiple conditions.

B. To the extent any specific requirement conflicts with federal or Louisiana cited regulations contained in this permit, then the most current effective version of the cited regulation controls. To the extent any specific requirement duplicates a federal or Louisiana cited regulation contained in any Part 70 permit at this facility, then such federal and Louisiana state provisions will be enforced as if there is only one specific requirement, rather than multiple requirements.

FOR: Louisiana General Condition XIX should address conflicts that may develop between Specific Requirements and later versions of the underlying regulations which form the basis for the Specific Requirements.

AGAINST: Louisiana General Condition XIX addresses conflicts between Part 70 and Louisiana *General* Conditions. A new general condition is more appropriate to address Specific Requirements.

RESPONSE 21: In order to address discrepancies between an applicable federal or state regulation and the corresponding permit Specific Requirement (e.g., due to a change in regulatory text subsequent to issuance of a permit), LDEQ will establish a new Louisiana General Condition, XX, analogous to Part 70 General Condition W.

"Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified

regulation by any compliance dates established in the modified regulation."

Comment Summary Response & Concise Statement Key – AQ286
Amendments to the Air Regulations
General Conditions for Air Permits
LAC 33:III.535 and 537

COMMENT #	SUGGESTED BY
1	Jill M. Witkowski / LEAN and Tulane Environmental Law Clinic
2-7	Jeff Robinson / U.S. Environmental Protection Agency
8, 12, 13, 16-20	Henry Graham / Louisiana Chemical Association
8-21	Kyle Beall / Kean Miller

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RECEIVED
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LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

October 2, 2008

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

HAND-DELIVERED

Re: Comments on Proposed Rulemaking AQ286
General Conditions for Air Permits (LAC 33:III.535 and 537)

Dear Dr. Schuerman:

The following comments are submitted on behalf of the Louisiana Chemical Association, the Louisiana Mid-Continent Oil & Gas Association, the Louisiana Pulp & Paper Association, and the Louisiana Oil & Gas Association (collectively referred to as the "Associations"). The Associations appreciate the opportunity to comment on this proposed rulemaking concerning the Part 70 General Conditions and Louisiana General Conditions (the "General Conditions") for air permits issued by the Louisiana Department of Environmental Quality.

The Associations request that these comments be placed in the administrative record of the proposed rulemaking and that the LDEQ respond to each of these comments. The Associations hereby adopt and incorporate by reference those comments to this proposed rulemaking, Log No. AQ286, made by individual Association members to the extent such comments are not inconsistent with the comments made herein.

General Comments on AQ286

The Associations support the Department's proposal to include the Part 70 and Louisiana General Conditions in the Louisiana Air Quality Regulations. These conditions have traditionally been included in air permits issued by the Department, but have not been subject to the public notice and comment process as other rulemakings. Because the Department sometimes makes substantive changes to the General Conditions, the Associations believe it is appropriate to include these conditions in Title 33, Part III of the Louisiana Administrative Code. Thus, the Associations agree with the Department's stated goal in the Preamble

section to this rulemaking of "ensuring transparency and opportunity for public review and comment."

The Associations further agree with the Department's intent to make all permittees subject to the same General Conditions upon promulgation of the final rule. In the past, various companies (and sometimes permits at the same facility) operated under different versions of the General Conditions. This led to potential inconsistency among the regulated community and within the Department. The Associations are overall in favor of making all affected permittees subject to the same version of the General Conditions upon final codification and future modifications. Incorporation into the Louisiana Air Quality Regulations will achieve its goal of consistency.

The Associations request that the Department make clear in the final rulemaking that once codified, these General Conditions will supersede all prior versions of the General Conditions (which range from 1 through 15) currently included in existing permits. From a consistency and efficiency standpoint, it is important for the Department to clarify that the General Conditions in the regulations will apply upon final issuance.

Finally, the Associations request that the Department not cite the General Conditions in air permits in future permit actions. Continued inclusion of General Conditions in the Specific Requirements will create confusion between the permit and subsequent revisions to the regulations. This is similar to the confusion created by changes to applicable regulatory citations referenced in Specific Requirements. Specific Comment No. 8 below discusses this issue further.

Specific Comments on AQ286

Comment 1 – Part 70 General Condition R

The Associations strongly support the proposal to change the permit deviation reports from a quarterly to a semiannual basis. The Department clearly has the legal authority to change the reporting frequency and there are practical reasons to do so. From a resource standpoint, the Associations believe that the Department, the regulated community, and the public will be better served by reporting certain permit deviations on a less-frequent basis. Reporting on a semiannual basis will continue to provide meaningful information to the Department and the public in a timely manner, and will also reduce the burden on both the Department and the regulated community. This change will also mesh

well with the Department's current approach of reviewing at least one full year's compliance record for a permitted facility when evaluating performance.

Other states, including another EPA Region 6 state, have adopted semi-annual reporting frequency. The federal program set forth in 40 C.F.R. Part 71 (for facilities not regulated by delegated state programs) also defaults to a semi-annual reporting format. Part 71 sets forth the permit requirements for the Federal Operating Permits Program for states that have not been delegated authority of a Part 70 program by the EPA. The Associations support any simplification of reporting to make its member companies more competitive with other states.

The seven-day reporting requirements for certain emission-related deviations (those greater than an RQ or lasting for seven days or longer regardless of amount) satisfy the Part 70 requirement for prompt reporting of deviations from permit requirements. The proposed reporting format satisfies the criteria referenced by the EPA in establishing prompt notification requirements (i.e., "pollutant concentration, deviation duration, and authority response time"). *See*, 61 Fed. Reg. 34,202, 34,219 (July 1, 1996). The Associations believe these measures are adequate to protect public health and safety as well as to provide adequate notice to the Department of potential issues at a regulated facility.

Part 70 General Condition R currently provides the following with respect to continuous excess emissions:

> 2. A written report shall be submitted <u>within seven days of the initial occurrence</u> of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer. (Emphasis added).

The above language could be interpreted to require reporting on the seventh day of a release event even though reporting is only required "where such emission occurs over a period of seven days or longer." Facilities sometimes cannot know how long a release event will last and because the seventh day of a minor, but continuous, release could occur on a weekend or holiday. In addition, the Department should clarify that this reporting requirement only applies to emission limits, not all permit requirements. For these reasons, the Associations request that Subsection R.2 be clarified as follows:

> 2. A written report shall be submitted for ~~within seven days of the initial occurrence of~~ any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.

The above language will provide more flexibility to the regulated community and will allow facilities to provide more complete information in excess emission reports. Of course, releases above a reportable quantity are already subject to LAC 33:III.Chapter 39 (among other release notification regulations). Therefore, the Department and other agencies will be made aware of significant release events. As the Department is aware, this was the very purpose of the establishment of reportable quantities by the EPA under the CERCLA program. For these reasons, the Associations request that the Department make the above clarification to Part 70 General Condition R and Louisiana General Condition XI.

Comment 2 – Part 70 General Condition W

For consistency, the Associations request that the Department revise Part 70 General Condition W to refer to the "permitting authority" instead of the "authority" as currently proposed. Other General Conditions refer to the "permitting authority" which is defined in LAC 33:III.502 as "the secretary, or designee, of the Department of Environmental Quality."

Comment 3 – Louisiana General Condition III

The Associations request that the Department clarify the scope of proposed Louisiana General Condition III. This condition has been modified numerous times by the Department since the delegation of the Title V permitting program in 1996, in part, due to changes in the format of Part 70 permits. Under the current TEMPO system, confusion continues to exist among some Department personnel and the regulated community concerning the "Inventories" section contained in Part 70 permits.

Much of the information included in the Inventories section is obtained from Emission Inventory Questionnaire (EIQ) sheets that are included by the permittee in the permit application. This information includes maximum operating rates, normal operating rates, tank volume, and operating time for

various emission sources. EIQ sheets were formerly incorporated into air permits before the current TEMPO system and contained both emission limits, operational limits (where designated as such), and other non-enforceable information.

Under the TEMPO system, emissions limits are clearly included in the "Emission Rates Tables" and operational limits are set forth in the Specific Requirements. The Associations seek clarification that the information included in the Inventories section are for informational purposes only and are not enforceable, except where specifically noted elsewhere in the permit. To clarify this position, the Associations request that the Department revise proposed Louisiana General Condition III as follows:

> The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP & Other Pollutants, and Specific Requirements sections or, where included, Emission Inventory Questionnaire sheets establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit. <u>Information included in the Inventories section of the permit, including operating rates and operating time, are not enforceable limitations unless otherwise specified in the Specific Requirements.</u>

This addition to General Condition III will provide needed clarity for the Department, the public and the regulated community. If the Department determines to promulgate the condition without the suggested clarification, the Associations request that the Department articulate that this position is correct in its Response to Comments.

<u>Comment 4 – Louisiana General Condition V</u>

The Associations request that Louisiana General Condition V relating to semiannual construction progress reports be removed from the General Conditions. Because the Department has a fully-delegated permitting program and issues all preconstruction permits for new facilities and modifications to existing facilities, this requirement is no longer necessary. In addition, construction reports are currently required by numerous federal programs, including new source performance standards. Therefore, this requirement should not be duplicated in the General Conditions regulations.

As proposed, Louisiana General Condition V states:

> The permittee shall submit semiannual reports of progress outlining the status of construction, noting any design changes, modifications or alterations in the construction schedule which have or may have an effect on the emission rates or ambient air quality levels. These reports shall continue to be submitted until such time as construction is certified as being complete. Furthermore, for any significant change in the design, prior approval shall be obtained from the Office of Environmental Services, Air Permits Division.

Projects that have "design changes, modifications or alterations" that will affect "emission rates or ambient air quality levels" already require a permit modification pursuant to LAC 33:III.Chapter 5. For this reason, additional construction reports are unnecessary, burdensome, and a waste of agency resources and should be deleted from the Louisiana General Conditions.

Comment 5 – Louisiana General Condition VIII

The Associations request that the Department modify Louisiana General Condition VIII to account for *force majeure* events. General Condition VIII concerns emission testing requirements and provides that testing "shall be conducted within 60 days after achieving normal production rate or at the end of the shakedown period, but in no event later than 180 days after initial startup (or re-startup after modification." General Condition VIII is similar to testing requirements in NSPS and NESHAP regulations (*See*, 40 CFR §§ 60.8 and 63.7).

On May 16, 2007, the EPA published a final rule that acknowledged force majeure events events (www.epa.gov/fedrgstr/EPA-AIR/2007/May/Day-16/a9407.htm). In that rulemaking, the EPA provided an exception from testing for certain unforeseeable events in the discretion of the permitting authority.[1] Although the Associations recognize that this provision has not been incorporated into the

[1] "*Force majeure*" is defined in 40 CFR 63.2 to mean "an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility."

Louisiana State Implementation Plan (SIP), we request that it be incorporated into Louisiana General Condition VIII at the appropriate time. Specifically, the Associations request that General Condition VIII be modified as follows:

> VIII. Except as specified below, the emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing (unless otherwise waived by the permitting authority) and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.
>
> A. If a *force majeure* is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the permitting authority, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent *force majeure* event delays the notice, and in such cases, the notification shall occur as soon as practicable.
>
> B. The owner or operator shall provide to the permitting authority a written description of the *force majeure* event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

> C. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the permitting authority. The permitting authority will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.
>
> D. Until an extension of the performance test deadline has been approved by the permitting authority, the owner or operator of the affected facility remains strictly subject to the requirements of this permit condition.

Comment 6 – Louisiana General Condition XI

The Associations request that the Department delete Subsection C of Louisiana General Condition XI as this condition is burdensome, duplicative, and unnecessary. Unlike the broader Part 70 General Condition R, proposed General Condition XI requires reporting only for excess emissions as follows:

> If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below.
>
> A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.
>
> B. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer.
>
> C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. ...

(Emphasis added).

The Associations question the necessity for semiannual reports for emission exceedances that are less than a reportable quantity and that last for less than seven days in duration. Excess emissions in this relatively low amount (less than an RQ and less than seven days in duration) are more properly accounted for in the Emission Reporting Inventory Center (ERIC) system pursuant to LAC 33:III.919. For this reason, the Associations request that the Department delete Subsection C of General Condition XI as another semiannual report is not necessary and will not provide the Department with useful information. For the reasons discussed below, the Department should also clarify that the reporting requirements in Subsections A and B only apply to short-term emission limits.

General Condition XI has traditionally been interpreted as applying to emission exceedances not otherwise covered by the broader Part 70 General Condition R, which requires reporting of all federally-applicable deviations from permit emission limitations. In other words, General Condition XI was originally included for State-Only emission limitations. The Associations believe that requiring semiannual reports for what may be very minor emissions is unnecessary. As mentioned, such emissions will be properly accounted for in the ERIC report submitted on March 31 of each year.

If the Department decides to maintain this condition, the Associations request that a minimum threshold be included. In addition, the Department should clarify that an "emission in excess of permit requirements" and "emission limitation exceedances" refers to exceedances of maximum hourly emission limits attributable to a specific point source in the emission limitation tables of the permit. Where a maximum hourly limit is not specified (e.g., for tanks), the Department should clarify that exceedances of *annual* limits, as determined on a calendar year basis, should be reported in the annual ERIC report. Finally, the Department should clarify that emission limitation exceedances do not include updates to a speciated emission limit or emission factor. Such emissions are properly included in annual emissions reports pursuant to LAC 33:III.919 and 5107, as applicable.

For the reasons stated above and in Comment 1, the Associations request that General Condition XI be revised as follows:

> B. A written report shall be submitted for ~~within seven days of the initial occurrence of~~ any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.
>
> ~~C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.~~

Comment 7 – Louisiana General Condition XVIII

The Associations strongly oppose the language of proposed General Condition XVIII as it is contrary to both the governing statute and to EPA procedures. Further, it will put Louisiana facilities at a significant economic disadvantage to other states, which follow EPA's permit appeal rules. Instead, LDEQ should keep the longstanding version of this language used in Versions 1 through 14 of the Louisiana General Conditions. Version 15 of the Louisiana General Conditions, dated July 2, 2008, made a substantive change to the appeals process and violates the intent of the authoritative statute. The plain language of the statute can and should be read to stay appealed conditions. An automatic stay to appealed conditions will also result in less confusion by the regulated community and the public on what must be reported in Title V deviation reports.

Since the inception of the Part 70 program in 1996, General Condition XVIII has provided the following appeal rights to permittees:

> Provisions of this permit may be appealed in writing pursuant to La. R.S. 30:2024(A) within 30 days from receipt of the permit. Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well.

(Emphasis added). Proposed General Condition XVIII makes the following substantive change to this condition:

> Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.

(Emphasis added). As discussed below, there are significant legal and practical problems with General Condition XVIII, as proposed. The Department should reinstate the long-standing requirement that appealed conditions are automatically suspended by a request for hearing.

Appeal rights for permits issued by the Department are set forth in La. R.S. 30:2024.A and provide as follows:

> Any permit action shall be effective upon issuance unless a later date is specified therein. Such action shall be final and shall not be subject to further review **unless**, no later than thirty days after the notice of the action is served by certified mail or by hand upon the applicant, he files with the secretary a request for hearing.

(Emphasis added). The above statutory language clearly states that permits issued by the Department are final and not reviewable except for one circumstance – when the permittee files a request for an administrative hearing with the LDEQ Office of the Secretary. The plain elucidation of this statutory provision is that when a request for administrative hearing is filed by the permittee, the appealed conditions are not final, i.e., they do not take effect and are stayed. In short, the one circumstance in which permit conditions are not final are when they are appealed within 30 days of receipt by certified mail.

There are two legally rationale interpretations of the governing statutory authority: (1) the entire permit ("permit action") is not final (hence, not effective) even if one provision out of hundreds of provisions are not contested; or (2) the contested permit provision (the permit action being imposition of that condition) is not final (hence not effective) when a request for hearing on that condition is filed.

In such case, the portions of the permit *not* appealed remain effective, but the provisions of the permit specifically appealed are stayed until a decision is reached by the administrative law judge, or more commonly, a resolution is reached between the parties on the contested condition(s). Although not explicit, the above interpretation is reflected in the spirit of the statute and its longstanding interpretation by the Department.

The EPA has instituted similar appeal procedures for the federal environmental permits that EPA has authority to issue. These procedures are set forth in 40 CFR Part 124. The EPA procedure provides that contested permit conditions of RCRA, UIC, and NPDES permits shall be stayed pending final agency actions. *See*, 40 CFR 124.16. This language was tracked almost verbatim in prior versions of the LDEQ General Condition XVIII, indicating that the Department has had the same interpretation of La. R.S. 30:2024 for at least as long at the Title V program came into existence in 1996. This is the intrerpretation that the Associations urge the Department to continue.

Prior to the use of General Condition XVIII in the Title V program, LDEQ and administrative law judges took the position that a challenge of even one permit condition stayed the entire permit. However, this caused problems for both LDEQ and the regulated industries as it precluded uncontested provisions that both parties clearly agreed to become effective. During multi-stakeholder negotiations in the development of LDEQ's initial Title V program, it was agreed that the language of La. R.S. 30:2024.A could be interpreted such that the "permit action" referred to individual permit conditions or groups of conditions that were related, but did not have to mean every condition of the permit. Hence, LDEQ developed the version of General Condition XVIII that has been used in Versions 1 through 14. The LDEQ cannot change the version of the General Condition through rulemaking now to mean ***exactly the opposite*** of the statute – that contested conditions become final and effective even while the administrative process is pending.

There are basic due process rights involved in not having adequate appeal rights for any term or condition that the Department chooses to include in an air permit (whether erroneous or intentional). Due process and the purpose of La. R.S. 30:2024.A do not grant the Secretary or Assistant Secretary the power to enforce a contested permit condition prior to an administrative hearing. Rather, the administrative law judge is the proper arbiter for properly appealed conditions, as demonstrated by numerous appeals filed over the years.

The fact that there are no statutory or regulatory procedures for asking for a stay, deadlines for LDEQ to act, or procedures for appeal of a denial of a stay by LDEQ show that the request for hearing itself was meant to stay the contested conditions. LDEQ could simply not act on the request for a stay or delay action to a point where significant economic or safety burdens cound ensue to the permittee.

A few examples illustrate this point. A permit may impose use of a CEMS. The facility may not have the CEMS (which can cost in the hundreds of thousands of dollars). There may be a legal dispute about whether a CEMS is required. Under LDEQ's scheme, the permit condition requiring the CEMs would be issued and become final and effective on the day it is signed under the current boilerplate Title V language (even before service). The facility would instantly be in violation and would continue to be in violation up to the point LDEQ, in its sole discretion, decides to issue a stay, if LDEQ decides to do so. Those violations for the period before the stay would still exist, regardless of the outcome of the litigation. The same would be true in the situation where LDEQ imposes some applicable requirement in the permit that the facility believes is not applicable. It may be impossible to comply, or the cost to comply would be unreasonable, in the interim period until a decision is made on the contested condition.

The Associations further submit that LDEQ does not have the resources to review and timely respond to the request for stays that will result if this provision goes into effect.

As the Department is aware, many Part 70 permits contain literally thousands of conditions. The Department is aware that many of these contain errors, despite the best efforts of the permit staff to review applications and comments. There are many instances where appeals have been filed to correct such minor errors. Under the Department's scheme, these will be violations for at least the period until the stay is issued, if one is issued.

Versions 1-14 of the General Condition XVIII reflected a careful balance that is in keeping with La. R.S. 30:2024. The contested conditions are stayed only so long as there are administrative appeal provisions pending. LDEQ has a significant degree of control in that process. If condition that LDEQ believes should be immediately effective is administratively appealed, LDEQ can immediately deny the request for administrative hearing on that condition. That means the facility would then have to file suit in the 19th Judicial District court, where any issue about a stay can be fairly litigated by both parties. (Further, LDEQ retains its rights to issue emergency orders if it believes that the condition

is that essential that it must be implemented right away, provided the requirements for emergency orders must be met.)

The Department is also aware that any deviation from a permit requirement must be reported on at least a semi-annual basis. Not allowing the stay of an appealed permit term will result in confusion on what must be included in periodic reports and annual compliance certifications. The Associations believe this potential confusion can easily be avoided by using the language in Versions 1 through 14 of the General Conditions, and for the above reasons, request that the Department revise General Condition XVIII as follows in the final rule:

> Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from receipt ~~notice~~ of the permit action by certified mail. ~~A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.~~ Only those provisions specifically appealed will be suspended by a request for hearing. unless the secretary or the assistant secretary elects to suspend other provisions that are related to the contested conditions as well.

Finally, the Department should revise General Condition XVIII to make clear that appeals must be filed within 30 days from receipt of the permit action ***by certified mail***. This method is used by the Department to send final permits and also reflects the language in R.S. 30:2024.A.

The Associations believe that this provision is contrary to La. R.S. 30:2024 and to the Louisiana Constitutional protections for due process of law. Without waiving any such position, the Associations further believe that the Department cannot adopt this rule without doing a cost-benefit analysis and without revision its fiscal and economic impact statement. The Associations believe that the economic impact of this provision is considerable and will impose a significant administrative burden on LDEQ and a poetential significant economic burden on regulated permittees. LDEQ must survey the number of facility permits that were challenged over the course of the Title V program thus far and solicit information on the cost that the facilities would have incurred had there been no stay of contested conditions during administrative review.

Further, without waiving any of the above positions, if LDEQ determines that it will go forward with this condition, then at a minimum LDEQ must do at least two things: (1) provide for an effective date after the deadline for a request for hearing; and (2) provide for a time period for LDEQ to act on the request for a stay and procedures to contest the failure to agree to a stay. To address the first, LDEQ should revise the boilerplate conditions of the permit to provide that the permit is not effective until 30 days after service, unless an earlier date is specifically stated therein. This will change the default time period to such period after the deadline for filing an administrative challenge. The permittees who want a permit to become effective prior to the 30 day time period could ask for an earlier date during the comment period. If LDEQ believes that an earlier date (before the time period for appeal) is necessary, then LDEQ should make the reason for such need apparent in the Statement of Basis so that the permittee can adequately comment on it during the comment period.

To address the second matter, LDEQ should include a statement in the general condition that LDEQ will act on a request for a stay within 10 days of filing of the request for hearing and that any denial of a stay is immediately appealable to the administrative law judge or to the 19th Judicial District Court. It should also provide that any stay granted is retroactive to the date of issuance of the permit.

Comment 8 – Louisiana General Condition XIX

There is sufficiency in General Condition XIX that clearly provides guidance to the regulated community for resolving any potential conflicts between federal and state provisions. However, there is no such guidance for conflicts that may develop between permit specific requirements and later versions of the underlying applicable regulations which form the basis for the specific requirements. Potential situations may develop such that a later version of the applicable regulatory citation may change slightly or greatly from the language that may be included in a permit as a specific and enforceable requirement. In some cases, these types of conflicts may make it impossible for a permittee to comply with the permit requirement and the applicable regulation, a situation which is obviously unintended and not desirable for the permittee and the regulating authority.

One simple recent example of this is when the US Supreme Court ruled against EPA regarding the Process Heaters and Boilers MACT rule (40 CFR Part 63, Subpart DDDD) and vacated the rule. Many facilities had already

incorporated the requirements of this rule into Title V permits, including testing and control strategies scheduled to meet specific compliance dates. With the *vacatur* of the rule, the facilities could have been compelled to install and test control equipment to meet the standard that no longer existed, only to be required to re-evaluate and comply with subsequent replacement rules once promulgated. In this case, LDEQ issued an emergency rule to alleviate this situation and "undo" this conflict. However, from this example, it is clear that a provision for dealing with such changes is necessary and would avoid the urgency for such emergency rules on the broader scale. Other examples of conflicts are not as easily resolved via emergency rule as these may be much more facility specific and facilities remain vulnerable to such changes.

To resolve this concern, the Associations propose changing General Condition XIX, and adding similar language already included for potential conflicts between state and federal rules (or in the alternative, as this clarification could be included in a new General Condition) as follows:

XIX. Certain Part 70 general conditions may duplicate or conflict with state general conditions and/or subsequent revisions of underlying applicable regulation changes.

A. To the extent any Part 70 general conditions conflict with state general conditions, then the Part 70 general conditions control. To the extent any Part 70 general conditions duplicate any state general conditions, then such state and Part 70 provisions will be enforced as if there is only one condition, rather than multiple conditions.

B. To the extent any specific requirement conflicts with federal or Louisiana cited regulations contained in this permit, then the most current effective version of the cited regulation controls. To the extent any specific requirement duplicates a federal or Louisiana cited regulation contained in any Part 70 permit at this facility, then such federal and Louisiana state provisions will be enforced as if there is only one specific requirement, rather than multiple requirements.

Comment 9 – General Condition to Address Periodic Monitoring

The Associations request that the Department add a general condition to address the sufficiency of monitoring requirements included in Part 70 permits by the permitting authority. LAC 33:III.501.C.6 generally requires the permitting authority to "incorporate into each permit sufficient terms and conditions to ensure compliance with all state and federally applicable air quality requirements and standards at the source and such other terms and conditions as determined by the permitting authority to be reasonable and necessary. ..." A general condition that concerns the sufficiency of monitoring will provide needed clarity for the Department, the public and the regulated community. For this reason, the Associations suggest that the following general condition be included in the final rule:

> XV. The permittee shall comply with all monitoring requirements set forth in the permit. For purposes of this permit, the methods in LAC 33:III.919.C are sufficient to assure compliance with the limits set forth in the Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements.

On August 19, 2008, the United States Court of Appeals for the D.C. Circuit addressed the 2006 EPA rule on periodic monitoring in *Sierra Club v. EPA* (Docket No. 04-1243). The court held that EPA's rule that prohibited delegated authorities from supplementing inadequate monitoring requirements violated the Clean Air Act, but that the existing Part 70 regulations could be read to require supplementation of inadequate monitoring. The Associations request that the Department, in its role as delegated authority in Louisiana, include the above General Condition to address the monitoring requirements set forth in air permits issued by the LDEQ Permits Division.

If you have any questions, feel free to contact the Association representatives copied on this letter, or I can be reached at (225)382-3493 or kyle.beall@keanmiller.com.

Very truly yours,

Kyle Beall

Kyle B. Beall

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LDEQ RECEIPT

2008 OCT 2 PM 3 55

cc: Henry Graham, LCA
Richard Metcalf, LMOGA
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Don Briggs, LOGA

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AQ286

Tulane Environmental Law Clinic

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OCT 02 2008
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REGULATION DEVELOPMENT SECTION

October 2, 2008

Via U.S. Mail and Fax (225) 219-3398
Judith A. Schuerman, Ph.D.
Office of Environmental Assessment
Environmental Planning Division
Regulation Development Section
P.O. Box 4314
Baton Rouge, LA 70821

RE: Comments on behalf of Louisiana Environmental Action Network regarding proposed General Conditions for Air Permits.

Dear Dr. Schuerman:

Louisiana Environmental Action Network[1] respectfully submits the following comments on the proposed General Conditions for Air Permits. Louisiana's general conditions for air permits should include a condition addressing LDEQ's duty to include monitoring "sufficient to assure compliance with permit terms and conditions" within each permit, even where EPA has established monitoring. *See* 40 C.F.R. 70.6(c).

On August 19, 2008, the D.C. Circuit Court of Appeals issued a decision addressing periodic monitoring requirements, finally providing a definitive ruling on the issue after years of inconsistent rules from EPA on the issue. *See Sierra Club v. EPA*, 536 F.3d 673 (D.C. Cir. 2008). The court overturned EPA's rule prohibiting states from supplementing federally required periodic monitoring in air permits, even if that monitoring was not sufficient to assure compliance with the permit. *See id.* at 673 ("The Environmental Protection Agency... promulgated a rule preventing state and local authorities from supplementing these inadequate monitoring requirements. We vacate this rule because it is contrary to the statutory directive that each permit must include adequate monitoring requirements."). Noting that the Clean Air Act

[1] The Louisiana Environmental Action Network is a non-profit 501(c)(3) organized under the laws of Louisiana. It functions as an umbrella organization for local groups and also fights to protect air quality for all Louisiana citizens.

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requires "monitoring ... requirements to assure compliance with the permit terms and conditions," 42 U.S.C. § 7661c(c), and federal regulations likewise mandate that "[a]ll ... permits shall contain ... monitoring ... requirements sufficient to assure compliance with the terms and conditions of the permit," 40 C.F.R. 70.6(c), the Court recognized that "[s]ometimes existing monitoring requirements do not 'assure compliance.'" *Id.* at 673. Ultimately, the court found EPA's rule violated the plain language of the Clean Air Act and affirmed that states must supplement EPA's periodic monitoring where it is not sufficient to assure compliance with the terms and conditions of the permit. *Id.* at 677.

This means that LDEQ may only issue an air permit that includes monitoring sufficient to assure compliance with the terms and conditions of the permit, even if federally-required periodic monitoring is inadequate. For example, where a landfill has a gas collection and flare system, and the air permit sets out limits for various pollutants the facility can emit from the flare, but EPA's standards for flares only requires a facility to measure temperature of the flare and pressure of the gas, LDEQ ***must*** require the facility to monitor the composition of the gas entering the flare in order to determine the pollutants exiting the flare and assure compliance with permit limits. Since *Sierra Club v. EPA* has clarified the law on periodic monitoring, LDEQ should add language to the General Conditions to reflect the decision.

LEAN proposes that LDEQ add the following language to the General Conditions for all air permits:

> According to 40 CFR 70.6(c), all permits must contain monitoring requirements sufficient to assure compliance with the terms and conditions of the permit. Where federally required monitoring does not provide for monitoring requirements sufficient to assure compliance with permit terms and conditions, monitoring requirements sufficient to assure compliance shall be added to the permit. The permittee may not estimate emissions to demonstrate compliance with any permit term or condition. In the event that the permitting authority discovers that monitoring requirements in the permit are not sufficient to assure compliance, it shall reopen the permit and supplement monitoring requirements to a level that such monitoring is sufficient to assure compliance with permit terms and conditions.

Louisiana Environmental Action Network reserves the right to rely on comments submitted by other organizations and citizens and requests notification when the final rule is issued.

Respectfully submitted by:

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LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

October 2, 2008

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

HAND-DELIVERED

Re: Comments on Proposed Rulemaking AQ286
General Conditions for Air Permits (LAC 33:III.535 and 537)

Dear Dr. Schuerman:

The following comments are submitted on behalf of the Louisiana Chemical Association, the Louisiana Mid-Continent Oil & Gas Association, the Louisiana Pulp & Paper Association, and the Louisiana Oil & Gas Association (collectively referred to as the "Associations"). The Associations appreciate the opportunity to comment on this proposed rulemaking concerning the Part 70 General Conditions and Louisiana General Conditions (the "General Conditions") for air permits issued by the Louisiana Department of Environmental Quality.

The Associations request that these comments be placed in the administrative record of the proposed rulemaking and that the LDEQ respond to each of these comments. The Associations hereby adopt and incorporate by reference those comments to this proposed rulemaking, Log No. AQ286, made by individual Association members to the extent such comments are not inconsistent with the comments made herein.

General Comments on AQ286

The Associations support the Department's proposal to include the Part 70 and Louisiana General Conditions in the Louisiana Air Quality Regulations. These conditions have traditionally been included in air permits issued by the Department, but have not been subject to the public notice and comment process as other rulemakings. Because the Department sometimes makes substantive changes to the General Conditions, the Associations believe it is appropriate to include these conditions in Title 33, Part III of the Louisiana Administrative Code. Thus, the Associations agree with the Department's stated goal in the Preamble

section to this rulemaking of "ensuring transparency and opportunity for public review and comment."

The Associations further agree with the Department's intent to make all permittees subject to the same General Conditions upon promulgation of the final rule. In the past, various companies (and sometimes permits at the same facility) operated under different versions of the General Conditions. This led to potential inconsistency among the regulated community and within the Department. The Associations are overall in favor of making all affected permittees subject to the same version of the General Conditions upon final codification and future modifications. Incorporation into the Louisiana Air Quality Regulations will achieve its goal of consistency.

The Associations request that the Department make clear in the final rulemaking that once codified, these General Conditions will supersede all prior versions of the General Conditions (which range from 1 through 15) currently included in existing permits. From a consistency and efficiency standpoint, it is important for the Department to clarify that the General Conditions in the regulations will apply upon final issuance.

Finally, the Associations request that the Department not cite the General Conditions in air permits in future permit actions. Continued inclusion of General Conditions in the Specific Requirements will create confusion between the permit and subsequent revisions to the regulations. This is similar to the confusion created by changes to applicable regulatory citations referenced in Specific Requirements. Specific Comment No. 8 below discusses this issue further.

Specific Comments on AQ286

Comment 1 – Part 70 General Condition R

The Associations strongly support the proposal to change the permit deviation reports from a quarterly to a semiannual basis. The Department clearly has the legal authority to change the reporting frequency and there are practical reasons to do so. From a resource standpoint, the Associations believe that the Department, the regulated community, and the public will be better served by reporting certain permit deviations on a less-frequent basis. Reporting on a semiannual basis will continue to provide meaningful information to the Department and the public in a timely manner, and will also reduce the burden on both the Department and the regulated community. This change will also mesh

well with the Department's current approach of reviewing at least one full year's compliance record for a permitted facility when evaluating performance.

Other states, including another EPA Region 6 state, have adopted semi-annual reporting frequency. The federal program set forth in 40 C.F.R. Part 71 (for facilities not regulated by delegated state programs) also defaults to a semi-annual reporting format. Part 71 sets forth the permit requirements for the Federal Operating Permits Program for states that have not been delegated authority of a Part 70 program by the EPA. The Associations support any simplification of reporting to make its member companies more competitive with other states.

The seven-day reporting requirements for certain emission-related deviations (those greater than an RQ or lasting for seven days or longer regardless of amount) satisfy the Part 70 requirement for prompt reporting of deviations from permit requirements. The proposed reporting format satisfies the criteria referenced by the EPA in establishing prompt notification requirements (i.e., "pollutant concentration, deviation duration, and authority response time"). *See*, 61 Fed. Reg. 34,202, 34,219 (July 1, 1996). The Associations believe these measures are adequate to protect public health and safety as well as to provide adequate notice to the Department of potential issues at a regulated facility.

Part 70 General Condition R currently provides the following with respect to continuous excess emissions:

> 2. A written report shall be submitted <u>within seven days of the initial occurrence</u> of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer. (Emphasis added).

The above language could be interpreted to require reporting on the seventh day of a release event even though reporting is only required "where such emission occurs over a period of seven days or longer." Facilities sometimes cannot know how long a release event will last and because the seventh day of a minor, but continuous, release could occur on a weekend or holiday. In addition, the Department should clarify that this reporting requirement only applies to emission limits, not all permit requirements. For these reasons, the Associations request that Subsection R.2 be clarified as follows:

> 2. A written report shall be submitted for ~~within seven days of the initial occurrence of~~ any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.

The above language will provide more flexibility to the regulated community and will allow facilities to provide more complete information in excess emission reports. Of course, releases above a reportable quantity are already subject to LAC 33:III.Chapter 39 (among other release notification regulations). Therefore, the Department and other agencies will be made aware of significant release events. As the Department is aware, this was the very purpose of the establishment of reportable quantities by the EPA under the CERCLA program. For these reasons, the Associations request that the Department make the above clarification to Part 70 General Condition R and Louisiana General Condition XI.

Comment 2 – Part 70 General Condition W

For consistency, the Associations request that the Department revise Part 70 General Condition W to refer to the "permitting authority" instead of the "authority" as currently proposed. Other General Conditions refer to the "permitting authority" which is defined in LAC 33:III.502 as "the secretary, or designee, of the Department of Environmental Quality."

Comment 3 – Louisiana General Condition III

The Associations request that the Department clarify the scope of proposed Louisiana General Condition III. This condition has been modified numerous times by the Department since the delegation of the Title V permitting program in 1996, in part, due to changes in the format of Part 70 permits. Under the current TEMPO system, confusion continues to exist among some Department personnel and the regulated community concerning the "Inventories" section contained in Part 70 permits.

Much of the information included in the Inventories section is obtained from Emission Inventory Questionnaire (EIQ) sheets that are included by the permittee in the permit application. This information includes maximum operating rates, normal operating rates, tank volume, and operating time for

various emission sources. EIQ sheets were formerly incorporated into air permits before the current TEMPO system and contained both emission limits, operational limits (where designated as such), and other non-enforceable information.

Under the TEMPO system, emissions limits are clearly included in the "Emission Rates Tables" and operational limits are set forth in the Specific Requirements. The Associations seek clarification that the information included in the Inventories section are for informational purposes only and are not enforceable, except where specifically noted elsewhere in the permit. To clarify this position, the Associations request that the Department revise proposed Louisiana General Condition III as follows:

> The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP & Other Pollutants, and Specific Requirements sections or, where included, Emission Inventory Questionnaire sheets establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit. <u>Information included in the Inventories section of the permit, including operating rates and operating time, are not enforceable limitations unless otherwise specified in the Specific Requirements.</u>

This addition to General Condition III will provide needed clarity for the Department, the public and the regulated community. If the Department determines to promulgate the condition without the suggested clarification, the Associations request that the Department articulate that this position is correct in its Response to Comments.

<u>Comment 4 – Louisiana General Condition V</u>

The Associations request that Louisiana General Condition V relating to semiannual construction progress reports be removed from the General Conditions. Because the Department has a fully-delegated permitting program and issues all preconstruction permits for new facilities and modifications to existing facilities, this requirement is no longer necessary. In addition, construction reports are currently required by numerous federal programs, including new source performance standards. Therefore, this requirement should not be duplicated in the General Conditions regulations.

As proposed, Louisiana General Condition V states:

> The permittee shall submit semiannual reports of progress outlining the status of construction, noting any design changes, modifications or alterations in the construction schedule which have or may have an effect on the emission rates or ambient air quality levels. These reports shall continue to be submitted until such time as construction is certified as being complete. Furthermore, for any significant change in the design, prior approval shall be obtained from the Office of Environmental Services, Air Permits Division.

Projects that have "design changes, modifications or alterations" that will affect "emission rates or ambient air quality levels" already require a permit modification pursuant to LAC 33:III.Chapter 5. For this reason, additional construction reports are unnecessary, burdensome, and a waste of agency resources and should be deleted from the Louisiana General Conditions.

Comment 5 – Louisiana General Condition VIII

The Associations request that the Department modify Louisiana General Condition VIII to account for *force majeure* events. General Condition VIII concerns emission testing requirements and provides that testing "shall be conducted within 60 days after achieving normal production rate or at the end of the shakedown period, but in no event later than 180 days after initial startup (or re-startup after modification." General Condition VIII is similar to testing requirements in NSPS and NESHAP regulations (*See*, 40 CFR §§ 60.8 and 63.7).

On May 16, 2007, the EPA published a final rule that acknowledged force majeure events events (www.epa.gov/fedrgstr/EPA-AIR/2007/May/Day-16/a9407.htm). In that rulemaking, the EPA provided an exception from testing for certain unforeseeable events in the discretion of the permitting authority.[1] Although the Associations recognize that this provision has not been incorporated into the

[1] "*Force majeure*" is defined in 40 CFR 63.2 to mean "an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility."

Louisiana State Implementation Plan (SIP), we request that it be incorporated into Louisiana General Condition VIII at the appropriate time. Specifically, the Associations request that General Condition VIII be modified as follows:

> VIII. Except as specified below, the emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing (unless otherwise waived by the permitting authority) and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.
>
> A. If a *force majeure* is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the permitting authority, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent *force majeure* event delays the notice, and in such cases, the notification shall occur as soon as practicable.
>
> B. The owner or operator shall provide to the permitting authority a written description of the *force majeure* event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

> C. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the permitting authority. The permitting authority will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.
>
> D. Until an extension of the performance test deadline has been approved by the permitting authority, the owner or operator of the affected facility remains strictly subject to the requirements of this permit condition.

Comment 6 – Louisiana General Condition XI

The Associations request that the Department delete Subsection C of Louisiana General Condition XI as this condition is burdensome, duplicative, and unnecessary. Unlike the broader Part 70 General Condition R, proposed General Condition XI requires reporting only for excess emissions as follows:

> If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below.
>
> A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.
>
> B. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer.
>
> C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. ...

(Emphasis added).

The Associations question the necessity for semiannual reports for emission exceedances that are less than a reportable quantity and that last for less than seven days in duration. Excess emissions in this relatively low amount (less than an RQ and less than seven days in duration) are more properly accounted for in the Emission Reporting Inventory Center (ERIC) system pursuant to LAC 33:III.919. For this reason, the Associations request that the Department delete Subsection C of General Condition XI as another semiannual report is not necessary and will not provide the Department with useful information. For the reasons discussed below, the Department should also clarify that the reporting requirements in Subsections A and B only apply to short-term emission limits.

General Condition XI has traditionally been interpreted as applying to emission exceedances not otherwise covered by the broader Part 70 General Condition R, which requires reporting of all federally-applicable deviations from permit emission limitations. In other words, General Condition XI was originally included for State-Only emission limitations. The Associations believe that requiring semiannual reports for what may be very minor emissions is unnecessary. As mentioned, such emissions will be properly accounted for in the ERIC report submitted on March 31 of each year.

If the Department decides to maintain this condition, the Associations request that a minimum threshold be included. In addition, the Department should clarify that an "emission in excess of permit requirements" and "emission limitation exceedances" refers to exceedances of maximum hourly emission limits attributable to a specific point source in the emission limitation tables of the permit. Where a maximum hourly limit is not specified (e.g., for tanks), the Department should clarify that exceedances of *annual* limits, as determined on a calendar year basis, should be reported in the annual ERIC report. Finally, the Department should clarify that emission limitation exceedances do not include updates to a speciated emission limit or emission factor. Such emissions are properly included in annual emissions reports pursuant to LAC 33:III.919 and 5107, as applicable.

For the reasons stated above and in Comment 1, the Associations request that General Condition XI be revised as follows:

> B. A written report shall be submitted for ~~within seven days of the initial occurrence of~~ any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.
>
> ~~C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.~~

Comment 7 – Louisiana General Condition XVIII

The Associations strongly oppose the language of proposed General Condition XVIII as it is contrary to both the governing statute and to EPA procedures. Further, it will put Louisiana facilities at a significant economic disadvantage to other states, which follow EPA's permit appeal rules. Instead, LDEQ should keep the longstanding version of this language used in Versions 1 through 14 of the Louisiana General Conditions. Version 15 of the Louisiana General Conditions, dated July 2, 2008, made a substantive change to the appeals process and violates the intent of the authoritative statute. The plain language of the statute can and should be read to stay appealed conditions. An automatic stay to appealed conditions will also result in less confusion by the regulated community and the public on what must be reported in Title V deviation reports.

Since the inception of the Part 70 program in 1996, General Condition XVIII has provided the following appeal rights to permittees:

> Provisions of this permit may be appealed in writing pursuant to La. R.S. 30:2024(A) within 30 days from receipt of the permit. Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well.

(Emphasis added). Proposed General Condition XVIII makes the following substantive change to this condition:

> Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.

(Emphasis added). As discussed below, there are significant legal and practical problems with General Condition XVIII, as proposed. The Department should reinstate the long-standing requirement that appealed conditions are automatically suspended by a request for hearing.

Appeal rights for permits issued by the Department are set forth in La. R.S. 30:2024.A and provide as follows:

> Any permit action shall be effective upon issuance unless a later date is specified therein. Such action shall be final and shall not be subject to further review **unless**, no later than thirty days after the notice of the action is served by certified mail or by hand upon the applicant, he files with the secretary a request for hearing.

(Emphasis added). The above statutory language clearly states that permits issued by the Department are final and not reviewable except for one circumstance – when the permittee files a request for an administrative hearing with the LDEQ Office of the Secretary. The plain elucidation of this statutory provision is that when a request for administrative hearing is filed by the permittee, the appealed conditions are not final, i.e., they do not take effect and are stayed. In short, the one circumstance in which permit conditions are not final are when they are appealed within 30 days of receipt by certified mail.

There are two legally rationale interpretations of the governing statutory authority: (1) the entire permit ("permit action") is not final (hence, not effective) even if one provision out of hundreds of provisions are not contested; or (2) the contested permit provision (the permit action being imposition of that condition) is not final (hence not effective) when a request for hearing on that condition is filed.

In such case, the portions of the permit *not* appealed remain effective, but the provisions of the permit specifically appealed are stayed until a decision is reached by the administrative law judge, or more commonly, a resolution is reached between the parties on the contested condition(s). Although not explicit, the above interpretation is reflected in the spirit of the statute and its longstanding interpretation by the Department.

The EPA has instituted similar appeal procedures for the federal environmental permits that EPA has authority to issue. These procedures are set forth in 40 CFR Part 124. The EPA procedure provides that contested permit conditions of RCRA, UIC, and NPDES permits shall be stayed pending final agency actions. *See*, 40 CFR 124.16. This language was tracked almost verbatim in prior versions of the LDEQ General Condition XVIII, indicating that the Department has had the same interpretation of La. R.S. 30:2024 for at least as long at the Title V program came into existence in 1996. This is the intrerpretation that the Associations urge the Department to continue.

Prior to the use of General Condition XVIII in the Title V program, LDEQ and administrative law judges took the position that a challenge of even one permit condition stayed the entire permit. However, this caused problems for both LDEQ and the regulated industries as it precluded uncontested provisions that both parties clearly agreed to become effective. During multi-stakeholder negotiations in the development of LDEQ's initial Title V program, it was agreed that the language of La. R.S. 30:2024.A could be interpreted such that the "permit action" referred to individual permit conditions or groups of conditions that were related, but did not have to mean every condition of the permit. Hence, LDEQ developed the version of General Condition XVIII that has been used in Versions 1 through 14. The LDEQ cannot change the version of the General Condition through rulemaking now to mean ***exactly the opposite*** of the statute – that contested conditions become final and effective even while the administrative process is pending.

There are basic due process rights involved in not having adequate appeal rights for any term or condition that the Department chooses to include in an air permit (whether erroneous or intentional). Due process and the purpose of La. R.S. 30:2024.A do not grant the Secretary or Assistant Secretary the power to enforce a contested permit condition prior to an administrative hearing. Rather, the administrative law judge is the proper arbiter for properly appealed conditions, as demonstrated by numerous appeals filed over the years.

The fact that there are no statutory or regulatory procedures for asking for a stay, deadlines for LDEQ to act, or procedures for appeal of a denial of a stay by LDEQ show that the request for hearing itself was meant to stay the contested conditions. LDEQ could simply not act on the request for a stay or delay action to a point where significant economic or safety burdens cound ensue to the permittee.

A few examples illustrate this point. A permit may impose use of a CEMS. The facility may not have the CEMS (which can cost in the hundreds of thousands of dollars). There may be a legal dispute about whether a CEMS is required. Under LDEQ's scheme, the permit condition requiring the CEMs would be issued and become final and effective on the day it is signed under the current boilerplate Title V language (even before service). The facility would instantly be in violation and would continue to be in violation up to the point LDEQ, in its sole discretion, decides to issue a stay, if LDEQ decides to do so. Those violations for the period before the stay would still exist, regardless of the outcome of the litigation. The same would be true in the situation where LDEQ imposes some applicable requirement in the permit that the facility believes is not applicable. It may be impossible to comply, or the cost to comply would be unreasonable, in the interim period until a decision is made on the contested condition.

The Associations further submit that LDEQ does not have the resources to review and timely respond to the request for stays that will result if this provision goes into effect.

As the Department is aware, many Part 70 permits contain literally thousands of conditions. The Department is aware that many of these contain errors, despite the best efforts of the permit staff to review applications and comments. There are many instances where appeals have been filed to correct such minor errors. Under the Department's scheme, these will be violations for at least the period until the stay is issued, if one is issued.

Versions 1-14 of the General Condition XVIII reflected a careful balance that is in keeping with La. R.S. 30:2024. The contested conditions are stayed only so long as there are administrative appeal provisions pending. LDEQ has a significant degree of control in that process. If condition that LDEQ believes should be immediately effective is administratively appealed, LDEQ can immediately deny the request for administrative hearing on that condition. That means the facility would then have to file suit in the 19th Judicial District court, where any issue about a stay can be fairly litigated by both parties. (Further, LDEQ retains its rights to issue emergency orders if it believes that the condition

is that essential that it must be implemented right away, provided the requirements for emergency orders must be met.)

The Department is also aware that any deviation from a permit requirement must be reported on at least a semi-annual basis. Not allowing the stay of an appealed permit term will result in confusion on what must be included in periodic reports and annual compliance certifications. The Associations believe this potential confusion can easily be avoided by using the language in Versions 1 through 14 of the General Conditions, and for the above reasons, request that the Department revise General Condition XVIII as follows in the final rule:

> Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from receipt ~~notice~~ of the permit action by certified mail. ~~A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.~~ Only those provisions specifically appealed will be suspended by a request for hearing. unless the secretary or the assistant secretary elects to suspend other provisions that are related to the contested conditions as well.

Finally, the Department should revise General Condition XVIII to make clear that appeals must be filed within 30 days from receipt of the permit action ***by certified mail***. This method is used by the Department to send final permits and also reflects the language in R.S. 30:2024.A.

The Associations believe that this provision is contrary to La. R.S. 30:2024 and to the Louisiana Constitutional protections for due process of law. Without waiving any such position, the Associations further believe that the Department cannot adopt this rule without doing a cost-benefit analysis and without revision its fiscal and economic impact statement. The Associations believe that the economic impact of this provision is considerable and will impose a significant administrative burden on LDEQ and a poetential significant economic burden on regulated permittees. LDEQ must survey the number of facility permits that were challenged over the course of the Title V program thus far and solicit information on the cost that the facilities would have incurred had there been no stay of contested conditions during administrative review.

Further, without waiving any of the above positions, if LDEQ determines that it will go forward with this condition, then at a minimum LDEQ must do at least two things: (1) provide for an effective date after the deadline for a request for hearing; and (2) provide for a time period for LDEQ to act on the request for a stay and procedures to contest the failure to agree to a stay. To address the first, LDEQ should revise the boilerplate conditions of the permit to provide that the permit is not effective until 30 days after service, unless an earlier date is specifically stated therein. This will change the default time period to such period after the deadline for filing an administrative challenge. The permittees who want a permit to become effective prior to the 30 day time period could ask for an earlier date during the comment period. If LDEQ believes that an earlier date (before the time period for appeal) is necessary, then LDEQ should make the reason for such need apparent in the Statement of Basis so that the permittee can adequately comment on it during the comment period.

To address the second matter, LDEQ should include a statement in the general condition that LDEQ will act on a request for a stay within 10 days of filing of the request for hearing and that any denial of a stay is immediately appealable to the administrative law judge or to the 19th Judicial District Court. It should also provide that any stay granted is retroactive to the date of issuance of the permit.

Comment 8 – Louisiana General Condition XIX

There is sufficiency in General Condition XIX that clearly provides guidance to the regulated community for resolving any potential conflicts between federal and state provisions. However, there is no such guidance for conflicts that may develop between permit specific requirements and later versions of the underlying applicable regulations which form the basis for the specific requirements. Potential situations may develop such that a later version of the applicable regulatory citation may change slightly or greatly from the language that may be included in a permit as a specific and enforceable requirement. In some cases, these types of conflicts may make it impossible for a permittee to comply with the permit requirement and the applicable regulation, a situation which is obviously unintended and not desirable for the permittee and the regulating authority.

One simple recent example of this is when the US Supreme Court ruled against EPA regarding the Process Heaters and Boilers MACT rule (40 CFR Part 63, Subpart DDDD) and vacated the rule. Many facilities had already

incorporated the requirements of this rule into Title V permits, including testing and control strategies scheduled to meet specific compliance dates. With the *vacatur* of the rule, the facilities could have been compelled to install and test control equipment to meet the standard that no longer existed, only to be required to re-evaluate and comply with subsequent replacement rules once promulgated. In this case, LDEQ issued an emergency rule to alleviate this situation and "undo" this conflict. However, from this example, it is clear that a provision for dealing with such changes is necessary and would avoid the urgency for such emergency rules on the broader scale. Other examples of conflicts are not as easily resolved via emergency rule as these may be much more facility specific and facilities remain vulnerable to such changes.

To resolve this concern, the Associations propose changing General Condition XIX, and adding similar language already included for potential conflicts between state and federal rules (or in the alternative, as this clarification could be included in a new General Condition) as follows:

XIX. Certain Part 70 general conditions may duplicate or conflict with state general conditions and/or subsequent revisions of underlying applicable regulation changes.

A. To the extent any Part 70 general conditions conflict with state general conditions, then the Part 70 general conditions control. To the extent any Part 70 general conditions duplicate any state general conditions, then such state and Part 70 provisions will be enforced as if there is only one condition, rather than multiple conditions.

B. To the extent any specific requirement conflicts with federal or Louisiana cited regulations contained in this permit, then the most current effective version of the cited regulation controls. To the extent any specific requirement duplicates a federal or Louisiana cited regulation contained in any Part 70 permit at this facility, then such federal and Louisiana state provisions will be enforced as if there is only one specific requirement, rather than multiple requirements.

Comment 9 – General Condition to Address Periodic Monitoring

The Associations request that the Department add a general condition to address the sufficiency of monitoring requirements included in Part 70 permits by the permitting authority. LAC 33:III.501.C.6 generally requires the permitting authority to "incorporate into each permit sufficient terms and conditions to ensure compliance with all state and federally applicable air quality requirements and standards at the source and such other terms and conditions as determined by the permitting authority to be reasonable and necessary. ..." A general condition that concerns the sufficiency of monitoring will provide needed clarity for the Department, the public and the regulated community. For this reason, the Associations suggest that the following general condition be included in the final rule:

> XV. The permittee shall comply with all monitoring requirements set forth in the permit. For purposes of this permit, the methods in LAC 33:III.919.C are sufficient to assure compliance with the limits set forth in the Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements.

On August 19, 2008, the United States Court of Appeals for the D.C. Circuit addressed the 2006 EPA rule on periodic monitoring in *Sierra Club v. EPA* (Docket No. 04-1243). The court held that EPA's rule that prohibited delegated authorities from supplementing inadequate monitoring requirements violated the Clean Air Act, but that the existing Part 70 regulations could be read to require supplementation of inadequate monitoring. The Associations request that the Department, in its role as delegated authority in Louisiana, include the above General Condition to address the monitoring requirements set forth in air permits issued by the LDEQ Permits Division.

If you have any questions, feel free to contact the Association representatives copied on this letter, or I can be reached at (225)382-3493 or kyle.beall@keanmiller.com.

Very truly yours,

Kyle Beall

Kyle B. Beall

1469972

LDEQ RECEIPT

2008 OCT 2 PM 3 55

cc: Henry Graham, LCA
Richard Metcalf, LMOGA
Will Perkins, LPPA
Don Briggs, LOGA

1469972

ORIGINAL D

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

GENERAL CONDITIONS FOR AIR PERMITS
LAC 33:III.535 and 537

LOG #: AQ286

PUBLIC HEARING

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana, beginning at 1:30 p.m., on September 25, 2008.

BEFORE:

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

ASSOCIATED REPORTERS, INC.
(225) 216-2036

RECEIVED
OCT 10 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

A P P E A R A N C E S

FOR THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY:

Efrem Owens
Hearing Officer

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

* * * * *

I N D E X

EXAMINATION:	PAGE(S):
None	
EXHIBITS:	
None	
REPORTER'S PAGE	13
REPORTER'S CERTIFICATE	14

* * * * *

1 * * * * *

2 **MR. OWENS:**

3 Good afternoon! My name is Efrem
4 Owens, and I'm employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as hearing officer this
7 afternoon to receive comments regarding
8 proposed amendments to the Environmental
9 Quality regulations.

10 The comment period for these
11 amendments began on August 20, 2008, when
12 the notice of intent was published in the
13 *Louisiana Register*. The comment period
14 will close at 4:30 p.m., today, September
15 25, 2008, for the Log Numbers RP048ft and
16 RP050ft, and at 4:30 p.m., October 2,
17 2008, for the Log Numbers AQ286, AQ291,
18 and OS077. It would be helpful to us if
19 all oral comments received today were
20 followed up in writing.

21 This public hearing provides a forum
22 for all interested parties to present
23 comments on the proposed changes. This
24 hearing is not being conducted in a
25 question and answer format. Please

1 remember that the purpose of this public
2 hearing is to allow you, the public, an
3 opportunity to express your thoughts
4 concerning today's proposed amendments.
5 I'll ask that each person commenting
6 come up and sit at the front table and
7 begin by stating his or her name and
8 affiliation for the record.
9 The first amendment is designated by
10 the Log Number AQ286.
11 Every air permit issued by LDEQ
12 contains General Conditions. "Part 70"
13 (Title V) permits for major sources
14 include both 40 CFR Part 70 and Louisiana
15 General Conditions, whereas "minor
16 source" and "prevention of significant
17 deterioration" (PSD) permits contain only
18 Louisiana General Conditions. This rule
19 will codify the General Conditions into
20 LAC 33:III.Chapter 5. The General
21 Conditions are subject to revision as
22 underlying federal and state rules are
23 amended or internal department procedures
24 change. Because the most current version
25 of the General Conditions is incorporated

1 into permits as they are finalized, the
2 universe of effective permits includes
3 differing versions of these conditions.
4 Once codified, all permittees will be
5 subject to the same General Conditions.
6 Further, future revisions to the General
7 Conditions must be effected by the
8 rulemaking process in accordance with the
9 Administrative Procedure Act, ensuring
10 transparency and opportunity for public
11 review and comment.
12 Comments will begin with Mr. Henry
13 Graham.
14 **MR. GRAHAM:**
15 Good afternoon. My name is Henry
16 Graham. I'm the Environmental and Legal
17 Affairs Director for the Louisiana
18 Chemical Association. LCA is a trade
19 association representing chemical
20 manufacturers in the State of Louisiana.
21 And many of our members will be impacted
22 by the proposed changes.
23 First of all, we'd like to support
24 the Department's efforts in AQ286 in
25 placing general conditions in the

1 regulations where there is an opportunity
2 for comment. Previous to that, many
3 conditions and General Conditions were
4 changed over time, resulting in different
5 conditions and different permits that was
6 often confusing for the regulated
7 community. So we think this is an
8 appropriate means for the Department to
9 address the particular language in the
10 General Conditions. A couple of the
11 things we do have some concerns,
12 specifically -- we are planning to
13 provide written comments to the agency
14 prior to the comment deadline.
15 We, specifically, want to support
16 the Department's efforts to change the
17 permit, the deviation reporting time from
18 quarterly to semi-annual. We believe
19 that this is an appropriate measure that
20 provides enough reporting and
21 information.
22 We also would like to ask that the
23 Department reconsider or clarify General
24 Condition Three. There is some confusion
25 in regards to the current TEMPO

1 permitting system, whether the
2 information in the inventories section
3 contain in the permits is also subject to
4 reporting as an emission limitations. So
5 we have some suggested language that we
6 plan to suggest to the Department that
7 would help clarify the role or the --
8 distinguish between emission rates for
9 criteria pollutants and emission rates
10 for TAPs/HAPs as part of emissions
11 inventory versus in the TEMPO system.
12 We also would like to suggest that
13 the Department also remove the
14 requirement in General Condition Five for
15 a semi-annual construction progress
16 report, especially since all pre-
17 construction permits for new facilities
18 are required and modifications to
19 existing facilities are currently
20 required. So we feel that this is
21 redundant to have these additional
22 progress reports.
23 We request that the Department in
24 General Condition Eight be modified to
25 account for force majeure events. There

1 are a number of times when testing
2 require testing for procedures and timing
3 most be suspended, particularly, as we've
4 seen with recent hurricane-type of
5 activity. And we will suggest that some
6 additional language be added to Condition
7 Eight to discuss a force majeure event.
8 Another item that we would suggest
9 that is in General Condition Eleven, that
10 the Department consider deleting
11 subsection C of the General Condition
12 Eleven. We believe that this is an
13 unnecessary and burdensome and a
14 duplicative requirement that the
15 Department should consider at this
16 particular time going ahead and revising.
17 We also would like to revise General
18 Condition Eighteen. There's -- we
19 believe that there's a problem that has
20 resulted. Historically, it's our belief
21 that when a permittee appealed the
22 provision in the permit, the provision of
23 the portion that was appealed was stayed,
24 pending the outcome of the administrative
25 hearing. In the recent proposal, the

1 language to the permit suggests that it
2 would not be stayed unless the
3 administrative authority stays it. And
4 we think that this would be contrary to
5 the previous conditions that have been
6 used, and really contrary to what has
7 been done in statutory 30:24A. So we
8 would suggest that the Department needs
9 to revisit that.
10 We also would ask that the
11 Department consider an additional
12 condition that is not in this at this
13 point, but because this rulemaking is
14 specifying General Conditions, that they
15 consider adding another General Condition
16 to address periodic monitoring.
17 Again, we thank the Department for
18 its efforts in revising and preparing
19 these amendments, and we will provide
20 written comments prior to the comment
21 deadline. Thank you.
22 **MR. OWENS:**
23 Thank you, Mr. Graham.
24 Does anyone else care to comment on
25 this regulation? Please state your name

1 and affiliation, please.
2 **MS. WITKOWSKI:**
3 Yes. Good afternoon. My name is
4 Jill Witkowski. I'm with the Tulane
5 Environmental Law Clinic. And I'm making
6 these comments on behalf of Louisiana
7 Environmental Action Network. We would
8 support Louisiana Chemical Association's
9 request that the General Conditions
10 discuss periodic monitoring, considering
11 the recent DC survey decision vacating
12 the EPA's regulations, stating that there
13 are no umbrella monitoring or periodic
14 monitoring that's required. We believe
15 there's been a change in the law and we
16 would like a General Condition stating
17 that additional monitoring may be
18 required in order to ensure compliance
19 with permit conditions. Thank you.
20 **MR. OWENS:**
21 Thank you.
22 Does anyone else care to comment on
23 this regulation?
24 If not, the hearing on AQ286 is
25 closed.

1 Thank you for your attention and
2 participation.
3 This hearing is closed.
4 **THE HEARING CONCLUDED AT 1:39 P.M.**
5 * * * * *

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

2 I, Lori B. Overland, 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
7 Civil Procedure, before whom this sworn
8 testimony was taken, do hereby state on the
9 Record
10 That due to the interaction in the
11 spontaneous discourse of this proceeding,
12 dashes (--) have been used to indicate
13 pauses, changes in thought, and/or talk
14 overs; that same is the proper method for a
15 Court Reporters's transcription of
16 proceeding, and that the dashes (--) do not
17 indicated that words or phrases have been
18 left out of this transcript;
19 That any words and/or names which could
20 not be verified through reference material
21 have been denoted with the phrase
22 "(inaudible)."
23
24 Lori Overland, C.C.R.
25 #97083

OFFICIAL SEAL
LORI B. OVERLAND
Certified Court Reporter
in and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-08

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
4 true and correct transcription of the
5 stenomask tape of the proceedings had
6 herein, taken down by me and transcribed
7 under my supervision, to the best of my
8 ability and understanding, at the time and
9 place hereinbefore noted, in the above
10 entitled cause.

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

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

23 _____

24 Lori Overland, C.C.R.

25 #97083
OFFICIAL SEAL
LORI B. OVERLAND
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-06

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AUG 25 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

The Times-Picayune

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

General Conditions for Air Permits
(LAC 33:III.535 and 537) (AQ286)

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 adopt the Air regulations, LAC 33:III.535 and 537 (Log #AQ286).

Every air permit issued by LDEQ contains General Conditions. Part 70 (Title V) permits for major sources include both 40 CFR Part 70 and Louisiana General Conditions, whereas minor source and prevention of significant deterioration (PSD) permits contain only Louisiana General Conditions. This rule will codify the General Conditions into LAC 33:III.Chapter 5. The General Conditions are subject to revision as underlying federal and state rules are amended or internal department procedures change. Because the most current version of the General Conditions is incorporated into permits as they are finalized, the universe of effective permits includes differing versions of these conditions. Once codified, all permittees will be subject to the same General Conditions. Further, future revisions to the General Conditions must be effected by the rulemaking process in accordance with the Administrative Procedure Act, ensuring transparency and opportunity for public review and comment. The basis and rationale for this rule are to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on September 25, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3471. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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Herman Robinson, CPM
Executive Counsel

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.

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached LEGAL NOTICE/AQ286

Re:Notice of Intent Department of Environmetnal Quality General Conditions for Air Permits (LAC33:III.535 & 537

Advertisement of Office of Environmental Quality

P.O. BOX 4333
Baton Rouge, La. 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates August 20, 2008

Robert Chiasson

Sworn to and subscribed before me this 20th Day of August, 2008

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 Affairs Division

'eneral Conditions for Air Permits (LAC 33:III.535 and 537) (AQ286)

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Herman Robinson, CPM
Executive Counsel

Aug 14 11
00469373

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RECEIVED
AUG 18 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dollins

who being duly sworn, deposes and says:

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

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

00469373 - $41.00
August 14, 2008

Karen Dollins
Duly Authorized Agent

Subscribed and sworn to before me on this 14th day of August, 2008 at Lake Charles, LA

Gwendolyn R. Dugas
Notary Public

00053262

LDEQ-OSEC-LAD

CERTIFIED COPY

RECEIVED
AUG 18 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

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Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

General Conditions for Air Permits
(LAC 33:III.535 and 537) (AQ286)

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HERMAN ROBINSON, CPM
Executive Counsel

(8) 14

I, Harold Constance, Classified Sales Manager of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Public Notice (AQ286) advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertion(s) commencing with the issue dated August 14, 2008 and ending with the issue dated August 14, 2008.

Harold Constance

Subscribed and sworn to before me this 14th day of August, 2008.

Notary Number 019888

CAPITAL CITY PRESS

RECEIVED
SEP 08 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

CERTIFIED COPY

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

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

08/14/08

Susan A. Bush, Public Notices Clerk

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

August 14, 2008

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

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

General Conditions
for Air Permits
(LAC 33:III.535 and 537)
(AQ286)

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Herman Robinson, CPM
Executive Counsel

3942074-aug 14-1t

DEQ - OSEC/LAD REG 3942074
REMENDER WEATHERSPOON
PO BOX 4302
BATON ROUGE LA 70821-4314

CERTIFIED COPY 9/9/2008

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AUG 25 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Acadiana's Daily Newspaper

THE ADVERTISER

1100 Bertrand Drive
LAFAYETTE, LA 70506

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

AFFIDAVIT OF PUBLICATION

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

Account No.: 8DEQRD
Ad Number: 1044012
Ad Total: $82.71
No. of Lines: 183
Reference No.:
**To insure proper credit please refer to your account number and/or ad number when making payment. Remittance address: P.O. Box 3268, Lafayette, LA 70502-3268

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

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
General Conditions for Air Permits
(LAC 33:III.535 and 537) (AQ286)

was published in THE ADVERTISER on the following dates:

*Friday, August 15, 2008

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 19th day of August, 2008.

Christie Veazey

Notary Public - Christie Veazey ID# 058555

1044012

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Legal Affairs Division

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Herman Robinson, CPM
Executive Counsel

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Paid

The Times

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AUG 18 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

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

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division General Conditions for Air Permits (AQ286)

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

August 14, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 14th day of August, 2008

Diana W. Barber

(Notary)

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

189 GANNETT

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Herman Robinson, CPM
Executive Counsel

The Times:
August 14, 2008

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures

§535. Part 70 General Conditions

A. The Part 70 General Conditions listed in the table in this Section (numbered as ~~contained~~ historically designated in a permit) apply ~~only when referenced by an effective permit issued pursuant to LAC 33:III.501 and 507~~ to each *Part 70 source* as defined in LAC 33:III.502 upon issuance of the initial Part 70 permit for the source and shall continue to apply until such time as the Part 70 permit is terminated, rescinded, or replaced in its entirety by a state (minor source) permit issued pursuant to LAC 33:III.501. These Part 70 General Conditions shall supersede any previous versions of such conditions contained in Part 70 permits.

40 CFR Part 70 General Conditions
A. The term of the permit shall be five years from date of issuance unless otherwise specified. Unless a timely and complete renewal application has been submitted pursuant to LAC 33:III.507, the permit shall expire at the end of the effective duration. Permit expiration terminates the owner's and operator's right to operate the source pursuant to 40 CFR 70.7(c)(ii). Any permit application to renew an existing permit shall be submitted at least six months prior to the date of permit expiration, or at such earlier time as may be required by the existing permit or approved by the permitting authority. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration. Operation may continue under the conditions of the permit during the period of the review of the application for renewal.
B. The conditions of the permit are severable; and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of that provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
C. The permittee shall comply with all conditions of the 40 CFR Part 70 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
E. The permit does not convey any property right of any sort, or an exclusive privilege.
F. The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality. A claim of confidentiality does not relieve the permittee of the requirement to provide the information.
G. The permittee shall pay fees in accordance with LAC 33:III.Chapter 2 and 40 CFR 70.6(a)(7).
H. Upon presentation of such credentials and other documents as may be required by law, the permittee shall allow the permitting authority or authorized representative to: 1. enter upon the permittee's premises where a 40 CFR Part 70 source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit; 2. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; 3. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and 4. as authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.
I. All required monitoring data and supporting information shall be kept available for inspection at the facility or

alternate location approved by the agency for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes calibration and maintenance records and all original strip-chart recordings from continuous monitoring instrumentation, and all reports required by the permit.
J. Records of required monitoring shall include the following: 1. the date, place as defined in the permit, and time of sampling or measurements; 2. the dates analyses were performed; 3. the company or entity that performed the analyses; 4. the analytical techniques or methods used; 5. the results of such analyses; and 6. the operating conditions that existed at the time of sampling or measurement.
K. The permittee shall submit, at least semiannually, a report of any required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements. For previously-reported deviations, in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be certified by a responsible official and submitted to the Office of Environmental Compliance by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. The semiannual report shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation. The semiannual report may include any semiannual deviation report required to be submitted by March 31 or September 30 in accordance with Part 70 General Condition R as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report.
L. The permittee shall submit at least semiannual reports on the status of compliance pursuant to 40 CFR 70.5(c)(8) and a progress report on any applicable schedule of compliance pursuant to 40 CFR 70.6(c)(4).
M. Compliance certifications required by LAC 33:III.507.H.5 shall be submitted to the administrator as well as the permitting authority. For previously-reported compliance deviations, in lieu of attaching the individual deviation reports, the annual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The compliance certifications shall be submitted to the Office of Environmental Compliance by March 31 for the preceding calendar year. The compliance certification shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.
N. If the permittee seeks to reserve a claim of an affirmative defense as provided in LAC 33:III.507.J.2, the permittee shall, in addition to complying with any emergency or upset provisions in any applicable regulation, notify the permitting authority within two working days of the time when emission limitations were exceeded due to the occurrence of an *upset*, as defined in LAC 33:III.507.J.1. In the event of such an upset, which results in excess emissions, the permittee shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that: 1. an upset occurred and the cause was identified; 2. the permitted facility was being operated properly at the time; 3. during the period of the upset, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standard or requirement of the permit; and 4. the permittee notified the permitting authority in accordance with LAC 33:I.Chapter 39.
O. The permittee shall maintain emissions at a level less than or equal to that provided for under the allowances that the 40 CFR Part 70 source lawfully holds in accordance with Title IV of the Clean Air Act or the regulations promulgated thereunder. No permit revision shall be required for increases in emissions that are authorized by allowances acquired in accordance with the federal acid rain program (40 CFR Parts 72-78), provided that such increases do not require a permit revision under any other applicable requirement. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.
P. Any permit issued in accordance with 40 CFR Part 70 may be subject to reopening prior to the expiration of the permit for any of the conditions specified in 40 CFR 70.7(f) or LAC 33:III.529.
Q. The permittee may request an administrative amendment to the permit to incorporate test results from compliance testing if the criteria in LAC 33:III.523.A.1.a-f are met.
R. The permittee shall submit prompt reports of all permit deviations as specified below to the Office of Environmental Compliance. All such reports shall be certified by a *responsible official* as defined in LAC 33:III.502.A.

1. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.

2. A written report shall be submitted ~~within seven days of the initial occurrence of~~ for any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.

3. A written report shall be submitted semiannually to address all permit deviations not included in Paragraph 1 or 2 of Part 70 General Condition R. Unless required by an applicable reporting requirement, a written report is not required during periods in which there is no deviation. The semiannual deviation reports may be consolidated with the semiannual reports required by Part 70 General Condition K as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report. For previously-reported permit deviations (not reported in accordance with Paragraph 1 or 2 of Part 70 General Condition R), in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be submitted by March 31, for the preceding period encompassing July through December, and by September 30, for the preceding period encompassing January through June.

4. Any written report submitted in advance of the time frames specified in Paragraphs 1-3 of Part 70 General Condition R, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided the report is certified in accordance with 40 CFR 70.5(d) and contains all information relevant to the permit deviation. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.

S. The permittee shall continue to comply with applicable requirements on a timely basis, and shall meet on a timely basis applicable requirements that become effective during the permit term.

T. The permittee shall comply with the standards for recycling and emissions reduction in 40 CFR Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B.

1. Persons opening appliances for maintenance, service, repair, or disposal must comply with the practices required in 40 CFR 82.156.

2. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment in 40 CFR 82.158.

3. Persons maintaining, servicing, repairing, or disposing of appliances must be certified by an approved technician certification program in accordance with 40 CFR 82.161.

4. Persons disposing of small appliances and MVACs, and *MVAC-like appliances* as defined in 40 CFR 82.152, must comply with recordkeeping requirements in 40 CFR 82.166.

5. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements in 40 CFR 82.156.

6. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances in accordance with 40 CFR 82.166.

U. If the permittee performs a service on motor vehicles that involves an ozone-depleting substance refrigerant (or a regulated substitute substance) in the motor vehicle air conditioner (MVAC), the permittee is subject to all the applicable requirements specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term “motor vehicle” as used in Subpart B does not include a vehicle whose final assembly has not been completed. The term “MVAC” as used in Subpart B does not include an air-tight sealed refrigeration system used for refrigerated cargo, or a system used on passenger buses that uses HCFC-22 refrigerant.

V. Data Availability for Continuous Monitoring, or Monitoring to Collect Data at Specific Intervals. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including calibration checks and required zero and span adjustments), the permittee shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the emissions unit is operating. For purposes of reporting monitoring deviations under Part 70 General Conditions K and R, and unless otherwise provided for in the permit or an applicable federal or state regulation, the minimum degree of data availability shall be at least 90 percent (based on a monthly average) of the operating time of the emissions unit or activity being monitored. This Condition does not apply to leak detection and repair (LDAR) programs for fugitive emissions (e.g., 40 CFR 60 Subpart VV, 40 CFR 63 Subpart H).

W. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such

that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a "permit shield" as described in 40 CFR 70.6(f) and LAC 33:III.507.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§537. Louisiana General Conditions

A. The Louisiana General Conditions listed in the table in this Section (numbered as ~~contained~~ historically designated in a permit) apply ~~only when referenced by an effective permit issued pursuant to LAC 33:III.501~~ to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana General Conditions shall supersede any previous versions of such conditions contained in air permits.

Louisiana Air Emission Permit General Conditions
I. Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.
II. The permittee is subject to all applicable provisions of the Louisiana Environmental Quality Act (the EQA, R.S. 30:2001 et seq.) and the Louisiana air quality regulations. Violation of any of the terms and conditions of the permit constitutes a violation of the EQA.
III. The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements sections of the permit establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit.
IV. A permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if: A. construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years (18 months for PSD permits) after issuance of the permit; or B. construction is discontinued for a period of two years (18 months for PSD permits) or more. The permitting authority may extend this time period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. However, each phase must commence construction within two years (18 months for PSD permits) of its projected and approved commencement date.
V. ~~The permittee shall submit semiannual reports of progress to the Office of Environmental Compliance outlining the status of construction and noting any design changes, modifications, or alterations in the construction schedule that have or may have an effect on the emission rates or ambient air quality levels. These reports shall continue to be submitted until such time as construction is complete. Furthermore, prior approval shall be obtained from the Office of Environmental Services for any significant change in the design.~~ Reserved.
VI. The permittee shall notify the Department of Environmental Quality, Office of Environmental Services, of construction completion, within ten calendar days from the date that construction is complete, and provide the estimated date of start-up of operation. The appropriate Regional Office shall also be so notified within the same time frame.
VII. Any emissions testing performed for purposes of demonstrating compliance with the limitations set forth in Louisiana General Condition III shall be conducted in accordance with the methods described in the Specific Requirements of the permit. Any deviation from or modification of the methods used for testing shall have prior

approval from the Office of Environmental Assessment.

VIII. The emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.

IX. The permittee shall, within 180 days after start-up and shakedown of each project or unit, report to the Office of Environmental Compliance any significant difference in operating emission rates as compared to those limitations specified in Louisiana General Condition III. This report shall also include, but not be limited to, malfunctions and upsets. A request for permit modification shall be submitted, if necessary, as required in Louisiana General Condition I.

X. The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of the permit for a minimum of at least five years.

XI. If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below.

A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39.

B. A written report shall be submitted ~~within seven days of the initial occurrence of~~ for any emission in excess of permit emission limitations ~~requirements~~, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.

C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.

D. Each report submitted in accordance with this Condition shall contain the following information:

1. a description of noncomplying emissions;
2. the cause of noncompliance;
3. the anticipated time the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance;
4. the steps taken by the permittee to reduce and eliminate the noncomplying emissions; and
5. the steps taken by the permittee to prevent recurrences of the noncomplying emissions.

E. Any written report submitted in advance of the time frames specified in Paragraphs A-C of Louisiana General Condition XI, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided all information specified in Paragraph D of Louisiana General Condition XI is included. For Part 70 sources, reports submitted in accordance with Part 70 General Condition R set forth in LAC 33:III.535.A shall serve to meet the requirements of this Condition provided all specified information is included. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.

XII. The permittee shall allow the authorized officers and employees of the Department of Environmental Quality, at all reasonable times and upon presentation of identification, to:

A. enter upon the permittee's premises where regulated facilities are located, where regulated activities are conducted, or where records required under the permit are kept;

B. have access to and copy any records that are required to be kept under the terms and conditions of the permit, the Louisiana Environmental Quality Act, or the federal Clean Air Act;

C. inspect any facilities, equipment (including inspections of monitoring methods and operation and maintenance inspections), or operations regulated under the permit; and

D. sample or monitor, for the purpose of assuring compliance with the permit or as otherwise authorized by the Clean Air Act or regulations adopted thereunder, any substances or parameters at any location.

XIII. If samples are taken under Louisiana General Condition XII, the officer or employee obtaining such samples shall give the owner, operator, or agent in charge a receipt describing the samples obtained. If requested to do so prior to leaving the premises, the officer or employee shall give a portion of each sample equal in volume or weight to the portion retained to the owner, operator, or agent in charge. If an analysis is made of such samples, a

copy of the analysis shall be furnished promptly to the owner, operator, or agent in charge.
XIV. The permittee shall allow authorized officers and employees of the Department of Environmental Quality, upon presentation of identification, to enter upon the permittee's premises to investigate potential or alleged violations of the Clean Air Act or the regulations adopted thereunder. In such investigations, the permittee shall be notified at the time entrance is requested of the nature of the suspected violation. Inspections under this Condition shall be limited to the aspects of alleged violations. However, this shall not in any way preclude prosecution of all violations found.
XV. Reserved.
XVI. In the event of any change in ownership of the source described in the permit, the permittee and the succeeding owner shall notify the Office of Environmental Services in accordance with LAC 33:I.Chapter 19.
XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must: 1. generally be less than 5 TPY; 2. be less than the minimum emission rate (MER); 3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or 4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example). This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.
XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. ~~A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well.~~ Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.
XIX. If any Part 70 General Condition conflicts with any Louisiana General Condition, then the Part 70 General Condition controls. If any Part 70 General Condition duplicates any Louisiana General Condition, then the Part 70 and Louisiana provisions shall be enforced as one Condition.
XX. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

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

Film and video production activity in the state has resulted in compensation paid to workers directly employed by film productions in the state of $140.3 million, over the 2002-2005 period (estimated by Economics Research Associates, 2007), with full-time equivalent employment approximating 3,000 positions per year. Additional employment and earnings are also indirectly generated in the economy as a result of the industry's activity.

Infrastructure projects proposed so far could result in as much as $4 billion of construction and equipping activity in the state over the next few years. This activity will also generate earnings and employment over the periods of construction. It is highly uncertain to what extent these proposed projects will actually complete participation in the program and operate as ongoing concerns in subsequent periods

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Louisiana has become a national leader in sites selected for motion picture projects. These proposed rules aim to maintain and improve Louisiana's attractiveness for motion picture projects. These projects will stimulate demand for a variety of worker skills, and increase the amount of employment in the state.

Sherri Mc Connell
Director Entertainment
0808#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

General Conditions for Air Permits
(LAC 33:III.535 and 537)(AQ286)

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 adopt the Air regulations, LAC 33:III.535 and 537 (Log #AQ286).

Every air permit issued by LDEQ contains General Conditions. Part 70 (Title V) permits for major sources include both 40 CFR Part 70 and Louisiana General Conditions, whereas minor source and prevention of significant deterioration (PSD) permits contain only Louisiana General Conditions. This rule will codify the General Conditions into LAC 33:III.Chapter 5. The General Conditions are subject to revision as underlying federal and state rules are amended or internal department procedures change. Because the most current version of the General Conditions is incorporated into permits as they are finalized, the universe of effective permits includes differing versions of these conditions. Once codified, all permittees will be subject to the same General Conditions. Further, future revisions to the General Conditions must be effected by the rulemaking process in accordance with the Administrative Procedure Act, ensuring transparency and opportunity for public review and comment. The basis and rationale for this rule are to codify the 40 CFR Part 70 and Louisiana General Conditions for air permits into LAC 33:III.Chapter 5. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures
§535. Part 70 General Conditions

A. The Part 70 General Conditions listed in the table in this Section (numbered as contained in a permit) apply only when referenced by an effective permit issued pursuant to LAC 33:III.501 and 507.

40 CFR Part 70 General Conditions
A. The term of the permit shall be five years from date of issuance unless otherwise specified. Unless a timely and complete renewal application has been submitted pursuant to LAC 33:III.507, the permit shall expire at the end of the effective duration. Permit expiration terminates the owner's and operator's right to operate the source pursuant to 40 CFR 70.7(c)(ii). Any permit application to renew an existing permit shall be submitted at least six months prior to the date of permit expiration, or at such earlier time as may be required by the existing permit or approved by the permitting authority. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration. Operation may continue under the conditions of the permit during the period of the review of the application for renewal.
B. The conditions of the permit are severable; and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of that provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
C. The permittee shall comply with all conditions of the 40 CFR Part 70 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
E. The permit does not convey any property right of any sort, or an exclusive privilege.
F. The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality. A claim of confidentiality does not relieve the permittee of the requirement to provide the information.
G. The permittee shall pay fees in accordance with LAC 33:III.Chapter 2 and 40 CFR 70.6(a)(7).
H. Upon presentation of such credentials and other documents as may be required by law, the permittee shall allow the permitting authority or authorized representative to: 1. enter upon the permittee's premises where a 40 CFR Part 70 source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit; 2. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit; 3. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and 4. as authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

40 CFR Part 70 General Conditions
I. All required monitoring data and supporting information shall be kept available for inspection at the facility or alternate location approved by the agency for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes calibration and maintenance records and all original strip-chart recordings from continuous monitoring instrumentation, and all reports required by the permit.
J. Records of required monitoring shall include the following: 1. the date, place as defined in the permit, and time of sampling or measurements; 2. the dates analyses were performed; 3. the company or entity that performed the analyses; 4. the analytical techniques or methods used; 5. the results of such analyses; and 6. the operating conditions that existed at the time of sampling or measurement.
K. The permittee shall submit, at least semiannually, a report of any required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements. For previously-reported deviations, in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be certified by a responsible official and submitted to the Office of Environmental Compliance by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. The semiannual report shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation. The semiannual report may include any semiannual deviation report required to be submitted by March 31 or September 30 in accordance with Part 70 General Condition R as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report.
L. The permittee shall submit at least semiannual reports on the status of compliance pursuant to 40 CFR 70.5(c)(8) and a progress report on any applicable schedule of compliance pursuant to 40 CFR 70.6(c)(4).
M. Compliance certifications required by LAC 33:III.507.H.5 shall be submitted to the administrator as well as the permitting authority. For previously-reported compliance deviations, in lieu of attaching the individual deviation reports, the annual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The compliance certifications shall be submitted to the Office of Environmental Compliance by March 31 for the preceding calendar year. The compliance certification shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.
N. If the permittee seeks to reserve a claim of an affirmative defense as provided in LAC 33:III.507.J.2, the permittee shall, in addition to complying with any emergency or upset provisions in any applicable regulation, notify the permitting authority within two working days of the time when emission limitations were exceeded due to the occurrence of an upset, as defined in LAC 33:III.507.J.1. In the event of such an upset, which results in excess emissions, the permittee shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that: 1. an upset occurred and the cause was identified; 2. the permitted facility was being operated properly at the time; 3. during the period of the upset, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standard or requirement of the permit; and 4. the permittee notified the permitting authority in accordance with LAC 33:I.Chapter 39.
O. The permittee shall maintain emissions at a level less than or equal to that provided for under the allowances that the 40 CFR Part 70 source lawfully holds in accordance with Title IV of the Clean Air Act or the regulations promulgated thereunder. No permit revision shall be required for increases in emissions that are authorized by allowances acquired in accordance with the federal acid rain program (40 CFR Parts 72-78), provided that such increases do not require a permit revision under any other applicable requirement. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.
P. Any permit issued in accordance with 40 CFR Part 70 may be subject to reopening prior to the expiration of the permit for any of the conditions specified in 40 CFR 70.7(f) or LAC 33:III.529.

40 CFR Part 70 General Conditions
Q. The permittee may request an administrative amendment to the permit to incorporate test results from compliance testing if the criteria in LAC 33:III.523.A.1.a-f are met.
R. The permittee shall submit prompt reports of all permit deviations as specified below to the Office of Environmental Compliance. All such reports shall be certified by a responsible official as defined in LAC 33:III.502.A. 1. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39. 2. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer. 3. A written report shall be submitted semiannually to address all permit deviations not included in Paragraph 1 or 2 of Part 70 General Condition R. Unless required by an applicable reporting requirement, a written report is not required during periods in which there is no deviation. The semiannual deviation reports may be consolidated with the semiannual reports required by Part 70 General Condition K as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report. For previously-reported permit deviations (not reported in accordance with Paragraph 1 or 2 of Part 70 General Condition R), in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be submitted by March 31, for the preceding period encompassing July through December, and by September 30, for the preceding period encompassing January through June. 4. Any written report submitted in advance of the time frames specified in Paragraphs 1-3 of Part 70 General Condition R, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided the report is certified in accordance with 40 CFR 70.5(d) and contains all information relevant to the permit deviation. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.
S. The permittee shall continue to comply with applicable requirements on a timely basis, and shall meet on a timely basis applicable requirements that become effective during the permit term.
T. The permittee shall comply with the standards for recycling and emissions reduction in 40 CFR Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B. 1. Persons opening appliances for maintenance, service, repair, or disposal must comply with the practices required in 40 CFR 82.156. 2. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment in 40 CFR 82.158. 3. Persons maintaining, servicing, repairing, or disposing of appliances must be certified by an approved technician certification program in accordance with 40 CFR 82.161. 4. Persons disposing of small appliances and MVACs, and MVAC-like appliances as defined in 40 CFR 82.152, must comply with recordkeeping requirements in 40 CFR 82.166. 5. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements in 40 CFR 82.156. 6. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances in accordance with 40 CFR 82.166.
U. If the permittee performs a service on motor vehicles that involves an ozone-depleting substance refrigerant (or a regulated substitute substance) in the motor vehicle air conditioner (MVAC), the permittee is subject to all the applicable requirements specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term "motor vehicle" as used in Subpart B does not include a vehicle whose final assembly has not been completed. The term "MVAC" as used in Subpart B does not include an air-tight sealed refrigeration system used for refrigerated cargo, or a system used on passenger buses that uses HCFC-22 refrigerant.

40 CFR Part 70 General Conditions
V. Data Availability for Continuous Monitoring, or Monitoring to Collect Data at Specific Intervals. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including calibration checks and required zero and span adjustments), the permittee shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the emissions unit is operating. For purposes of reporting monitoring deviations under Part 70 General Conditions K and R, and unless otherwise provided for in the permit or an applicable federal or state regulation, the minimum degree of data availability shall be at least 90 percent (based on a monthly average) of the operating time of the emissions unit or activity being monitored. This Condition does not apply to leak detection and repair (LDAR) programs for fugitive emissions (e.g., 40 CFR 60 Subpart VV, 40 CFR 63 Subpart H).
W. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a "permit shield" as described in 40 CFR 70.6(f) and LAC 33:III.507.I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

§537. Louisiana General Conditions

A. The Louisiana General Conditions listed in the table in this Section (numbered as contained in a permit) apply only when referenced by an effective permit issued pursuant to LAC 33:III.501.

Louisiana Air Emission Permit General Conditions
I. Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.
II. The permittee is subject to all applicable provisions of the Louisiana Environmental Quality Act (the EQA, R.S. 30:2001 et seq.) and the Louisiana air quality regulations. Violation of any of the terms and conditions of the permit constitutes a violation of the EQA.
III. The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements sections of the permit establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit.

Louisiana Air Emission Permit General Conditions
IV. A permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if: A. construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years (18 months for PSD permits) after issuance of the permit; or B. construction is discontinued for a period of two years (18 months for PSD permits) or more. The permitting authority may extend this time period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. However, each phase must commence construction within two years (18 months for PSD permits) of its projected and approved commencement date.
V. The permittee shall submit semiannual reports of progress to the Office of Environmental Compliance outlining the status of construction and noting any design changes, modifications, or alterations in the construction schedule that have or may have an effect on the emission rates or ambient air quality levels. These reports shall continue to be submitted until such time as construction is complete. Furthermore, prior approval shall be obtained from the Office of Environmental Services for any significant change in the design.
VI. The permittee shall notify the Department of Environmental Quality, Office of Environmental Services, of construction completion, within ten calendar days from the date that construction is complete, and provide the estimated date of start-up of operation. The appropriate Regional Office shall also be so notified within the same time frame.
VII. Any emissions testing performed for purposes of demonstrating compliance with the limitations set forth in Louisiana General Condition III shall be conducted in accordance with the methods described in the Specific Requirements of the permit. Any deviation from or modification of the methods used for testing shall have prior approval from the Office of Environmental Assessment.
VIII. The emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.
IX. The permittee shall, within 180 days after start-up and shakedown of each project or unit, report to the Office of Environmental Compliance any significant difference in operating emission rates as compared to those limitations specified in Louisiana General Condition III. This report shall also include, but not be limited to, malfunctions and upsets. A request for permit modification shall be submitted, if necessary, as required in Louisiana General Condition I.
X. The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of the permit for a minimum of at least five years.

Louisiana Air Emission Permit General Conditions
XI. If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below. A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33.I.Chapter 39. B. A written report shall be submitted within seven days of the initial occurrence of any emission in excess of permit requirements, regardless of the amount, where such emission occurs over a period of seven days or longer. C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. D. Each report submitted in accordance with this Condition shall contain the following information: 1. a description of noncomplying emissions; 2. the cause of noncompliance; 3. the anticipated time the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance; 4. the steps taken by the permittee to reduce and eliminate the noncomplying emissions; and 5. the steps taken by the permittee to prevent recurrences of the noncomplying emissions. E. Any written report submitted in advance of the time frames specified in Paragraphs A-C of Louisiana General Condition XI, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided all information specified in Paragraph D of Louisiana General Condition XI is included. For Part 70 sources, reports submitted in accordance with Part 70 General Condition R set forth in LAC 33:III.535.A shall serve to meet the requirements of this Condition provided all specified information is included. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33.I.Chapter 39, LAC 33.III.Chapter 9, and LAC 33.III.5107.
XII. The permittee shall allow the authorized officers and employees of the Department of Environmental Quality, at all reasonable times and upon presentation of identification, to: A. enter upon the permittee's premises where regulated facilities are located, where regulated activities are conducted, or where records required under the permit are kept; B. have access to and copy any records that are required to be kept under the terms and conditions of the permit, the Louisiana Environmental Quality Act, or the federal Clean Air Act; C. inspect any facilities, equipment (including inspections of monitoring methods and operation and maintenance inspections), or operations regulated under the permit; and D. sample or monitor, for the purpose of assuring compliance with the permit or as otherwise authorized by the Clean Air Act or regulations adopted thereunder, any substances or parameters at any location.
XIII. If samples are taken under Louisiana General Condition XII, the officer or employee obtaining such samples shall give the owner, operator, or agent in charge a receipt describing the samples obtained. If requested to do so prior to leaving the premises, the officer or employee shall give a portion of each sample equal in volume or weight to the portion retained to the owner, operator, or agent in charge. If an analysis is made of such samples, a copy of the analysis shall be furnished promptly to the owner, operator, or agent in charge.
XIV. The permittee shall allow authorized officers and employees of the Department of Environmental Quality, upon presentation of identification, to enter upon the permittee's premises to investigate potential or alleged violations of the Clean Air Act or the regulations adopted thereunder. In such investigations, the permittee shall be notified at the time entrance is requested of the nature of the suspected violation. Inspections under this Condition shall be limited to the aspects of alleged violations. However, this shall not in any way preclude prosecution of all violations found.
XV. Reserved.
XVI. In the event of any change in ownership of the source described in the permit, the permittee and the succeeding owner shall notify the Office of Environmental Services in accordance with LAC 33:I.Chapter 19.

Louisiana Air Emission Permit General Conditions
XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must: 1. generally be less than 5 TPY; 2. be less than the minimum emission rate (MER); 3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or 4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example). This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.
XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. A request may be made to the secretary to suspend those provisions of the permit specifically appealed. The permit remains in effect to the extent that the secretary or assistant secretary does not elect to suspend the appealed provisions as requested or, at his discretion, other permit provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.
XIX. If any Part 70 General Condition conflicts with any Louisiana General Condition, then the Part 70 General Condition controls. If any Part 70 General Condition duplicates any Louisiana General Condition, then the Part 70 and Louisiana provisions shall be enforced as one Condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:

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

A public hearing will be held on September 25, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3471. 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 AQ286. Such comments must be received no later than October 2, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3398 or by e-mail to judith.schuerman@la.gov. 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 AQ286. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: General Conditions for Air Permits

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)

All facilities required to obtain air permits pursuant to LAC 33:III.Chapter 5 will be affected by the proposed action. However, no effect on costs, including workload adjustments or additional paperwork, is expected. This rule codifies into the regulations the "General Conditions" already contained in every air permit issued by LDEQ.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	H. Gordon Monk
Executive Counsel	Legislative Fiscal Officer
0808#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

IAEA Transportation Safety Standards
(LAC 33:XV.455, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, and 1599)(RP048ft)

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 Radiation Protection regulations, LAC 33:XV.455, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, and 1599 (Log #RP048ft).

This proposed rule is identical to federal regulations found in 10 CFR Part 71, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3471 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule will update the state regulations to be compatible with the changes in the federal regulations. The change in the state regulations is a category B (must do) requirement of the NRC agreement. The state radiation protection regulations in LAC 33:XV.Chapter 15 are being amended and reorganized to mirror the federal regulations; some entire sections and parts of some sections are being moved and renumbered. The federal "IAEA Transportation Safety Standards and Other Transportation Safety Amendments" requirements are in 10 CFR Part 71. The federal rule covers transportation of radioactive material on public routes of roadways, railways, and waterways, and by air. It includes the types of containers that can be used, radiation levels at the surface of the package, labeling of the containers, and markings on the vehicles used for transport. The basis and rationale for this rule are to be compatible with the federal regulations and maintain an adequate Agreement State program. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 4. Standards for Protection against Radiation
Subchapter G. Precautionary Procedures
§455. Procedures for Receiving and Opening Packages

A. Each licensee or registrant who expects to receive a package containing quantities of radioactive material in excess of a *Type A quantity* as defined in LAC 33:XV.1503, shall make arrangements to receive:

A.1. – B.1.…

2. monitor the external surfaces of a labeled[5] package for radiation levels unless the *package* contains quantities of *radioactive material* that are less than or equal to the *Type A quantity*, as defined in LAC 33:XV.1503; and

B.3. – C.…

D. The licensee or registrant shall immediately notify the final delivery carrier and, by telephone and telegram, mailgram, or facsimile, the Office of Environmental Compliance at (225) 765-0160 when:

1. removable radioactive surface contamination exceeds the limits of LAC 33:XV.1516.A.9; or

2. external radiation levels exceed the limits of LAC 33:XV.1516.A.10.

E. – F. …

[5]Labeled with a Radioactive White I, Yellow II or Yellow III label as specified in U.S. Department of Transportation regulations 49 CFR 172.403 and 172.436-440.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:973 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2577 (November 2000), LR 28:1951 (September 2002)), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

AQ 294

Revisions to Performance Testing Notifications and Report Submittals

LAC 33:III.315, 504

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511,
2521, 2531, and 5113)(AQ294)

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.523, 2107, 2108, 2511, 2521, 2531, and 5113 (Log #AQ294).

This rule amends the variety of timeframes in the regulations for submitting reports of results following the completion of performance testing so that all reports are due 60 days after the completion of testing. The 60-day timeframe is consistent with other state policy testing requirements and with the majority of federal testing requirements. This rule also requires submittal of testing notifications to the department at least 30 days prior to testing, where testing is required in the regulations. This requirement is already located in several places in the regulations and is included as a general condition in all air permits issued by the department. These changes will make the regulations more consistent. Requiring all performance testing reports to be submitted within the same timeframe reduces confusion for the regulated community. Currently, the department receives many requests for extensions to submit test results, especially for test results that are due within 30 days of testing. Thirty days can be a difficult timeframe in which to prepare a report or results, especially for testing that involves several methods or scenarios. Increasing the timeframe will reduce the burden to facilities. Clearly stating that notifications are required where testing is required in the regulations also reduces confusion and makes the regulations more consistent throughout and with air permits issued by the department. The basis and rationale for this rule are to make the regulations more consistent and to incorporate into the regulations a requirement of all air permits issued by the department. 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

§523. Procedures for Incorporating Test Results

A. – B.2. …

3. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

4. Within 60 days of test completion, the administrative authority shall be given a report detailing the conditions that were found to exist. If there is to be no permanent change in emissions from pretest conditions, that should be stated.

5. If there is to be a permanent change made that increases emissions, all applicable requirements of this Chapter must be met. If emissions are to be reduced by the modification, the requirements of LAC 33:III.511 are applicable.

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 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008).

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2107. Volatile Organic Compounds—Loading

A. – D.4. …

E. Test Methods

1. Compliance with Subsection B of this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

c. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

d. Test Method 25A or 25B (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

e. flaring devices, which shall be designed and operated according to 40 CFR 60.18.

2. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

3. Within 60 days of test completion, a copy of the test results shall be submitted to the Office of Environmental Assessment for review and approval.

F. …

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1903 (September 2008).

§2108. Marine Vapor Recovery

A. – E.5.…

6. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the

opportunity to conduct a pretest conference and to have an observer present.

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with Subsection E of this Section shall be reported to the Office of Environmental Assessment within 60 days of the test.

F.2. – H.2. …

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:2085 (October 2007), LR 34:1903 (September 2008).

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. – E.6.e. …

7. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

8. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

F. – 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).

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

A. – F.9.e. …

10. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

11. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

G. – H. …

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 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008).

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

A. – I.1.f. …

2. A copy of all test results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

J. – J.2. …

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 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:1904 (September 2008).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

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

A. – A.2. …

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. The Office of Environmental Assessment shall be notified at least 30 days prior to testing to afford the department the opportunity to conduct a pretest conference and to have an observer present. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment shall be given a copy of the test results in writing signed by the person responsible for the tests within 60 days after completion of the test.

2. – 4.e. …

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment by a certified letter sent before the close of business on the sixtieth day following the completion of the emission test.

B.6. – C.7. …

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).

Herman Robinson, CPM
Executive Counsel

0809#093

RULE

Department of Health and Hospitals
Board of Medical Examiners

Adjudication (LAC 46:XLV.9905)

Editor's Note: This Rule was printed in error on page 1625 of the August 20, 2008 *Louisiana Register*. The correct effective and promulgation date for this Rule is September 20, 2008.

Pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the board has amended LAC 46:XLV, Subpart 5, Chapter 99, §9905, of its rules of adjudication. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 5. Rules of Procedure
Chapter 99. Adjudication
§9905. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 60 days from the date of suspension, unless respondent waives convening a hearing during such period.

B ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 34:1625 (August 2008), repromulgated LR 34:1905 (September 2008).

Robert L. Marier, M.D.
Executive Director

0809#014

RULE

Department of Health and Hospitals
Board of Medical Examiners

Dispensation of Medications
(LAC 46:XLV.6503, 6505, 6506, and 6515)

Editor's Note: This Rule was printed in error on page 1626 of the August 20, 2008 *Louisiana Register*. The correct effective and promulgation date for this Rule is September 20, 2008.

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292 and R.S. 37:1201, has amended its rules governing dispensation of medications, Title 46:XLV, Subpart 3, Chapter 65, §6503, §6505, §6506, and §6515. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 65. Dispensation of Medications
Subchapter A. General Provisions
§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Drugs of Concern—carisoprodol, dezocine, nalbuphine and tramadol and such other non-controlled substances, as defined by rule, which demonstrate a potential for abuse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004), LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

Subchapter B. Prohibitions, Sanctions and Exceptions
§6505. Prohibitions

A. - D. ...

E. Except as provided in §6506 of this Subchapter, a registrant shall not dispense any controlled substance or drug of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

§6506. Exceptions

A. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single 48 hour supply of a single controlled substance or drug of concern to a patient.

AQ294 D

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING

REGULATION DEVELOPMENT SECTION

The Public Hearing conducted by the Louisiana Department of Environmental Quality Services taken at the 602 North 5th Street, Baton Rouge, Louisiana 70802 on Tuesday, July 29, 2008 at 1:31 p.m.

Reported by:

Tara Torres
Certified Court Reporter

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REGULATION DEVELOPMENT SECTION

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1 **I N T R O D U C T I O N**

2 **MS. STEPHENS:**

3 Good afternoon. My name is
4 Sandy Stephens and I'm employed by
5 the Louisiana Department of
6 Environmental Quality. I will be
7 serving as the Hearing Officer this
8 afternoon to receive comments
9 regarding proposed amendments to the
10 Louisiana Environmental Quality
11 regulations, and to the state's air
12 quality state implementation plan.
13 The comment periods for these
14 amendments began on June 20, 2008,
15 when the notices of intent were
16 published in the Louisiana Register.
17 The comment periods will close at
18 4:30 p.m., August 5, 2008. It would
19 be helpful to us if all oral
20 comments received today were
21 followed up in writing.
22 This public hearing provides a
23 forum for all interested parties to
24 present comments on the proposed
25 changes. This hearing is not being

1 conducted in a question and answer
2 format. Please remember that the
3 purpose of this public hearing is to
4 allow you, the public, and
5 opportunity to express your thoughts
6 concerning today's proposed
7 amendments.
8 I'll ask that each person
9 commenting come up and sit at the
10 front table and begin by stating his
11 or her name and affiliation for the
12 Record.
13 The second amendment is
14 designated by the Log Number AQ294.
15 This rule will amend a variety
16 of time frames in the regulations
17 for submitting reports of results
18 following the completion of
19 performance testing so that all
20 reports are due 60 days after the
21 completion of testing. The 60-day
22 time frame is consistent with other
23 state policy testing requirements
24 and with the majority of federal
25 testing requirements.

1 This rule will also require
2 submittal of testing notifications
3 to the department at least 30 days
4 prior to testing, where testing is
5 required in the regulations. This
6 requirement is already located in
7 several places in the regulations
8 and is included as a general
9 condition in all air permits issued
10 by the department. These changes
11 will make the regulations more
12 consistent requiring all performance
13 testing reports to be submitted
14 within the same time frame reduces
15 confusion for the regulated
16 community.
17 Currently, the department
18 receives many requests for
19 extensions to submit test results,
20 especially for test results that are
21 due with 30 days of testing. Thirty
22 days can be a difficult time frame
23 in which to prepare a report of
24 results, especially for testing that
25 involves several methods or

scenarios. Increasing the time frame will reduce the burden on facilities. Clearly stating the notifications are required where testing is required in the regulations also reduces confusion and make the regulations more consistent throughout and with air permits issued by the department.

Does anyone care to comment on this regulation?

If not, the hearing on AQ294 is closed.

(The hearing was closed.)

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

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

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 original raised seal on this page.
5 That this testimony was reported by me in the
6 Stenomask method (voice-writing), was prepared and
7 transcribed by me or under my personal direction
8 and supervision, and is a true and correct
9 transcript to the best of my ability and
10 understanding;
11 That I am not related to counsel or to the
12 parties herein; am not otherwise interested in the
13 outcome of this matter; and am a valid member in
14 good standing of the Louisiana State Board of
15 Examiners of Certified Shorthand Reporters.
16 Tara Jones
17 Tara Jones (#22012)
Court Reporter
18
19
20
21
22
23
24
25

OFFICIAL SEAL
TARA ROSARY TORRES
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 22012
Certificate expires 12-31-08

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Acadiana's Daily Newspaper

THE ADVERTISER

1100 Bertrand Drive
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FAX: (337) 289-6466

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

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

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

was published in THE ADVERTISER on the following dates:

*Saturday, June 14, 2008

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 17th day of June, 2008.

Notary Public - Christie Veazey ID# 058555

1008538
NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

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.523, 2107, 2108, 2511, 2521, 2531, and 5113 (Log #AQ294).

This rule will amend the variety of timeframes in the regulations for submitting reports of results following the completion of performance testing so that all reports are due 60 days after the completion of testing. The 60-day timeframe is consistent with other state policy testing requirements and with the majority of federal testing requirements. This rule will also require submittal of testing notifications to the department at least 30 days prior to testing, where testing is required in the regulations. This requirement is already located in several places in the regulations and is included as a general condition in all air permits issued by the department. These changes will make the regulations more consistent. Requiring all performance testing reports to be submitted within the same timeframe reduces confusion for the regulated community. Currently, the department receives many requests for extensions to submit test results, especially for test results that are due within 30 days of testing. Thirty days can be a difficult timeframe in which to prepare a report or results, especially for testing that involves several methods or scenarios. Increasing the timeframe will reduce the burden to facilities. Clearly stating that notifications are required where testing is required in the regulations also reduces confusion and makes the regulations more consistent throughout and with air permits issued by the department. The basis and rationale for this rule are to make the regulations more consistent and to incorporate into the regulations a requirement of all air permits issued by the department. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 AQ294. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ294. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

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JUN 26 2008
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REGULATION DEVELOPMENT SECTION

AQ294

PROOF OF PUBLICATION

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

06/14/08

Susan A. Bush, Public Notices Clerk

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

June 14, 2008

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

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing
Notifications and Reports
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Herman Robinson, CPM
Executive Counsel

3901500-jun 14-1t

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Office of the Secretary
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I, Harold Constance, Classified Sales Manager of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Public Notice (AQ294) advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertion(s) commencing with the issue dated June 16, 2008 and ending with the issue dated June 16, 2008.

Harold Constance

Subscribed and sworn to before me this 16th day of June, 2008.

Notary Number 019888

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

HERMAN ROBINSON, CPM
Executive Counsel

(6) 16

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JUN 23 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dollins

who being duly sworn, deposes and says:

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

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

00453862 - $46.00 AQ294
June 17, 2008

Karen Dollins
Duly Authorized Agent

Subscribed and sworn to before me on this 17th day of June, 2008 at Lake Charles, LA

Winnie P. Guillory
Notary #66592
My Commission Is For Life

Winnie P. Guillory
Notary Public

00053262

LDEQ-OSEC-LAD

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division Performance Testing Notifications and Reports (LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

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Herman Robinson, CPM
Executive Counsel

June 17 1t
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JUN 19 2008

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REGULATION DEVELOPMENT SECTION

AQ294

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement was published in the NEWS-STAR, a daily newspaper of general circulation. on June 19, 2008

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

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All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ294. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ294. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson,
CPM

Executive Counsel

Monroe, LA
June 19,2008

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The Times

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LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

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.523, 2107, 2108, 2511, 2521, 2531, and 5113 (Log #AQ294).

This rule will amend the variety of timeframes in the regulations for submitting reports of results following the completion of performance testing so that all reports are due 60 days after the completion of testing. The 60-day timeframe is consistent with other state policy testing requirements and with the majority of federal testing requirements. This rule will also require submittal of testing notifications to the department at least 30 days prior to testing, where testing is required in the regulations. This requirement is already located in several places in the regulations and is included as a general condition in all air permits issued by the department. These changes will make the regulations more consistent. Requiring all performance testing reports to be submitted within the same timeframe reduces confusion for the regulated community. Currently, the department receives many requests for extensions to submit test results, especially for test results that are due within 30 days of testing. Thirty days can be a difficult timeframe in which to prepare a report or results, especially for testing that involves several methods or scenarios. Increasing the

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

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

NOTICE OF INTENT Department of Environmental Quality Legal Affairs Division (AQ294)

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

January 14, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 16th day of June, 2008

Diana W. Barber

(Notary)

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

GANNETT

timeframe will reduce the burden to facilities. Clearly stating that notifications are required where testing is required in the regulations also reduces confusion and makes the regulations more consistent throughout and with air permits issued by the department. The basis and rationale for this rule are to make the regulations more consistent and to incorporate into the regulations a requirement of all air permits issued by the department. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

The Times:
June 14, 2008

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REGULATION DEVELOPMENT SECTION

The Times-Picayune

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511, 2521, 2531, and 5113) (AQ294)

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This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

I 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.

State of Louisiana

Parish of Orleans

City of New Orleans

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

Re:Notice of Intent Department of Environmental Quality Performance Testing Notifications and Reports (AQ294)

Advertisement of Office of Environmental Quality

P.O. BOX 4303
Baton Rouge, La. 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates June 20, 2008

Robert J. Chiasson

Sworn to and subscribed before me this 20th Day of June, 2008

Notary Public

My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492

Title 33
ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures
§523. Procedures for Incorporating Test Results

A. – B.2. …

3. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

4~~3~~. Within 60~~30~~ days of test completion, the administrative authority shall be given a report detailing the conditions that were found to exist. If there is to be no permanent change in emissions from pretest conditions, that should be stated.

5~~4~~. If there is to be a permanent change made ~~which~~that increases emissions, all applicable requirements of this Chapter must be met. If emissions are to be reduced by the modification, the requirements of LAC 33:III.511 are applicable.

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 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 21. Control of Emission of Organic Compounds
Subchapter A. General
§2107. Volatile Organic Compounds—Loading

A. – D.4. …

E. Test Methods~~.~~

1. Compliance with Subsection B of this Section shall be determined by applying the following test methods, as appropriate:

~~1.~~ a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference ~~at~~in LAC 33:III.3003) for determining flow rates, as necessary;

~~2.~~ b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference ~~at~~in LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

~~3.~~ c. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference ~~at~~in LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

~~4.~~ d. Test Method 25A or 25B (40 CFR Part 60, Appendix A, as incorporated by reference ~~at~~in LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

~~5.~~ e. flaring devices, which shall be designed and operated according to 40 CFR 60.18.

2. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

3. Within 60 days of test completion, a copy of the test results shall be

submitted to the Office of Environmental Assessment for review and approval.

F. …

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

§2108. Marine Vapor Recovery

A. – E.5. …

6. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with ~~LAC 33:III.2108.~~Subsection E of this Section shall be reported to the Office of Environmental Assessment within 60~~45~~ days of the test.

F.2. – H.2. …

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:2085 (October 2007), LR 34:**.

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. – E.6.e. …

7. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

8~~7~~. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60~~45~~ days of completion of testing.

F. – 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:**.

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

A. – F.9.e. …

10. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

11~~10~~. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60~~45~~ days of completion of testing.

G. – H.…

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 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:**.

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

A. – I.1.f. …

2. A copy of all test results shall be submitted to the Office of Environmental Assessment for review and approval within 60~~45~~ days of completion of testing.

J. – J.2. …

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 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:**.

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

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

A. – A.2. …

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. The Office of Environmental Assessment shall

be notified at least 30 days prior to testing to afford the department the opportunity to conduct a pretest conference and to have an observer present. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment shall be given a copy of the test results in writing signed by the person responsible for the tests within 60~~45~~ days after completion of the test.

2. – 4.e. …

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment by a certified letter sent before the close of business on the sixtieth~~forty-fifth~~ day following the completion of the emission test.

B.6. – C.7. …

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:**.

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

A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 MM008. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 MM008. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Environmental Quality

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

There will be no significant implementation costs or savings to state or local governmental units because of the proposed rule. The proposed rule makes technical changes to correct miscellaneous typographical, grammatical, punctuation, and numbering errors or omissions; and clarifies terms and definitions consistent with current administrative practice.

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 resulting from the proposed rule.

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

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups because of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment because of the proposed rule.

Herman Robinson, CPM
Executive Counsel
0806#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511,
2521, 2531, and 5113)(AQ294)

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Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures
§523. Procedures for Incorporating Test Results

A. – B.2. …

3. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

4. Within 60 days of test completion, the administrative authority shall be given a report detailing the conditions that were found to exist. If there is to be no permanent change in emissions from pretest conditions, that should be stated.

5. If there is to be a permanent change made that increases emissions, all applicable requirements of this Chapter must be met. If emissions are to be reduced by the modification, the requirements of LAC 33:III.511 are applicable.

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 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2107. Volatile Organic Compounds—Loading

A. – D.4. …

E. Test Methods

1. Compliance with Subsection B of this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining gaseous organic compounds emissions by gas chromatography;

c. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous non-methane organic emissions as carbon;

d. Test Method 25A or 25B (40 CFR Part 60, Appendix A, as incorporated by reference in LAC 33:III.3003) for determining total gaseous organic concentration using flame ionization or nondispersive infrared analysis; and

e. flaring devices, which shall be designed and operated according to 40 CFR 60.18.

2. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

3. Within 60 days of test completion, a copy of the test results shall be submitted to the Office of Environmental Assessment for review and approval.

F. …

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 LR 16:116 (February 1990), amended by the Office of Air Quality and Radiation Protection, LR 17:360 (April 1991), LR 22:1212 (December 1996), LR 24:20 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1442 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§2108. Marine Vapor Recovery

A. – E.5.…

6. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

F. Reporting and Recordkeeping

1. The results of any testing done in accordance with Subsection E of this Section shall be reported to the Office of Environmental Assessment within 60 days of the test.

F.2. – H.2. …

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 14:704 (October 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 22:1212 (December 1996), LR 23:1678 (December 1997), LR 24:20 (January 1998), LR 24:1285 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 30:745 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:2085 (October 2007), LR 34:

Chapter 25. Miscellaneous Incineration Rules

Subchapter B. Biomedical Waste Incinerators

§2511. Standards of Performance for Biomedical Waste Incinerators

A. – E.6.e. …

7. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

8. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

F. – 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:

Subchapter C. Refuse Incinerators

§2521. Refuse Incinerators

A. – F.9.e. …

10. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

11. A copy of all monitoring and tests results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

G. – H. …

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 20:1100 (October 1994), amended LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

A. – I.1.f. …

2. A copy of all test results shall be submitted to the Office of Environmental Assessment for review and approval within 60 days of completion of testing.

J. – J.2. …

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 20:1107 (October 1994), amended LR 22:1127 (November 1996), LR 22:1212 (December 1996), LR 23:1509 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2456 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2443 (October 2005), LR 33:2089 (October 2007), LR 34:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter A. Applicability, Definitions, and General Provisions

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

A. – A.2. …

B. Emission Tests and Waiver of Emission Tests

1. The department may require any owner or operator to conduct tests to determine the emission of toxic air pollutants from any source whenever the department has reason to believe that an emission in excess of those allowed by this Subchapter is occurring. The department may specify testing methods to be used in accordance with good professional practice. The department may observe the testing. The Office of Environmental Assessment shall be notified at least 30 days prior to testing to afford the department the opportunity to conduct a pretest conference and to have an observer present. All tests shall be conducted by qualified personnel. The Office of Environmental Assessment shall be given a copy of the test results in writing signed by the person responsible for the tests within 60 days after completion of the test.

2. – 4.e. …

5. Unless otherwise specified, samples shall be analyzed and emissions determined within 30 days after each emission test has been completed. The owner or operator shall report the determinations of the emission test to the Office of Environmental Assessment by a certified letter sent before the close of business on the sixtieth day following the completion of the emission test.

B.6. – C.7. …

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:

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

A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 AQ294. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 AQ294. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Performance Testing Notifications and Reports

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

There is no anticipated cost or savings to state or local governmental units to implement this rule.

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

There is no anticipated effect on revenue collections of state or local governmental units as a result of this rule.

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

There is no estimated cost or economic benefits to directly affected persons or non-governmental groups as a result of this rule. Performance test notifications and reports are already required by regulation and permit. This rule clarifies the requirement for notification where the requirement is not specifically stated. Even when the regulation does not expressly state that a notification of performance testing is required, all

air permits issued by DEQ require notification prior to testing. Additionally, this rule makes the timeframe for submitting test results consistent. The requirement for submittal of performance test results currently varies between 30, 45, and 60 days. This rule will make all performance test results due within 60 days, which is consistent with EPA's requirement under 40 CFR 63.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment as a result of this rule.

Herman Robinson, CPM
Executive Counsel
0806#016

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Secondary Containment for UST Systems
(LAC 33:XI.103, 301, 303, 403, 507, 509, 701, 703, and 903)(UT014)

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 Underground Storage Tanks regulations, LAC 33:XI.103, 301, 303, 403, 507, 509, 701, 703, and 903 (Log #UT014).

This proposed rule will require owners and/or operators of UST systems to install secondary containment with new installations or replacements of tanks and/or piping, and also to install under-dispenser containment and submersible pump containment, after December 20, 2008. The rule will also require the installation of secondary containment for certain repairs to tanks or piping made after December 20, 2008. The difference between "replacement" and "repair" is clarified. The federal 2005 Underground Storage Tank Compliance Act, which amends Section 9003 of Subtitle I of the Solid Waste Disposal Act, mandates states authorized to administer the Underground Storage Tank Program to take certain actions to reduce the incidence of leaking USTs. One such action is to require that USTs installed in the state have secondary containment. This action must be implemented to maintain federal funding of the UST program in the state and to maintain federal delegation of the UST program. This will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this rule are to comply with the federal guidelines required by the 2005 Underground Storage Tank Compliance Act. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part XI. Underground Storage Tanks
Chapter 1. Program Applicability and Definitions
§103. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless specifically defined otherwise in LAC 33:XI.1105 or 1303.

* * *

Install or *Installation*—the process of placing a UST system in the ground and preparing it to be put into service.

* * *

Pipe or *Piping*—a hollow cylinder or tubular conduit that is constructed of non-earthen materials and that routinely contains and conveys regulated substances from a UST to a dispenser or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the UST to the dispenser. This definition does not include vent, vapor recovery, or fill lines.

* * *

Replace or *Replacement*—to remove an existing UST and install a new UST in substantially the same location as the removed tank, or to remove and replace 25 percent or more of piping associated with a single UST.

* * *

Secondary Containment—a containment system that utilizes an outer or secondary container or impervious liner designed to prevent releases of regulated substances from the primary container from reaching the surrounding environment for a time sufficient to allow for detection and control of the released product. Such systems include, but are not limited to, double-wall tanks and piping, jacketed tanks and piping that have an interstitial space that allows for interstitial monitoring, and any other such system approved by the department prior to installation.

* * *

Under-Dispenser Containment—a containment system beneath a dispenser designed to prevent releases of regulated substances from the dispenser or contained piping from reaching the surrounding environment for a time sufficient to allow for detection and control of the released product. Such containment must be liquid-tight on its sides, bottom, and at any penetrations, and must allow for visual inspection and access to the components in the containment system or be regularly monitored.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2558 (November 2000), LR 27:520 (April 2001), amended by the Office of Environmental Assessment,

AQ 299

Regulatory Permits for Cement and Concrete Facilities

LAC 33:III.317

iii. any certification by a registered professional engineer regarding the permeability of the concrete that comprises the concrete liner system; and

c. the cost of installing and maintaining an impermeable coating or lining versus the potential benefits to be derived therefrom.

3. In deciding whether to approve the use of an unlined/uncoated concrete external liner system in lieu of the requirements of Subclause E.1.f.i.(a) of this Section:

a. the administrative authority shall consider each submittal on its own merits;

b. the stringency of the administrative authority's requirements may vary depending on the tank's contents (e.g., the concentration or type of material involved); and

c. the administrative authority shall approve the use of an unlined/uncoated concrete external liner system if it reasonably determines that the unlined/uncoated concrete external liner system:

i. will prevent lateral and vertical migration of waste into the environment; or

ii. is otherwise appropriate based on the potential risk to human health and the environment.

4. Within 30 days after receipt of an administratively complete submittal pursuant to this Subsection, the department shall provide written acknowledgment to the owner or operator that the submittal is under consideration. Subclause E.1.f.i.(a) of this Section shall not apply to the concrete external liner system while the administrative authority considers the owner's or operator's submittal. The administrative authority shall notify the owner or operator in writing of the administrative authority's approval or disapproval of the proposed use of an unlined/uncoated concrete external liner system. If the administrative authority does not approve the use of an unlined/uncoated concrete external liner system, it shall give the owner or operator a reasonable period of time to provide an appropriate coating or lining for the concrete external liner system, or another acceptable means of secondary containment.

5. If the use of an unlined/uncoated concrete external liner system is approved:

a. the owner or operator shall maintain on-site:

i. the written approval received from the administrative authority, or a legible copy thereof; and

ii. documentation sufficient to establish that any conditions upon which that approval was based are being fulfilled; and

b. the owner or operator shall provide written notification to the Office of Environmental Services of any change in the tank system, the service of the tank system, the concrete external liner system, the waste stored in the tank(s), or the information submitted by the owner or operator pursuant to Paragraph 1 or 2 of this Subsection that could result in a significant increase in the risk to human health or the environment posed by a potential release of the waste constituents contained in the tank(s). Such notice shall be provided within 15 days of the owner's or operator's discovery of any such change. The department thereafter may require the submittal of additional information by the owner or operator, and/or revoke the approval for the owner's or operator's continued use of the unlined/uncoated concrete external liner system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:1899 (September 2008), LR 36:1238 (June 2010), repromulgated LR 36:1539 (July 2010).

Herman Robinson, CPM
Executive Counsel

1007#060

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Cement and Concrete Facilities
(LAC 33:III.317)(AQ299)

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.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this Rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit Rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The Rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative Code 33:III. A Rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification...in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit. The basis and rationale for this Rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. 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 3. Regulatory Permits

§315. Regulatory Permit for Concrete Manufacturing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

3. The monitoring and recordkeeping requirements herein do not apply during each day when the concrete manufacturing facility is not operational.

B. Control of Fugitive Emissions

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

2. Emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following.

a. Open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion.

b. Earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed.

c. In-plant roads, vehicle work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

C. Filter Vents (Baghouses)

1. Monitoring and Repair

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every six months or whenever visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

D. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. Opacity

a. Limitations

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

b. Monitoring and Recordkeeping

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records

shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-sound means.

b. Operating time of each ICE shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form (the form and guidance concerning it can be obtained from the Office of Environmental Services or through the department's website).

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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 36:1541 (July 2010).

Herman Robinson, CPM
Executive Counsel

1007#058

RULE

Office of the Governor
Division of Administration
Office of Facility Planning and Control

Percent for Universal Design Program
(LAC 34:III.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq.) and the provisions of R.S. 39:121, the Division of Administration, Facility Planning and Control hereby adopts a new Rule, LAC 34:III.Chapter 3, Louisiana Uniform Public Work Bid Form. This Rule is required by Act 368 of the 2009 Regular Legislative Session and provides for rules for their implementation as authorized by the Act.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part III. Facility Planning and Control
Chapter 3. Louisiana Uniform Public Work Bid Form
Subchapter B. Universal Design
§321. Name

A. The name of this document shall be the "Percent for Universal Design Program" also referred to hereinafter as "Universal Design."

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1542 (July 2010).

§323. Purpose

A. The purpose of this program is to provide for the implementation of the principles of universal design in or on state buildings and grounds to move beyond minimum accessibility requirements, maximize accessibility for all users regardless of their functional capabilities and bring to the attention of architects, builders, and the public at large the vast benefits that can be realized by implementing universal design principles in the construction and renovation of all buildings, including those privately owned and personal residences.

AUTHORITY NOTE: Promulgated in accordance with Act 368 of the 2009 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Facility Planning and Control, LR 36:1542 (July 2010).

Comment Summary Response & Concise Statement – AQ299
Amendments to the Air Regulations
Regulatory Permits for Cement and Concrete Facilities
LAC 33:III.317

COMMENT 1: — The commenter supports the department's efforts to reduce barriers for doing business while maintaining the environment. The commenter also appreciates the reduction in the amount of fees.

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

RESPONSE 1: The department appreciates the support.

COMMENT 2: — The department is asked to reconsider and clarify Paragraph 315.B.1, on "Control of Fugitive Emissions". As proposed, that Paragraph reads: "Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-5." The last Paragraph of this referenced Section in turn brings a set of comprehensive regulations applicable to petroleum refineries and the synthetic organic chemical manufacturing industry into this rule. Those regulations, known as *LDAR*, have no applicability to ready-mix concrete. The commenter hopes that LDEQ will modify the reference to "LAC 33:III.2113.A.1-5" to read "LAC 33:III.2113.A.1-4". This change would eliminate the incorporation of LDAR into the regulation.

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

RESPONSE 2: LAC 33:III.315.B.1 will be amended accordingly.

COMMENT 3: —Temporary batch ready-mix concrete plants intended and used for project-specific operations either are not addressed in the proposed regulation, or LDEQ intends imposing the proposed regulation upon the temporary batch ready-mix concrete facilities as if they were of a permanent nature. A temporary batching facility is operated for a project that has short-term duration, and usually is for paving a road or highway. The commenter asks if it is the intent of the LDEQ that these facilities be required to be tested even when they are not in operation?

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

RESPONSE 3: — *Per* proposed LAC 33:III.315.A.2, the regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities, including ready-mix plants used for short-term projects such as paving a road or highway. However, the monitoring and recordkeeping requirements therein do not apply during each day when the concrete manufacturing facility is not operational. LDEQ will amend the regulation to clarify this.

COMMENT 4: — The current procedure for applying for an air quality permit requires an applicant to estimate a facility's annual concrete plant production levels. This process can become very time consuming. In order to shorten the process, would LDEQ be willing to include in the text of the proposed rule the "parameters" of the Rule" referred to in the second paragraph of the Notice of Intent (NOI), in the following sentence: "Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit."

FOR: LDEQ should explicitly state in the proposed rule that operations not qualifying for the regulatory permit have to apply for and be issued a traditional permit.

AGAINST: Chapter 3 already specifies that sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5.

RESPONSE 4: The language suggested by the commenter already exists. LAC 33:III.301.A explicitly states that, "Sources and activities not addressed by a regulatory permit must be authorized in accordance with LAC 33:III.Chapter 5." In addition, it should be noted that, in order to determine potential emissions, a permit applicant will have to estimate the facility's hourly and annual production rates regardless of whether a regulatory permit or a "traditional" permit is used to authorize the facility.

COMMENT 5: — In its proposed LAC 33:III.315.D, the language of the proposed rule restricts the use of non-commercial fuels. This encourages the use of commercial power. Commercial power is very difficult to access due to the remote locations where projects are located across the state and will be very expensive to obtain.

FOR: The department should allow use of noncommercial fuels.

AGAINST: It is not appropriate to allow use of noncommercial fuels via a regulatory permit.

RESPONSE 5 The prohibition against noncommercial fuels does not encourage the use of commercial power. Noncommercial fuels include used crankcase oil and any other used oil, facility byproducts, and any other type of waste material. These fuels are not typically employed in the ready-mix portland cement concrete manufacturing industry. Further, it is not appropriate to allow use of noncommercial fuels via the regulatory permit. The permit contains general monitoring and recordkeeping requirements tailored to engines fired by gasoline and diesel fuels.

COMMENT 6: — There are some restrictions in the rule regarding opacity of smoke and non-use of bio-fuels. Since the state is built on agriculture, we should not omit the possibility of moving to bio-fuels. We should rethink this before writing it into the amendment.

FOR: LDEQ should reconsider the opacity provisions and allow use of bio-fuels.

AGAINST: Regulatory permits must require compliance with all applicable provisions of the Louisiana air quality regulations~~,~~; and bio-fuels are not considered noncommercial fuels.

RESPONSE 6 LAC 33:III.303.F provides that "Regulatory permits shall require compliance with all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act." As such, LAC 33:III.315 must reflect the opacity provisions applicable to "combustion units" and sources of particulate matter under LAC 33:III.Chapters 11 and 13, respectively. Biodiesel and ethanol are not considered noncommercial fuels and so may be used if the fuel burning equipment located at the concrete manufacturing facility can accommodate such fuels.

COMMENT 7: — LAC 33:III.Chapter 3, Regulatory Permits, has not been submitted to EPA Region 6 for State Implementation Plan (SIP) approval. The department is issuing minor-source general permits under this Chapter. In order for the State to utilize a general permit approach, States must have a federally enforceable program that provides the state the authority to issue such permits; to accomplish this, EPA must approve the program into the SIP or pursuant to Section 112(1) of the Clean Air Act.

40 CFR 51.161 requires public notice of all minor New Source Review sources, and the language of LAC 33:III.513.A reads as if public notice is required for all General Permits. However, the Notice of Intent of this proposed rule does not create a clear distinction between issuance of the General Permit (which should require a public notice) and the issuance of authorizations to operate under the General Permit (which may not require public notice, depending on whether the source is a part 70 source). This creates ambiguity, particularly when read with LAC 33:III.519, which Section 513.A references as the applicable permitting issuance procedures, because Section 531 (which §519.C references) allows Director discretion for minor permitting activities. Does the Secretary of the department have a written, replicable procedure it uses to exercise its discretion?

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

RESPONSE 7 — Regulatory permits are not identical to general permits and are not issued pursuant to LAC 33:III.513. Thus, the reference to public notice being provided "at the discretion of the permitting authority" (via Section 513.A's reference to §519, and Section 519.C.1's reference to §531) is not relevant here. The authority to promulgate regulatory permits stems from LA R.S. 30:2054(B)(9) and LAC 33:III.Chapter 3.

A regulatory permit is a permit that is codified in regulations. LA R.S. 30:2054(B)(9)(b)(viii) and LAC 33:III.303.I require regulatory permits to be promulgated in accordance with the procedures provided in LA R.S. 30:2019, which, in turn, requires any rule or regulation to be adopted in accordance with the Administrative Procedure Act (APA), R.S. 49:950 *et seq*. The APA requires a public comment period prior to the adoption, amendment, or repeal of any rule. This proposed rule, LAC 33:III.315, was proposed in the *Louisiana Register* on February 20, 2010; a public hearing was held on March 30, 2010; and the comment period closed on April 6, 2010.

COMMENT 8: — ~~513.A.~~ The underlying statement of legal authority that the department cites for this proposed rule does not meet federal regulations.

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

RESPONSE 8 See Response to Comment 7.

COMMENT 9: — Regulatory permits issued under LAC 33:III.Chapter 3 must demonstrate compliance with the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increment to comply with the State's minor source permitting rules. Consistent with 40 CFR Part 51, Subpart G the State must demonstrate that the program will not interfere with attainment or maintenance of the NAAQS, or the control strategies of the SIP. The permitting authority will need to estimate how many minor sources and emissions will result from the issuance of each minor source general permit, and show compliance with the NAAQS. This demonstration will need to be completed prior to public participation, and general permit issuance under LAC 33.III Chapter 3. How will the department measure the impact of its minor source general permit program for specific categories of sources against the NAAQS?

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

RESPONSE 9 — As stated in Response to Comment 7, regulatory permits are not identical to general permits. Regulatory permits may be used to secure authorization of emissions from the sources and activities identified in LAC 33:III.Chapter 3 by notifying the department of the planned activity using the appropriate form provided by the department. Importantly, any person who submits a written notification and the appropriate fee shall **not** be authorized to operate under the regulatory permit for which the notification was submitted until being notified by the department that the notification is complete.

As such, the application process is similar to that associated with site-specific permits – an applicant submits an application, LDEQ reviews the application to ensure eligibility and compliance with the National Ambient Air Quality Standards (NAAQS) and Louisiana Ambient Air Standards (AAS) for toxic air pollutants, and authorization is either granted or denied. The only difference is that the permit under which the source will operate is, in the case of a regulatory permit, a duly promulgated regulation.

Further, the application submitted is not simply a notice of intent (as is sometimes used in the general permit process). The application forms require disclosure of, among other things, potential emissions of criteria and toxic air pollutants from each source of air contaminants at the facility.

Should LDEQ determine that any such facility has the potential to violate an applicable portion of the SIP or interfere with attainment or maintenance of a NAAQS, LDEQ retains the authority to prevent construction of the facility, a requirement of 40 CFR 51.160(b). LAC 33:III.519.C.5 states that:

> In any case where the permitting authority has determined that any proposed new or modified source would prevent the attainment or maintenance of any state or national ambient air quality standard, would violate any applicable portion of the Louisiana State Implementation Plan, or would not result in compliance with all federally applicable requirements and all requirements and standards of LAC 33:III, Air Quality regulations, the permitting authority shall have the power to prevent construction, modification, or operation of such source and shall deny the permit.

COMMENT 10: — How are the LAC 33:III.Chapter 3 rules, and permits issued under this Chapter, addressing start-up, shut-down, and maintenance emissions (SSM)? There is also a concern these emissions can be authorized under state-only General Condition XVII Activities. These state-only General Conditions have recently been codified by the department into the State's rules, but have not been SIP-approved by EPA.

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

RESPONSE 10 Chapter 3 does not provide any form of an exemption for startup, shutdown, or maintenance (SSM) emissions or otherwise allow SSM emissions to be excluded from the source's potential to emit. Because regulatory permits are not issued pursuant to LAC 33:III.501, General Condition XVII of LAC 33:III.537 is not applicable.

Comment Summary Response & Concise Statement Key – AQ299
Amendments to the Air Regulations
Regulatory Permits for Cement and Concrete Facilities
LAC 33:III.317

COMMENT #	SUGGESTED BY
1 – 3	Kyle Ardoin/Concrete & Aggregates Association of LA
4 – 6	Louis C. Soileau V/James Construction Group
7-10	Jeffrey Robinson, Chief, Environmental Protection Agency, Air Permits Section

Total comments - 10
Total commenters - 3

E

COMMENTS LOG SHEET

Page ___ of ___

RULE LOG #: AQ299
RULE TITLE : Regulatory Permits for Cement and Concrete Facilities
HEARING DATE: March 30, 2010
COMMENT PERIOD ENDS : April 06, 2010

DATE RECEIVED	AFFILIATE/COMMENTER	COPIES FWD'D TO/DATE Susan Han ~~Gretchen Soniat~~ Darlene Dosher-Collard / Sandra Hilton
3/30/10	Kyle Ardoin CAAL	3/30/10 -
3/30/10	Louis Soileau James Construction Group LLC	3/30/10

RC FORM 0002 revised 07/95

Louis C. Soileau V
CONCRETE PAVING PROJECT MANAGER

MOBILE: (225) 241-3273
E-MAIL: lsoileau@jcgllc.com

11200 INDUSTRIPLEX BLVD., SUITE 150
BATON ROUGE, LA 70809
PHONE (225) 295-4830
FAX (866) 226-3587

JAMES
CONSTRUCTION GROUP

March 30, 2010

Mr. Donald Trahan, Attorney Supervisor
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
Box 4302
Baton Rouge, Louisiana 70821-4302

Re: #AQ299; Regulatory Permits for Cement and Concrete Facilities

Dear Mr. Trahan,

Thank you for the opportunity for the James Construction Group, LLC (JCG) to address the modifications proposed for the "Regulatory Permits for Cement and Concrete Facilities"

JCG appreciates the efforts being made to better protect Louisiana which is home to many of our employees involved in the concrete production division.

The current procedure for applying an air quality permit is for an applicant to estimate a facility's annual concrete plant production levels. The application is then submitted along with payment to DEQ. From there the application is technically and administratively reviewed. This process of which can become very time consuming. When construction schedules are of concern, operations sometimes need to begin before this process has time to take place. In order to shorten the process would DEQ be willing to include the "parameters of the Rule" found in the second paragraph of the NOI referenced in the following sentence:

"Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit."

Currently it would appear as though an applicant will now have another step in the process of application submission if they were not to fall "outside the parameters of the Rule".

Thank you and I look forward to your comments.

Respectfully,

Louis Soileau
Concrete Paving Project Manager
James Construction Group, LLC

-Discuss material stockpile sizes

ICE'S -

- WHO I AM
- who with
- concern
- ICE'S NON BIO-DIESEL FUELS USAGE.
- → encourage the use of commercial pure
- which may not be cost effective in turn will make concrete less competitive hurting the concrete industry

CAAL
CONCRETE & AGGREGATES ASSOCIATION OF LA

KYLE ARDOIN
Executive Director

CAAL
CONCRETE & AGGREGATES ASSOCIATION OF LA

PHONE (225) 293-5735 • FAX (225) 293-5734
CELL (225) 335-1783
11924 Justice Avenue, Suite B
Baton Rouge, LA 70816
www.caal.org kardoin@caal.org

March 30, 2010

Mr. Donald Trahan, Attorney Supervisor
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
Box 4302
Baton Rouge, Louisiana 70821-4302

Re: #AQ299; Regulatory Permits for Cement and Concrete Facilities

Dear Mr. Trahan,

Thank you for the opportunity for the Louisiana Concrete & Aggregates Association of Louisiana (CAAL) to participate in the March 30, 2010 public hearing regarding proposed regulation #AQ299; Regulatory Permits for Cement and Concrete Facilities.

CAAL appreciates all efforts reducing barriers for doing business while maintaining respect for the needs of preserving our environment. CAAL especially appreciates the LDEQ for the reduction in the amount of fees charged to our members as the proposed regulation seems to attempt.

We do however, respectfully ask the department to reconsider and clarify "Control of Fugitive Emissions III.315.B.1". As proposed, "Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-5". The aforementioned reference in the Louisiana Administrative Code is also known as the Leak Detection and Repair Program or LDAR, which mandates fugitive emission monitoring, tracking and repair. LDAR applies to petroleum refineries or the synthetic organic chemical manufacturing industry and, in our opinion, has no applicability to ready-mix concrete.

It is our hope that LDEQ, in order to reduce opportunities for confusion, would modify the reference LAC 33:III.2113.A.1-5 to LAC 33:III.2113.A.1-4, thus eliminating the incorporation of LDAR into the proposed regulation. It is our understanding, that the LDEQ, to date, has not issued enforcement actions or indicated that LDAR is applicable to the ready-mix concrete industry.

Additionally, the temporary ready-mix concrete batch plants intended and used for project specific operations are either not addressed in the proposed regulation or the LDEQ intends imposing the proposed regulation upon the temporary batch ready-mix concrete facilities as if they were of a permanent nature. In its own accord, this would create enforcement problems for LDEQ and onerous requirements for the owner/operator of these types of facilities.

The reason for operating any temporary batching facility is merely for a project that has short term duration and usually is for paving a road or highway. Is it the opinion of the LDEQ that these facilities be required to be tested even when they are not in operation?

CAAL respectfully requests the LDEQ work with the CAAL and its members to amend the proposed regulation providing allowances for the differences in operations for temporary ready-mix concrete batch plants.

Thank you for allowing us input on these important issues.

Respectfully,

Kyle Ardoin
Executive Director

xc; Honorable Bobby Jindal, governor of Louisiana
Honorable Joel Chaisson, president of the Louisiana Senate
Honorable Jim Tucker, speaker of the Louisiana House of Representatives
Honorable "Jody" Amedee, chairman of Senate Environmental Committee
Honorable Gordon Dove, chairman of House Natural Resources and Environment

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

REGULATION DEVELOPMENT SECTION

PUBLIC HEARING IN RE:

REGULATORY PERMITS FOR CEMENT
AND CONCRETE FACILITIES
LAC 33:III.317

LOG # AQ299

* *

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana, beginning at 1:36 p.m. on Tuesday, March 30, 2010.

* *

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

FOR THE LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY:

SHARON PARKER
HEARING OFFICER

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

* * * * * * * * * *

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

2 MS. PARKER:

3 Good afternoon.

4 My name is Sharon Parker. I'm employed by

5 the Louisiana Department of Environmental

6 Quality. I'll be serving as hearing officer

7 this afternoon to receive comments regarding

8 proposed amendments to the department's

9 regulations and to its air quality state

10 implementation plan.

11 The comment period for these amendments

12 began on February 20, 2010, when the notices of

13 intent were published in the *Louisiana Register*.

14 The comment period will close at 4:30 p.m.,

15 April 6, 2010, for proposed rules AQ299 and

16 MM012, and at 4:30 p.m. today, for potpourri

17 notice 1002Pot2. It would be helpful to us if

18 all oral comments received today were followed

19 up in writing.

20 This public hearing provides a forum for all

21 interested parties to present comments on the

22 proposed changes. This hearing is not being

23 conducted in a question and answer format.

24 Please remember that the purpose of this public

25 hearing is to allow you, the public, an

1 opportunity to express your thoughts concerning
2 today's proposed amendments.
3 I'll ask that each person commenting come up
4 and sit at the front table and begin by stating
5 his or her name and affiliation for the record.
6 The second item on today's agenda is a rule
7 amendment designated by the Log Number AQ299.
8 The Regulatory Permit for Concrete
9 Manufacturing Facilities provided for by this
10 rule affords a streamlined means of authorizing
11 the construction and operation of facilities
12 engaged in the manufacture of ready-mixed
13 portland cement concrete, including central-
14 mixed concrete, shrink-mixed concrete, and
15 truck-mixed concrete. An authorization to emit
16 air emissions pursuant to the provisions of this
17 regulatory permit will become effective only
18 upon notification by the department that the
19 application required by this regulatory permit
20 rule has been determined complete.
21 Senate Bill No. 209 of the 2006 Regular
22 Legislative Session was signed by Governor
23 Blanco on June 2, 2006, as Act 115. That Act,
24 which became effective on August 15, 2006,
25 allows Louisiana DEQ to develop "regulatory

1 permits" for certain sources of air emissions
2 pursuant to Revised Statute 30:2054(B)(9). A
3 "regulatory permit" is a permit in the form of
4 standardized rule. The rule, when promulgated,
5 becomes part of the regulations, in this case
6 Louisiana Administrative Code 33:III. A rule is
7 written for a type of facility, activity, or
8 equipment for which the applicability and
9 operational requirements are very similar in
10 most instances. Revised Statute
11 30:2054(B)(9)(b)(vii) requires an applicant
12 seeking a regulatory permit to "submit a written
13 notification ... in lieu of submission of a
14 permit application." The notification form will
15 be specifically tailored to the activity
16 addressed by the regulatory permit and will
17 replace existing permit application forms. Any
18 operations falling outside the parameters of the
19 rule will have to apply for and be issued a
20 traditional permit.
21 Comments will begin with Kyle Ardoin.
22 MR. ARDOIN:
23 My name is Kyle Ardoin. I'm the Executive
24 Director for the Concrete and Aggregates
25 Association of Louisiana. Thank you for the

1 opportunity for the Louisiana Concrete and
2 Aggregates Association of Louisiana (CAAL) to
3 participate in this public hearing regarding
4 proposed regulation number AQ299; Regulatory
5 Permits for Cement and Concrete Facilities.
6 CAAL appreciates all efforts reducing
7 barriers for doing business while maintaining
8 respect for the needs of preserving our
9 environment. CAAL especially appreciates the
10 LDEQ for the reduction in the amount of fees
11 charged to our members as the proposed
12 regulation seems to attempt.
13 We do however, respectfully ask the
14 department to reconsider and clarify "Control of
15 Fugitive Emissions III.315.B.1". As proposed,
16 "Good housekeeping shall include, but not be
17 limited to, the practices described in Louisiana
18 Administrative Code, Title 33:III.2113.A.1-5".
19 The aforementioned reference in the Louisiana
20 Administrative Code is also known as the Leak
21 Detection and Repair Program or LDAR, which
22 mandates fugitive emission monitoring, tracking
23 and repair. LDAR applies to petroleum
24 refineries and/or the synthetic organic chemical
25 manufacturing industry and, in our opinion, has

1 no applicability to ready-mix concrete.
2 It is our hope that LDEQ, in order to reduce
3 opportunities for confusion, would modify the
4 reference Louisiana Administrative Code, Title
5 33:III.2113.A.1-5 to LAC, Title 33:III.2113.A.1-
6 4, thus eliminating the incorporation of LDAR
7 into the proposed regulation. It is our
8 understanding, that the LDEQ, to date, has not
9 issued enforcement actions or indicated that
10 LDAR is applicable to the ready-mix concrete
11 industry.
12 Additionally, the temporary ready-mix
13 concrete batch plants intended and used for
14 project specific operations are either not
15 addressed in the proposed regulation or the LDEQ
16 intends imposing the proposed regulation upon
17 the temporary batch ready-mix concrete
18 facilities as if they were of a permanent
19 nature. In its own accord, this would create
20 enforcement problems for LDEQ and onerous
21 requirements for the owner and operators of
22 these types of facilities.
23 The reason for operating any temporary
24 batching facility is merely for a project that
25 has short term duration and usually is for

1 paving a road or highway. Is it the opinion of
2 the LDEQ that these facilities be required to be
3 tested even when they are not in operation?
4 CAAL respectfully requests that LDEQ work
5 with the organization and its members to amend
6 the proposed regulation, providing allowances
7 for the differences in operations for temporary
8 ready-mix concrete batch plants.
9 Thank you for allowing us input on these
10 important issues. Respectfully submitted, Kyle
11 Ardoin, Executive Director.
12 MS. PARKER:
13 Thank you. Lois Soileau.
14 MR. SOILEAU:
15 Howdy. My names is Louis Soileau. I'm with
16 James Construction Group, the Concrete Paving
17 Division. And that you for the opportunity to
18 come and talk to you all today about this
19 amendment.
20 We really appreciate all the efforts that
21 are being made by DEQ to protect Louisiana and
22 the environment that many of which our employees
23 live and play and plan on retiring.
24 Coming from the industry side, the procedure
25 of which a contractor has to go through to

1 acquire a permit is extremely laborious and very
2 time consuming. It appears as though with this
3 change in the rule, the process goes from a
4 about a three-step process to about a four-step
5 process. The process already can take three to
6 six months and that's if no permit is necessary.
7 It starts off with the generating of an
8 application, coming up with all the emission
9 rates, PM10, submitting it to the Department of
10 Environmental Quality. They review it for
11 technical and administrative completeness and
12 accuracy and then at that point, they'll go
13 ahead and respond to you and sometimes which can
14 seem like a not so timely fashion.
15 Coming from a contractors point of view, we
16 get awarded a project, a lot of our work is
17 municipal work, highway works, federal and
18 state, and local, and when a notice to proceed,
19 sometimes we have just about a month in which to
20 do so. And we need to get the proper equipment
21 to get our permitting in place. Well, if this
22 process already can take six months, in the
23 event we submit an application, receive
24 notification that our application warrants the
25 need for -- to take the next step, that could

1 take even longer which could definitely wind up
2 hurting the course of the project.
3 The second thing I wanted to address would
4 be Section D of the Environmental Quality,
5 Chapter III. It talks about the non-use of
6 internal combustion engines, ICEs shall not
7 combust non-commercial fuels. To me, a lot of
8 this wording is encouraging the use of
9 commercial power. Commercial power in a lot of
10 places, on a lot of these projects especially
11 the Louisiana Timed Projects, that we're just
12 completing, a lot of these projects have
13 facilities that are required to put in various
14 remote locations across the state. That being
15 said, the commercial power is very difficult to
16 access in just terms of sheer expense to come
17 across so we have to use generated power. And
18 our generators, they're big and although the
19 requirements are to keep the emissions low,
20 there are some restrictions in here, like as far
21 as the opacity, is a requirement, and the non-
22 use of bio-fuels.
23 This is a state built on agriculture. Why
24 would we omit the possibility of moving to bio-
25 fuels? I think that's something that we really

1 need to rethink before writing that into the
2 amendment.
3 Once again, I thank you and appreciate all
4 your time.
5 MS. PARKER:
6 Thank you.
7 Does anyone else have or care to comment on
8 this regulation? (No response.)
9 If not, the hearing on AQ299 is closed.
10
11
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13 (THE HEARING ADJOURNED AT 1:46 P.M.)
14
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25

C E R T I F I C A T E

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

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

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

Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

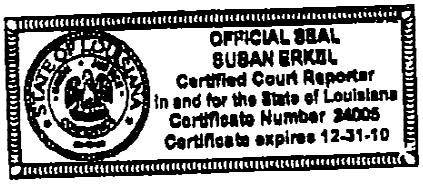
R E P O R T E R ' S P A G E

I, SUSAN ERKEL, Certified Court Reporter in and for the State of Louisiana, before whom this sworn testimony was taken, do hereby state on the Record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talkovers;

That same is the proper method for a Court Reporter's transcription of proceedings, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript;

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



Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

In The Matter Of:

PUBLIC HEARING IN RE: REGULATORY PERMITS FOR CEMENT AND CONCRETE FACILITIES LOG # AQ299

DEPARTMENT OF ENVIRONMENTAL QUALITY
March 30, 2010

Associated Reporters Inc.
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(225) 216-2036 Fax (225) 216-2220

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

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Regulatory Permits for Cement and Concrete Facilities
LAC 33:III.317 (Log #AQ299)

was published in THE ADVERTISER on the following dates:

*Sunday, February 14, 2010

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 17th day of February, 2010.

Christie Veazey

Notary Public - Christie Veazey ID# 058555

1283670
NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits
for Cement and
Concrete Facilities
LAC 33:III.317
(Log #AQ299)

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.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative Code 33:III. A rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the rule will have to apply for and be issued a traditional permit. The basis and rationale for this rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. 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.

A public hearing will be held on March 30, 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.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by Log #AQ299. Such comments must be received no later than April 6, 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 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 AQ299. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson,
CPM
Executive Counsel

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

CERTIFIED COPY

FEB 24 2010

LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

P 3/16/10

PROOF OF PUBLICATION

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

02/16/10

Susan A. Bush, Public Notice Clerk

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

February 16, 2010

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Cement and Concrete Facilities
LAC 33:III.317 (Log #AQ299)

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.317 (Log #AQ299).

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

A public hearing will be held on March 30, 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.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by Log #AQ299. Such comments must be received no later than April 6, 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 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 AQ299. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

4225968-feb 16-1t

DEQ - OSEC/LAD REG ***4225968***
REMENDER WEATHERSPOON
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

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3/16/10

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FEB 18 2010

LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

State of Louisiana
Parish of Rapides

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

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Office of the Secretary
Legal Affairs Division

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HERMAN ROBINSON, CPM
Executive Counsel

(2) 14

I, Bill Heirtzler, Director of Advertising,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Notice of Intent

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated February 14, 2010 and ending with the

issue dated February 14, 2010.

Bill Heirtzler

Subscribed and sworn to before me

this 15th day of February, 2010 at
Alexandria, Louisiana.

Terry A. Broussard
Notary Number 19477
My commission is for life.

CERTIFIED COPY

3/16/10

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FEB 2 6 2010

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Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dahlem

who being duly sworn, deposes and says:

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

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

00590263 - $51.00
February 20, 2010

Karen Dahlem

Duly Authorized Agent

Subscribed and sworn to before me on this 22nd day of February, 2010
at Lake Charles, LA

Gwendolyn R. Dugas

Notary Public

00053262

LDEQ-OSEC-LAD

Gwendolyn R. Dugas
#056623

permit to authorize air emission from minor source cement and concrete facilities. 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.

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Herman Robinson, CPM
Executive Counsel

Feb 20 1t
00590263

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FEB 24 2010
LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

AQ299

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement

Was published in the NEWS-STAR.

A daily newspaper of general circulation.

Published in Monroe, Louisiana.

Parish of Ouachita in the issues of:

February 18, 2010

Kim McManus

LEGAL AD DEPT.

Sworn and subscribed before me by

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

19 day of Feb 20 10 AD

NOTARY PUBLIC
Steven L. Turner # 43154

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Legal Affairs Division

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Herman Robinson, CPM
Executive Counsel

Monroe, LA
February 18,2010
0001283683

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The Times

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LA. DEPT. OF ENVIRONMENTAL QUALITY
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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

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

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Regulatory Permits for Cement and Concrete Facilities LAC 33:III.317 (Log #AQ299)

As per copy of advertisement hereto annexed, was published in

The Times on the following dates to wit:

February 20, 2010

(Signed) Altheas Critton

Sworn to and subscribed before me this 22nd day of February, 2010

Diana W. Barber

(Notary)

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

GANNETT

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Herman Robinson, CPM
Executive Counsel

The Times:
February 20, 2010

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LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097 TELEPHONE (504) 826-3201

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Herman Robinson, CPM
Executive Counsel

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.

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Elizabeth C. Darcey who deposes and says that she is an Assistant Controller of The Times-Picayune, L.L.C., a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached

LEGAL NOTICE

Re: Notice of Intent Department of Environmental Quality Office of the Secretary Legal Affairs Division

Advertisement of Louisiana Department of Environ

P.O. Box4301
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, LA 70125

On the following dates February 20, 2010

Elizabeth C Darcey

Sworn to and subscribed before me this 24th Day of February, 2010

Notary Public

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

Notary identification number 23492

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§315. Regulatory Permit for Concrete Manufacturing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

3. The monitoring and recordkeeping requirements herein do not apply during each day when the concrete manufacturing facility is not operational.

B. Control of Fugitive Emissions

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions, as provided in LAC 33:III.2113.A.1-~~5~~4.

2. Emissions that pass onto or across a public road and create a traffic hazard by impairment of visibility, or intensify an existing traffic hazard condition, are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following:

i. open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion;

ii. earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed; and

iii. in-plant roads, vehicle work areas, material stockpiles, and other

surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

C. Filter Vents (Baghouses)

1. Monitoring and Repair

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every 6 months or whenever visual checks indicate maintenance may be necessary.

c. Filter elements shall be changed in accordance with the manufacturer's recommendations, or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on-site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

D. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially-available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. Opacity of Emissions

a. Limitations

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-

minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

b. Monitoring and Recordkeeping

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period using Method 22 of 40 CFR 60, Appendix A, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-sound means.

b. The operating time of each ICE shall be recorded each month, as

well as its operating time for the last 12 months. These records shall be kept on-site for 5 years and available for inspection by the Office of Environmental Compliance.

4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department.

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an air pollution alert, air pollution warning, or air pollution emergency, as described in LAC 33:III.5609.A. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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:**.

Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 18:728 (July 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2559 (November 2000), LR 30:1677 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, 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 Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM012. Such comments must be received no later than April 6, 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.

Public Hearing

A public hearing will be held on March 30, 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 above address or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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 MM012.

These 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: DEQ Notifications to State Police

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 the proposed rule. DEQ initially estimated in the fiscal note for Act 81 of 2008 that requiring use of the State Police administered "one-call" system to report certain non-emergency unauthorized discharges would necessitate up to 3 additional positions or additional overtime for existing positions to immediately receive and handle up to 7,600 of these calls per year that previously could be reported within a 24 hour time frame, but would now go through the State Police system with subsequent notification of DEQ. However, State Police is able to email these non-emergency notifications, and DEQ can address these incidents in the same time frame as before the use of the "one-call" system. Therefore, no additional costs to DEQ are anticipated due to the use of this system. However, in order for State Police to adequately respond to the responsibility of the "one-call" system, they will need to recover, at a minimum, the four full time employees lost subsequent to the passage of Act 81 of 2008, or provide additional overtime for the existing six positions to accommodate the non-emergency calls previously reported to DEQ. The Public Safety Hotline is currently adding additional duties to Louisiana State Police Troopers to answer the Hotline in necessary rotation, but this is not their primary objective.

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)

Industry and business will be benefited as a result of this proposed rule by having just one number to call when reporting unauthorized discharges that exceed reportable quantities as well as those that cause emergency conditions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment as a result of this proposed rule.

Herman Robinson
Executive Counsel
1002#057

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permits for Cement and Concrete Facilities
(LAC 33:III.317)(AQ299)

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.317 (Log #AQ299).

The Regulatory Permit for Concrete Manufacturing Facilities provided for by this Rule affords a streamlined means of authorizing the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by this regulatory permit Rule has been determined complete. Senate Bill No. 209 of the 2006 Regular Legislative Session was signed by Governor Blanco on June 2, 2006, as Act 115. That Act, which became effective on August 15, 2006, allows LDEQ to develop "regulatory permits" for certain sources of air emissions pursuant to R.S. 30:2054(B)(9). A "regulatory permit" is a permit in the form of standardized rule. The Rule, when promulgated, becomes part of the regulations, in this case Louisiana Administrative

Code 33:III. A Rule is written for a type of facility, activity, or equipment for which the applicability and operational requirements are very similar in most instances. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification...in lieu of submission of a permit application." The notification form will be specifically tailored to the activity addressed by the regulatory permit and will replace existing permit application forms. Any operations falling outside the parameters of the Rule will have to apply for and be issued a traditional permit. The basis and rationale for this Rule are to establish a regulatory permit to authorize air emission from minor source cement and concrete facilities. 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 3. Regulatory Permits

§315. Regulatory Permit for Concrete Manufacturing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of facilities engaged in the manufacture of ready-mixed portland cement concrete, including central-mixed concrete, shrink-mixed concrete, and truck-mixed concrete, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection E of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both stationary and portable concrete manufacturing facilities.

B. Control of Fugitive Emissions

1. Best housekeeping and maintenance practices shall be employed to minimize organic compound emissions. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-5.

2. Emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

3. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include, but not be limited to, the following.

a. Open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion.

b. Earth or other material on paved areas within the facility due to transport by trucking or other means shall be promptly removed.

c. In-plant roads, vehicle work areas, material stockpiles, and other surfaces at the facility shall be watered, treated with dust-suppressant chemicals, oiled, or paved and cleaned as necessary to minimize dust emissions to the greatest extent practicable.

C. Filter Vents (Baghouses)

1. Monitoring and Repair

a. Filter vents shall be inspected for visible emissions on a daily basis.

b. Filter elements (bags) shall be inspected every six months or whenever visual checks indicate maintenance may be necessary.

c. Elements shall be changed in accordance with the manufacturer's recommendations or more frequently if maintenance inspections reveal damage or other impairments impacting the design efficiency of the unit.

2. Recordkeeping. The following records shall be kept on site and available for inspection by the Office of Environmental Compliance:

a. the results of the visual checks required by Subparagraph C.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph C.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph C.1.c of this Section.

D. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used.

b. The permittee shall not combust distillate oil that contains greater than 0.5 weight percent sulfur.

2. Opacity

a. Limitations

i. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

ii. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

iii. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Paragraph, this Paragraph will not apply.

b. Monitoring and Recordkeeping

i. The permittee shall inspect each ICE's stack for visible emissions once each month.

ii. If visible emissions are detected for more than one 6-minute period over a 60 consecutive minute test period, the permittee shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, during the next monthly visible emissions check.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading in accordance with Method 9 shall be repeated. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

iv. Records of visible emissions checks shall include the ICE's serial number, the date the visual check was performed, a record of emissions if visible emissions were detected for a period longer than 6 consecutive minutes, the results of any Method 9 testing conducted, and a record of any corrective action employed. These records shall be kept on-site and available for inspection by the Office of Environmental Compliance.

3. Operating Time

a. Operating time of each ICE shall be monitored by any technically-sound means.

b. Operating time of each ICE shall be recorded each month, as well as its operating time for the last 12 months. These records shall be kept on-site for five years and available for inspection by the Office of Environmental Compliance.

4. New Source Performance Standards

a. Each stationary compression ignition (CI) ICE described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII–Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4200(d).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ–Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the ICE is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

5. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ–National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

6. Gasoline storage tanks associated with an ICE and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

E. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form (the form and guidance concerning it can be obtained from the Office of Environmental Services or through the department's website).

F. Relocation. The owner or operator shall notify the department prior to moving a portable concrete manufacturing facility to a new operating site. Approval must be obtained before operations at the new site can commence.

G. Standby Plan. The owner or operator shall develop and retain onsite a standby plan for the reduction or elimination of emissions during an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency. The plan shall be in accordance with the requirements of LAC 33:III.5611.

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is $713 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $143.

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:

Family Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference these proposed regulations by Log #AQ299. Such comments must be received no later than April 6, 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.

Public Hearing

A public hearing will be held on March 30, 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 above address or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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 AQ299. These 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; 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: Regulatory Permits for Cement and Concrete Facilities

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

R.S. 30:2054(B)(9)(b)(vii) provides for "regulatory permits", and requires an applicant seeking such a permit to "submit a written notification … in lieu of submission of a permit application." Because under this proposed rule the notification form will be specifically tailored to the activity addressed by the regulatory permit, and will replace existing permit application forms, this permitting mechanism should increase the efficiency of the department, resulting in no increased implementation costs to the applicants or the department.

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

No increase or decrease in revenue will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary … in lieu of submission of a permit application." This fee is equivalent to and in place of that which would have been required had a permit been applied for and issued pursuant to LAC 33:III.501, or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the activity now to be covered by this regulatory permit.

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

Applicants for this regulatory permit will be required to submit a notification form specifically tailored to the activity addressed by the regulatory permit. However, this notification form will be in place of the traditional, more generic permit application and should not require additional time to complete. Use of a notification form specifically tailored to the activity addressed by this regulatory permit provision should also allow for the department's review of such documents to be streamlined. In this way, a final decision on the proposed project should generally be reached more expeditiously, which will not cause any increased costs, and may result in some economic benefits, to applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson
Executive Counsel
1002#058

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Admission Renewal Procedure (LAC 46:I.1301)

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for an amendment to LAC 46:I.1301.E pertaining to the delinquent fee charged to an architect who does not timely renew his or her license. The board proposes to increase the delinquent fee for an architect domiciled in Louisiana from $75 to $105, and the delinquent for an architect domiciled outside Louisiana from $150 to $180.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 13. Administration
§1301. Renewal Procedure

A. – D. …

E. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. An individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of $105. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of $180. The delinquent fee shall be in addition to the renewal fee set forth in §1301.C.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 29:563 (April, 2003), amended LR 35:2754 (December 2009), LR 36:

Family Impact Statement

The proposed rule amendment of the Louisiana State Board of Architectural Examiners should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments on this proposed rule to Ms. Mary "Teeny" Simmons, Executive director, Board of Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Mary "Teeny" Simmons
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Admission Renewal Procedure

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

The proposed rule change will have no effect on implementation costs (savings) to state or local governmental units.

MM 008
Amendments and Corrections
LAC 33:III.608, 2132, 2133, 2135, 2137, 2143, 2145, 2301

environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Chapter 27. LPDES Permit Conditions
§2701. Conditions Applicable to All Permits

The following conditions apply to all LPDES permits. Additional conditions applicable to LPDES permits are in LAC 33:IX.2703. All conditions applicable to LPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations (or the corresponding approved state regulations) must be given in the permit.

A. – L.3....

4. Monitoring Reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit and shall be submitted in paper format or through a department-approved electronic document receiving system in accordance with LAC 33:I.Chapter 21.

L.4.a. – N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:724 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2553 (November 2000), LR 28:468 (March 2002), repromulgated LR 30:230 (February 2004), amended LR 30:1676 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431, 2512 (October 2005), LR 32:1220 (July 2006), LR 33:2168 (October 2007), LR 34:1887 (September 2008).

Herman Robinson, CPM
Executive Counsel

0809#095

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Environmental Quality
(~~LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703~~; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, ~~5151, V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139, and XV.609~~)
(MM008)

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 Environmental Quality regulations, LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609 (Log #MM008).

This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department. Miscellaneous typographical, grammatical, punctuation, and outline numbering corrections are made throughout the regulations. Outdated citations are corrected, and citation formatting is updated for consistency in the regulations. An introductory paragraph is added to several definition sections to clarify where the definitions that are presented in each corresponding section apply. This rule also corrects a mistake in a previous rule, WQ054, Water Quality Standards Triennial Revision; two changes left out of that rule are now being made. Other minor changes are made to the Air and Solid Waste regulations to clarify their meaning. The Environmental Quality Act requires the department to promulgate environmental regulations. Maintenance of these regulations is part of that responsibility. The basis and rationale for this rule are to maintain the regulations that protect the environment and public health of the state, as authorized by the Environmental Quality Act. 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 I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 1. Public Notification of Contamination
§107. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—those health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

a. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;

b. Louisiana primary ambient air quality standards (LAC 33:III.Chapter 7); and

c. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action—activities conducted to protect human health and the environment.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivision of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

Release Site—area within the property boundary of the site where the release has occurred.

Responsible Party—any person required by law or regulation to undertake corrective action at a site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1887 (September 2008).

Chapter 5. Confidential Information Regulations

§502. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Air Emission Data—any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge, including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an "allowable" emission limit for a permit.

Complete—in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

Financial Request—a single character request that contains financial information or records only. This includes, but is not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

Mixed Character Record—a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

Mixed Character Request—a request for confidentiality that contains one or more mixed character records.

Single Character Request—a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

Chapter 6. Security-Sensitive Information

§603. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Distribution or Dissemination via the Internet—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

Security-Sensitive Information—as defined in R.S. 44:3(A)(3), security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

Chapter 9. Petition for Rulemaking

§905. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

Chapter 13. Risk Evaluation/Corrective Action Program

§1302. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Department—the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1888 (September 2008).

Chapter 14. Groundwater Fees

§1407. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Assessment—planning, data gathering and reporting, and other activities used to generate a report that appraises groundwater contamination and draws conclusions as to the need for further assessment and/or corrective action.

Assessment Oversight—departmental review and evaluation of a facility's assessment activities.

Corrective Action Oversight—departmental review and evaluation of corrective action plans and of remedial actions undertaken to restore the quality of contaminated groundwater.

Corrective Action Plan—a plan that details a schedule of remedial actions that will restore the quality of contaminated groundwater.

Non-Regulated Facility—a facility that is not classified as a solid or hazardous waste facility but under which groundwater contamination has been detected.

Regulated Unit—a solid waste facility or a hazardous waste facility under which groundwater contamination has been detected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

Chapter 20. Records of Decision for Judicial Review

§2003. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Record of Decision—for purposes of this Chapter, all documents, evidence, and other items presented to, and/or actually considered by, the decision maker for the purpose of influencing the decision. This shall include, but is not limited to:

a. the record of any hearing or other proceeding held in connection with the decision or action;

b. any comments, written or oral, submitted to the department in connection with the decision or action;

c. any response to such comments issued by the department;

d. all matters officially noticed by the decision maker;

e. any written statement of the decision or action and reasons therefor; and

f. for permit actions:

i. the permit application, including all supplements and amendments thereto;

ii. any notices of deficiency issued by the department;

iii. any responses to notices of deficiency;

iv. any correspondence relating to the permit application;

v. any public notices relating to the permit action; and

vi. the final permit, if granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

Chapter 25. Beneficial Environmental Projects

§2503. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Beneficial Environmental Project (BEP)—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation or penalty assessment.

Environmental Mitigation—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

Chapter 37. Regulatory Innovations Programs

§3703. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Demonstration Project (DP)—a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

Final Project Agreement (FPA)—the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

Regulatory Flexibility—the power of the Secretary of the Department of Environmental Quality to exempt a

qualified participant in a regulatory innovations program from regulations promulgated by the department under this Chapter, consistent with federal law and regulation.

Stakeholders—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

Superior Environmental Performance—

a. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

b. improved social or economic benefits, as determined by the secretary, to the state, while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements under current applicable law and regulation are being achieved by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1889 (September 2008).

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. – J.15.b. …

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., they have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

* * *

L. – M.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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008).

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Actual Emissions—the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. *Actual emissions* shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data are not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, and emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications.

* * *

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 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 34:1890 (September 2008).

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. – B.5. …

6. The regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the Stage II Vapor Recovery System:

B.6.a. – C.2. …

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. – 2. …

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of

Environmental Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. – I. …

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008).

§2133. Gasoline Bulk Plants

A. – C.4. …

D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. leak tests for monitoring during loading, EPA, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-51);

b. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

2. Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the bulk plant or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. – E.2. …

3. data to document compliance with Subsection D of this Section;

E.4. – F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:610 (July 1990), LR 21:552 (June 1995), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

§2135. Bulk Gasoline Terminals

A. – B.4. …

5. A facility subject to this Section shall service only those delivery trucks/transport vessels complying with LAC 33:III.2137.

C. Exemptions

1. Gasoline distribution facilities that have a gasoline throughput less than 20,000 gallons (75,708 liters) per day averaged over any consecutive 30-day period shall meet the provisions of LAC 33:III.2133. Once a facility's throughput exceeds this rate, it shall become subject to and shall comply with this Section and shall remain so regardless of any fluctuations in throughput.

2. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading and unloading only liquified petroleum gas are exempt from this Section.

3. Gasoline bulk terminals that are located in an attainment area and do not service facilities controlled by LAC 33:III.2131 and 2133 are exempt from the control requirements of Subsection B of this Section. Bulk terminals servicing exempted and controlled facilities are required to collect vapors from controlled facilities.

D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks;

d. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous nonmethane organic emissions as carbon;

e. EPA leak tests for monitoring during loading, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-051); and

f. additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

2 Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the terminal or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. - E.2. …

3. testing, sampling and analysis data to document compliance with Subsections B and D of this Section;

4. - 5.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 LR 16:611 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

§2137. Gasoline Terminal Vapor-Tight Control Procedure

A. - A.1.…

2. Inspection Sticker Required. All tank trucks must have a sticker displayed on each tank indicating the

identification number of the tank and the date each tank last passed the pressure and vacuum test described in Paragraph A.1 of this Section. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.

B. - B.3.b. …

C. Exemptions. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading or unloading only liquified petroleum gas are exempt from this Section.

D. Recordkeeping Requirements. The gasoline terminal operator shall maintain records at the facility for at least two years indicating the last time the vapor collection facility passed the requirements specified in Paragraph B.1 of this Section. Items that required repair in order to pass the specified requirements must also be recorded during the annual test procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:612 (July 1990), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1891 (September 2008).

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. - B. …

C. Compliance. The owner/operator of any facility subject to this Section shall install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specification. Compliance with this Section shall be determined by certification from the ink manufacturer concerning the solvent makeup of the ink or by applying the following test methods as appropriate:

1. - 4. …

D. Recordkeeping. The owner or operator of any graphic arts facility shall maintain records at the facility to verify compliance with or exemption from this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection C of this Section;

D.2. – E.…

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1892 (September 2008).

Subchapter I. Pharmaceutical Manufacturing Facilities

§2145. Pharmaceutical Manufacturing Facilities

A. - A.1.e. …

2. if equivalent controls are used, the VOC emissions must be reduced by at least as much as they would be by using a surface condenser that meets the requirements of Paragraph A.1 of this Section.

B. - F.4. …

G. Recordkeeping. The owner or operator of a pharmaceutical manufacturing facility shall maintain the following records at the facility for at least two years:

1. the results of all tests conducted in accordance with Subsection F of this Section;

2. - 4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008), LR 34:1892 (September 2008).

Chapter 23. Control of Emissions for Specific Industries[1]

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

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

A. - D.2.…

3. Total Reduced Sulfur Emissions

a. Emissions of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

i. kraft recovery furnaces corrected to 8 percent oxygen by volume:

(a). new design straight kraft recovery furnaces, 5 parts per million (ppm);

(b). old design straight kraft recovery furnaces, 20 ppm;

(c). cross-recovery furnaces, 25 ppm;

(d). recovery furnaces constructed prior to 1960: The department may establish emission limitations different from those specified above for the remaining useful life of the unit. The emissions limit established for each affected furnace will reflect the lowest levels of TRS emissions consistently achievable utilizing best practicable technology;

ii. digester systems, 5 ppm;

iii. multiple effect evaporator systems, 5 ppm;

iv. lime kilns, corrected to 10 percent oxygen by volume, 20 ppm;

v. condensate stripper systems, 5 ppm;

vi. smelt dissolving tanks, 0.016 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of Subparagraph D.1.b of this Section by a scrubbing device employing fresh water as the scrubbing medium make up will be accepted as evidence of adequate TRS control on smelt dissolving tanks. Emission limits are given in terms of 12-hour averages. For recovery furnaces, 1 percent, and for lime kilns, 2 percent of all 12-

hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in the absence of start-ups, shutdowns and malfunctions, are not considered to be violations of the emission limitation. These are not running averages, but are instead for discrete contiguous 12-hour periods of time;

vii. in any facility with multiple sources subject to this Subchapter, alternative TRS emission limits from individual sources shall be established upon request, using the "Bubble Concept," provided that the total emissions from all the regulated sources do not exceed those permitted above;

viii. the department may establish alternative limits consistent with the purposes of this Section.

b Compliance. Affected sources shall achieve final compliance with the provisions of this Paragraph as expeditiously as practicable but not more than six years from the effective date of this Subchapter of the regulations.

4. Opacity Limitation

a. The emission of smoke from the recovery furnace shall be controlled so that the shade or appearance of the emission is not darker than 40 percent average opacity as to obscure vision to a degree equivalent to the above (see LAC 33:III.1503.D, Table 4) except that emitted may have an average opacity in excess of 40 percent for not more than one six-minute period in any 60 consecutive minutes.

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

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

ii. one test annually thereafter.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:1892 (September 2008).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. – F.2.c.iv.(a).(ii). …

(b). when the asbestos stripping or removal operation or demolition operation covered by this Subsection will begin on a date earlier than the original start date:

(i). provide the Office of Environmental Services with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subparagraph F.1.b of this Section, provide the Office of Environmental Services written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

F.2.c.iv.(c). - P.2.b. …

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 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:1893 (September 2008).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.2.k. …

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903.E and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. Groundwater that is returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, is not a hazardous waste until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

D.2.l.i. - P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256

MM008 D

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING

REGULATION DEVELOPMENT SECTION

The Public Hearing conducted by the Louisiana Department of Environmental Quality Services taken at the 602 North 5th Street, Baton Rouge, Louisiana 70802 on Tuesday, July 29, 2008 at 1:31 p.m.

Reported by:

Tara Torres
Certified Court Reporter

ORIGINAL

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AUG 21 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

I N D E X

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1 **I N T R O D U C T I O N**

2 **MS. STEPHENS:**

3 Good afternoon. My name is
4 Sandy Stephens and I'm employed by
5 the Louisiana Department of
6 Environmental Quality. I will be
7 serving as the Hearing Officer this
8 afternoon to receive comments
9 regarding proposed amendments to the
10 Louisiana Environmental Quality
11 regulations, and to the state's air
12 quality state implementation plan.
13 The comment periods for these
14 amendments began on June 20, 2008,
15 when the notices of intent were
16 published in the Louisiana Register.
17 The comment periods will close at
18 4:30 p.m., August 5, 2008. It would
19 be helpful to us if all oral
20 comments received today were
21 followed up in writing.
22 This public hearing provides a
23 forum for all interested parties to
24 present comments on the proposed
25 changes. This hearing is not being

1 conducted in a question and answer
2 format. Please remember that the
3 purpose of this public hearing is to
4 allow you, the public, and
5 opportunity to express your thoughts
6 concerning today's proposed
7 amendments.
8 I'll ask that each person
9 commenting come up and sit at the
10 front table and begin by stating his
11 or her name and affiliation for the
12 Record.
13 The third amendment is
14 designated by the Log Number MM008.
15 This rule makes changes that
16 were overlooked in a previous
17 rulemaking-changing references to
18 DEQ divisions in the regulations to
19 references to the statutory office
20 designations, and updating some
21 office designations to reflect the
22 current organizational structure of
23 the department. Miscellaneous
24 typographical, grammatical,
25 punctuation, and outline numbering

1 corrections are made throughout the
2 regulations. Outdated citations are
3 corrected, and citation formatting
4 is updated for consistency in the
5 regulations.
6 An introductory paragraph is
7 added to several definition sections
8 to clarify where the definitions
9 that are presented in each
10 corresponding section apply. This
11 rule also corrects a mistake in a
12 previous rule, WQ054, Water Quality
13 Standards Triennial Revision: two
14 changes left out of that rule are
15 not being made. Other minor changes
16 are made to the Air Solid Waste
17 regulations to clarify their
18 meaning.
19 The Environmental Quality Act
20 requires the department of
21 promulgate environmental
22 regulations. Maintenance of these
23 regulations is part of that
24 responsibility.
25 Does anyone care to comment on

this regulation?

If not, the hearing on MM008 is closed.

(The hearing was closed.)

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

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

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 original raised seal on this page.
5 That this testimony was reported by me in the
6 Stenomask method (voice-writing), was prepared and
7 transcribed by me or under my personal direction
8 and supervision, and is a true and correct
9 transcript to the best of my ability and
10 understanding;
11 That I am not related to counsel or to the
12 parties herein; am not otherwise interested in the
13 outcome of this matter; and am a valid member in
14 good standing of the Louisiana State Board of
15 Examiners of Certified Shorthand Reporters.
16 Tara Torres
Tara Torres (#22012)
17 Certified Court Reporter
18 OFFICIAL SEAL
TARA ROSARY TORRES
Certified Court Reporter
19 In and for the State of Louisiana
Certificate Number 22012
Certificate expires 12-31-08
20
21
22
23
24
25

MM008 H

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JUN 19 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Amendments and Corrections
(LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

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 Environmental Quality regulations, LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911, VII.711, 721; IX.301, 1123; XI.1139; and XV.609 (Log #MM008).

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

A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 MM008. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 MM008. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

I, Harold Constance, Classified Sales Manager of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Public Notice (MM008) advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertion(s) commencing with the issue dated June 16, 2008 and ending with the issue dated June 16, 2008.

Harold Constance

Subscribed and sworn to before me this 16th day of June, 2008.

Notary Number 019888

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

HERMAN ROBINSON, CPM
Executive Counsel

(6) 16

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JUN 23 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Acadiana's Daily Newspaper

THE ADVERTISER

1100 Bertrand Drive
LAFAYETTE, LA 70506

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

AFFIDAVIT OF PUBLICATION

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

Account No.: 8DEQRD
Ad Number: 1008539
Ad Total: $94.55
No. of Lines: 215
Reference No.:
To insure proper credit please refer to your **account number and/or ad number when making payment. Remittance address: P.O. Box 3268, Lafayette, LA 70502-3268

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

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Amendments and Corrections
(LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

was published in THE ADVERTISER on the following dates:

*Saturday, June 14, 2008

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 17th day of June, 2008.

Notary Public - Christie Veazey ID# 058555

1008539

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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Herman Robinson, CPM
Executive Counsel

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

RECEIVED
JUN 2 6 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION
mm008

PROOF OF PUBLICATION

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

06/14/08

Susan A. Bush, Public Notices Clerk

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

June 14, 2008

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

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Amendments and Corrections
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Herman Robinson, CPM
Executive Counsel

3901501-jun 14-1t

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PO BOX 4302
BATON ROUGE LA 70821-4314

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JUN 23 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Affidavit of Publication

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Amendments and Corrections - (LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

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STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Wahlen

who being duly sworn, deposes and says:

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

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

00453869 - $51.00 MM008
June 17, 2008

Karen Wahlen
Duly Authorized Agent

Subscribed and sworn to before me on this 17th day of June, 2008 at Lake Charles, LA

Winnie P. Guillory
Winnie P. Guillory
Notary #66592
My Commission Is For Life
Notary Public

00053262
LDEQ-OSEC-LAD

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Herman Robinson, CPM
Executive Counsel

June 17 11
00453869

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JUN 19 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION
MM008

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement was published in the NEWS-STAR, a daily newspaper of general circulation. on June 19, 2008

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Amendments and Corrections
(LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4063, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

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 Environmental Quality regulations, LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4063, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609 (Log #MM008).

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A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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Herman Robinson, CPM

Executive Counsel

Monroe, LA
June 19, 2008

RECEIVED
JUN 30 2008
LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

The Times

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Amendments and Corrections (LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609) (MM008)

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

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

NOTICE OF INTENT Department of Environmental Quality Legal Affairs Division (MM008)

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

January 14, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 16th day of June, 2008

Diana W. Barber

(Notary)

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

307 GANNETT

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Herman Robinson, CPM
Executive Counsel

The Times:
June 14, 2008

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JUN 23 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

The Times-Picayune

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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Herman Robinson, CPM
Executive Counsel

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.

State of Louisiana

Parish of Orleans

City of New Orleans

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

Re:Notice of Intent Department of Environmental Quality Amendments & Corrections (MM008)Lac 33:1.107,502

Advertisement of Office of Environmental Quality

P.O. BOX 4303
Baton Rouge, La. 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates June 18, 2008

Robert J. Chiasson

Sworn to and subscribed before me this 18th Day of June, 2008

Notary Public

My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492

Title 33
ENVIRONMENTAL QUALITY

Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures

Chapter 1. Public Notification of Contamination
§107. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—those health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

~~1.~~ a. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;

~~2.~~ b. Louisiana primary ambient air quality standards (LAC 33:III.Chapter 7~~09~~); and

~~3.~~ c. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action—activities conducted to protect human health and the environment.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivision~~s~~ of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

Release Site—area within the property boundary of the site where the release has occurred.

Responsible Party—any person required by law or regulation to undertake corrective action at a site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 5. Confidential Information Regulations

§502. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Air Emission Data—any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge, including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an "allowable" emission limit for a permit.

Complete—in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

Financial Request—a single character request that contains financial information or records only. This includes, but is not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

Mixed Character Record—a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

Mixed Character Request—a request for confidentiality that contains one or more mixed character records.

Single Character Request—a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 6. Security-Sensitive Information

§603. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Distribution or Dissemination via the Internet—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

Security-Sensitive Information—as defined in R.S. 44:3.~~1~~(A)(3), security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 9. Petition for Rulemaking

§905. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 13. Risk Evaluation/Corrective Action Program

§1302. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Department—the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 14. Groundwater Fees

§1407. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Assessment—planning, data gathering and reporting, and other activities used to generate a report ~~which~~that appraises groundwater contamination and draws conclusions as to the need for further assessment and/or corrective action.

Assessment Oversight—departmental review and evaluation of a facility's assessment activities.

Corrective Action Oversight—departmental review and evaluation of corrective action plans and of remedial actions undertaken to restore the quality of contaminated groundwater.

Corrective Action Plan—a plan ~~which~~that details a schedule of remedial actions that will restore the quality of contaminated groundwater.

Non-Regulated Facility—a facility ~~which~~that is not classified as a solid or hazardous waste facility but under which groundwater contamination has been detected.

Regulated Unit—a solid waste facility or a hazardous waste facility under which groundwater contamination has been detected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 20. Records of Decision for Judicial Review

§2003. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Record of Decision—for purposes of this Chapter, all documents, evidence, and other items presented to, and/or actually considered by, the decision maker for the purpose of influencing the decision. This shall include, but is not limited to:

~~1.~~ a. the record of any hearing or other proceeding held in connection with the decision or action;

~~2.~~ b. any comments, written or oral, submitted to the department in connection with the decision or action;

~~3.~~ c. any response to such comments issued by the department;

~~4.~~ d. all matters officially noticed by the decision maker;

~~5.~~ e. any written statement of the decision or action and reasons therefor; and

~~6.~~ f. for permit actions:

~~a.~~ i. the permit application, including all supplements and amendments thereto;

~~b.~~ ii. any notices of deficiency issued by the department;

~~c.~~ iii. any responses to notices of deficiency;

~~d.~~ iv. any correspondence relating to the permit application;

~~e.~~ v. any public notices relating to the permit action; and

~~f.~~ vi. the final permit, if granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 25. Beneficial Environmental Projects

§2503. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Beneficial Environmental Project (BEP)—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation~~(s)~~ or penalty assessment.

Environmental Mitigation—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 37. Regulatory Innovations Programs

§3703. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Demonstration Project (DP)—a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

Final Project Agreement (FPA)—the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

Regulatory Flexibility—the power of the Secretary of the Department of Environmental Quality to exempt a qualified participant in a regulatory innovations program ~~may be exempted by the secretary~~ from regulations promulgated by the department under this Chapter, consistent with federal law and regulation.

Stakeholders—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

Superior Environmental Performance—

~~1.~~ a. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

~~2.~~ b. improved social or economic benefits, as determined by the secretary, to the state, while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements under current applicable law and regulation are being achieved by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. – J.15.b. …

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and~~or~~ are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., ~~which~~they have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

* * *

L. – M.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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:**.

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Actual Emissions—the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. *Actual emissions* shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data are not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, and emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications.

* * *

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 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 34:**.

Chapter 21. Control of Emission of Organic Compounds
Subchapter F. Gasoline Handling
§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. – B.5. …

6. The regulated facility shall submit the following application information to the Office of Environmental ~~Compliance~~Assessment prior to installation of the Stage II Vapor Recovery System:

B.6.a. – C.2. …

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental ~~Compliance~~Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. – 2. …

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental ~~Compliance~~Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. – I. …

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:**.

§2133. Gasoline Bulk Plants

A. – C.4. …

D. Compliance~~.~~

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

~~1.~~ a. leak tests for monitoring during loading, EPA, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-51);

~~2.~~ b. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

2~~3~~. Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the bulk plant or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. – E.2. …

3. data to document compliance with ~~LAC 33:III.2133.~~Subsection D of this Section;

E.4. – F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:610 (July 1990), LR 21:552 (June 1995), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34**.

§2135. Bulk Gasoline Terminals

A. – B.4. …

5. A facility subject to ~~LAC 33:III.2135~~this Section shall service only those delivery trucks/transport vessels complying with LAC 33:III.2137.

C. Exemptions

1. Gasoline distribution facilities ~~which~~that have a gasoline throughput less than 20,000 gallons (75,708 liters) per day averaged over any consecutive 30-day period shall meet the provisions of LAC 33:III.2133. Once a facility's throughput exceeds this rate, it shall become subject to and shall comply with ~~LAC 33:III.2135~~this Section and shall remain so regardless of any fluctuations in throughput.

2. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading and unloading only liquified petroleum gas are exempt from ~~LAC 33:III.2135~~this Section.

3. Gasoline bulk terminals ~~which~~that are located in an attainment area and do not service facilities controlled by LAC 33:III.2131 and 2133 are exempt from the control requirements of ~~LAC 33:III.2135.B~~Subsection B of this Section. Bulk terminals servicing exempted and controlled facilities are required to collect vapors from controlled facilities.

D. Compliance~~.~~

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

~~1.~~ a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining flow rates, as necessary;

~~2.~~ b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for measuring gaseous organic compound emissions by gas chromatographic analysis;

~~3.~~ c. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks;

~~4.~~ d. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous nonmethane organic emissions as carbon;

~~5.~~ e. EPA leak tests for monitoring during loading, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-051); and

~~6.~~ f. additional performance test procedures, or equivalent test methods, approved by the administrative authority*~~; and~~.

2~~7.~~ Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the terminal or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. – E.2. …

3. testing, sampling and analysis data to document compliance with ~~LAC 33:III.2135.B and D~~Subsections B and D of this Section;

4. – 5.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 LR 16:611 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34**.

§2137. Gasoline Terminal Vapor-Tight Control Procedure

A. – A.1. …

2. Inspection Sticker Required. All tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test described in ~~LAC 33:III.2137.A.1~~Paragraph A.1 of this Section. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.

B. – B.3.b. …

C. Exemptions. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading or unloading only liquified petroleum gas are exempt from ~~LAC 33:III.2137~~this Section.

D. Recordkeeping Requirements. The gasoline terminal operator shall maintain records at the facility for at least two years indicating the last time the vapor collection facility passed the requirements specified in ~~LAC 33:III.2127.B.1~~Paragraph B.1 of this Section. Items

~~which~~that required repair in order to pass the specified requirements must also be recorded during the annual test procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:612 (July 1990), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34**.

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. – B. …

C. Compliance. The owner/operator of any facility subject to ~~LAC 33:III.2143~~this Section shall install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specification. Compliance with this Section shall be determined by certification from the ink manufacturer concerning the solvent makeup of the ink or by applying the following test methods as appropriate:

1. – 4. …

D. Recordkeeping. The owner or operator of any graphic arts facility shall maintain records at the facility to verify compliance with or exemption from ~~LAC 33:III.2143~~this Section. The records shall be maintained for at least two years and ~~will~~shall include, but not be limited to, the following:

1. records of any testing done in accordance with ~~LAC 33:III.2143.C~~Subsection C of this Section;

D.2. – E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Subchapter I. Pharmaceutical Manufacturing Facilities

§2145. Pharmaceutical Manufacturing Facilities

A. – A.1.e. …

2. if equivalent controls are used, the VOC emissions must be reduced by at least as much as they would be by using a surface condenser ~~which~~that meets the requirements of ~~LAC 33:III.2145.A.1~~Paragraph A.1 of this Section.

B. – F.4. …

G. Recordkeeping. The owner or operator of a pharmaceutical manufacturing facility shall maintain the following records at the facility for at least two years:

1. the results of all tests conducted in accordance with ~~LAC 33:III.2145.F~~Subsection F of this Section;

2. – 4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008), LR 34:**.

Chapter 23. Control of Emissions for Specific Industries[1]

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

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

A. – D.2. …

3. Total Reduced Sulfur Emissions~~.~~

a. Emissions of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

~~a.~~ i. kraft recovery furnaces corrected to 8 percent oxygen by volume:

~~i.~~ (a). new design straight kraft recovery furnaces, 5 parts per million (ppm);

~~ii.~~ (b). old design straight kraft recovery furnaces, 20 ppm;

~~iii.~~ (c). cross-recovery furnaces, 25 ppm;

~~iv.~~ (d). recovery furnaces constructed prior to 1960: The department may establish emission limitations different from those specified above for the remaining useful life of the unit. The emissions limit established for each affected furnace will reflect the lowest levels of TRS emissions consistently achievable utilizing best practicable technology;

~~b.~~ ii. digester systems, 5 ppm;

~~c.~~ iii. multiple effect evaporator systems, 5 ppm;

~~d.~~ iv. lime kilns, corrected to 10 percent oxygen by volume, 20 ppm;

~~e.~~ v. condensate stripper systems, 5 ppm;

~~f.~~ vi. smelt dissolving tanks, 0.016 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of ~~LAC 33:III.2301.D.1.b~~Subparagraph D.1.b of this Section by a scrubbing device employing fresh water as the scrubbing medium make up will be accepted as evidence of adequate TRS control on smelt dissolving tanks. Emission limits are given in terms of 12-hour averages. For recovery furnaces, 1 percent, and for lime kilns, 2 percent of all 12-hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in the absence of start-ups, shutdowns and malfunctions, are not considered to be violations of the emission limitation. These are not running averages, but are instead for discrete contiguous 12-hour periods of time;

~~g.~~ vii. in any facility with multiple sources subject to this Subchapter, alternative TRS emission limits from individual sources shall be established upon

request, using the "Bubble Concept," provided that the total emissions from all the regulated sources do not exceed those permitted above;

~~h.~~ viii. the department may establish alternative limits consistent with the purposes of this Section.

b ~~i.~~ Compliance. Affected sources shall achieve final compliance with the provisions of ~~LAC 33:III.2301.D.3~~this Paragraph as expeditiously as practicable but not more than six years from the effective date of this Subchapter of the regulations.

4. Opacity Limitation~~.~~

a. The emission of smoke from the recovery furnace shall be controlled so that the shade or appearance of the emission is not darker than 40 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 may have an average opacity in excess of 40 percent for not more than one six-minute period in any 60 consecutive minutes.

~~a.~~b. Compliance. Owners or operators shall conduct source tests of recovery furnaces pursuant to the provisions in LAC 33:III.1503.D~~.2~~, Table 4, to confirm particulate emissions are less than that specified in Paragraph D.1 of this Section. The results shall be submitted to the Office of Environmental Assessment as specified in LAC 33:III.919 and 918. The testing should be conducted as follows:

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

ii. one test annually thereafter.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:**.

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program
Subchapter M. Asbestos
§5151. Emission Standard for Asbestos

A. – F.2.c.iv.(a).(ii). …

(b). when the asbestos stripping or removal operation or demolition operation covered by this Subsection will begin on a date earlier than the original start date:

(i). provide the Office of Environmental Services~~, Air Permits Division,~~ with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subparagraph F.1.b of this Section, provide the Office of Environmental Services~~, Air Permits Division,~~ written notice of a new start date at least 10 working days before commencement of demolition.

Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

F.2.c.iv.(c). – P.2.b. …

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 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:**.

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions
§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. – D.2.k. …

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903.E and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. ~~For g~~Groundwater that is returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, is not a hazardous waste until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

D.2.l.i. – P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR

19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:**.

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Corrosive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.C~~B~~ which, because of such properties as acidity or alkalinity, would tend to weaken or erode a common construction material.

* * *

Ignitable Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.B~~A~~ of such properties as to constitute a potential fire hazard during its management.

* * *

Reactive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.D~~C~~ which is normally unstable or which may endanger life or property in the presence of other substances likely to be encountered in the management of waste.

* * *

Toxic Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.E~~D~~ which, by its chemical properties, has the potential to endanger human health or other living organisms by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effects.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR

23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:**.

Chapter 5. Permit Application Contents
Subchapter E. Specific Information Requirements
§519. Contents of Part II: General Requirements

A. Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V:519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706~~519-549~~ applicable to the facility. The Part II information requirements presented in LAC 33:V:519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706~~519-549~~ reflect the standards promulgated in LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37~~15-37~~. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37~~15-37~~. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a Louisiana registered professional engineer. For post-closure permits, only the information specified in LAC 33:V.528 is required in Part II of the permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:992 (June 2008), LR 34:**.

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. – A.1. …

2. documentation that the waste is listed as a hazardous waste in LAC 33:V.Chapter 49, solely because it is reactive (Hazard Code R) for characteristics other than

those listed in LAC 33:V.4903.D.4 and 5~~C.4 and C.5~~, and will not be burned when other hazardous wastes are present in the combustion zone; or

3. …

4. documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in LAC 33:V.4903.~~C~~D.1, 2, 3, 6, 7, or 8, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

B. – F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:1011 (June 2008), LR 34:**.

Chapter 15. Treatment, Storage, and Disposal Facilities

§1529. Operating Record and Reporting Requirements

A. – B.11. …

12. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or ~~a certification under LAC 33:V.2235 and~~ the applicable notice required by a generator under LAC 33:V.2245~~;~~. This information must be maintained in the operating record until the closure of the facility;

13. for an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.~~2235,~~ 2245~~,~~ or 2247;

14. for an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.~~2235,~~ 2245~~,~~ or 2247;

15. for an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.~~2235,~~ 2245~~,~~ or 2247, whichever is applicable;

16. for an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under LAC 33:V.2245 or LAC 33:V.2247, except for the manifest number~~, and the certification and demonstration, if applicable, required under LAC 33:V.2235, whichever is applicable~~;

17. for an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.~~2235,~~ 2245~~,~~ or 2247;

18. for an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.~~2235,~~ 2245~~,~~ or 2247;

B.19. – E.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:993 (June 2008), LR 34:**.

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1709. Standards: Closed-Vent Systems and Control Devices

A. – D.6. …

E. Visible Emissions

1. Reference Method 22 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003,~~6079~~ shall be used to determine the compliance of a flare with the visible emission provisions of this Subchapter. The observation period is two hours and shall be used according to Method 22.

2. The net heating value of the gas being combusted in a flare shall be calculated using the following equation.

$$H_T = K\left[\sum_{i=1}^{n} C_i H_i\right]$$

where:

H_T = net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mol is 20°C~~;~~

K = constant, 1.74 X 10^{-1} (1/ppm) (g mol/scm) (MJ/kcal), where standard temperature for (g mol/scm) is 20°C~~;~~

C_i = concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33.III.3003,~~6071~~ and measured for hydrogen and carbon monoxide by ASTM D 1946-82~~; and~~

H_i = net heat of combustion of sample component i, kcal/9 mol at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382-83 if published values are not available or cannot be calculated.

E.3. – O.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous

Waste Division, LR 24:1698 (September 1998), LR 25:438 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

§1711. Test Methods and Procedures

A. – B. …

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003~~6077~~.

B.2. – C.1. …

a. Method 2 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003,~~6003~~ for velocity and volumetric flow rate;

b. Method 18 or Method 25A in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003,~~6071~~ for organic content. If Method 25A is used, the organic hazardous air pollutants (HAP) used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

C.1.c. – F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1012 (June 2008), LR 34:**.

§1741. Test Methods and Procedures

A. – B. …

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003~~6077~~.

B.2. – I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1013 (June 2008), LR 34:**.

Chapter 19. Tanks

§1907. Containment and Detection of Releases

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in ~~LAC 33:V.1907.F and G~~Subsections F and G of this Section):

A.1. – E.3.c. …

F. Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of ~~LAC 33:V.1907.B and C~~Subsections B and C of this Section, except for:

F.1. – G.2.a.v. …

b. the potential adverse effects of a release on groundwater ~~and~~ quality, taking into account:

b.i. – c.iv. …

v. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality~~; and~~.

3. T~~t~~he owner or operator of a tank system, for which a variance from secondary containment has~~d~~ been granted in accordance with requirements of ~~LAC 33:V.1907.G.1~~Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.1913, except 1913.D~~,~~; and~~:~~

b. ~~i.~~ decontaminate or remove contaminated soil to the extent necessary to:

i. ~~(a).~~ enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

ii. ~~(b).~~ prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; ~~and~~or

c. ~~ii.~~ if contaminated soil cannot be removed or decontaminated in accordance with ~~LAC 33:V.1907.G.3.i~~Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of ~~LAC 33:V.1907.G.1~~Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with requirements of LAC 33:V.1913.A-D;~~, and:~~

b. ~~i.~~ prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with requirements of LAC 33:V.1915.B; and

c. ~~ii.~~ if repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of ~~LAC 33:V.1907.A-F~~Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.1905 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

H. The following procedures must be followed in order to request a variance from secondary containment.~~:~~

1. T~~t~~he Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in ~~LAC 33:V.1907.G~~Subsection G of this Section according to the following schedule:

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with ~~LAC 33:V.1907.A~~Subsection A of this Section;

b. for new tank systems, at least 30 days prior to entering into a contract for installation~~;~~.

2. A~~a~~s part of the notification, the owner or operator must also submit to the administrative authority a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in ~~LAC 33:V.1907.G.1 or 2~~Paragraph G.1 or 2 of this Section.~~;~~

3. T~~t~~he demonstration for a variance must be completed within 180 days after notifying the administrative authority of an intent to conduct the demonstration~~; and~~.

4. I~~i~~f a variance is granted under this Paragraph, the administrative authority will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

I. – I.3. …

4. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with ~~LAC 33:V.1907.I.1-3~~Paragraphs I.1-3 of this Section.

5. If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in ~~LAC 33:V.1907.I.1-3~~Paragraphs I.1-3 of this Section, the owner or operator must comply with the requirements of LAC 33:V.1913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:995 (June 2008), LR 34:**.

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2230. Treatment Standards for Hazardous Debris

A. – B. …

1. the contaminants subject to treatment for debris that exhibit the Toxicity Characteristic (TC) ~~by~~described in LAC 33:V.4903.E are those extraction procedure (EP) constituents for which debris exhibit~~s~~ the TC toxicity characteristic;

B.2. – D.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. – D.3. …

E. Generators or treaters who first claim that hazardous debris is excluded from the definition of *hazardous waste* under LAC 33:V.109.*Hazardous Waste*.6 (i.e., debris treated by an extraction or destruction technology provided by LAC 33:V.2299.Appendix, Table 8, and debris that the administrative authority has determined does not contain hazardous waste) are subject to the following notification and certification requirements.

E.1. – F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:997 (June 2008), LR 34:**.

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements

A. – B.2.f. …

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

A certification is also necessary for contaminated soil and it must state:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in LAC 33:V.2236~~5~~ without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

C.1. – H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR

24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:607 (April 2006), LR 33:2110 (October 2007), LR 34:997 (June 2008), LR 34:**.

Chapter 23. Waste Piles

§2306. Response Actions

A. – B. …

1. notify the Office of Environmental Services in writing of the exceeda~~e~~nce within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2111 (October 2007), LR 34:**.

§2311. Special Requirements for Ignitable or Reactive Waste

A. – A.1. …

a. the resulting waste, mixture, or dissolution of material no longer meets the ~~definition~~description of ignitable or reactive waste under the ~~definition~~characteristics of ignitability or reactivity in LAC 33:V.4903.B or D; and

1.b. – 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Chapter 25. Landfills

§2503. Design and Operating Requirements

A. – K.1.j. …

k. it is not an ignitable waste as ~~defined~~described in LAC 33:V.4903.B~~A~~;

l. it is not a corrosive waste as ~~defined~~characterized by the pH limits in LAC 33:V.4903.C~~B~~;

m. it is not a reactive waste as ~~defined~~described in LAC 33:V.4903.D~~C~~;

K.1.n. – N.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:368 (April 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266, 267

(March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

§2508. Response Actions

A. – B. …

1. notify the Office of Environmental Services in writing of the exceeda~~e~~nce within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:2111 (October 2007), LR 34:**.

Chapter 29. Surface Impoundments

§2906. Response Actions

A. –B. …

1. notify the Office of Environmental Services in writing of the exceeda~~e~~nce within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:**.

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements.

A. – B.2.a.Note. …

b. Metal Constituents. The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of LAC 33:V.4903.E must not exceed the levels specified in 40 CFR 266, Appendix VII, as adopted and amended at LAC 33:V.3099.Appendix G;

B.2.c. – C.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office

of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), repromulgated LR 27:513 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1015 (June 2008), LR 34:**.

Chapter 31. Incinerators

§3105. Applicability

A. – C. …

1. listed as a hazardous waste solely because it is ignitable or corrosive or both as ~~defined~~described in LAC 33:V.4903.B and C; or

C.2. – E.Table 1.Footnote 1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:**.

§3111. Performance Standards

A. – A.3. …

4. An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the following formula. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the administrative authority will select an appropriate correction procedure, to be specified in the facility permit.

$$P_c = P_m \times \frac{14}{21 - Y}$$

where:

P_c = corrected concentration of particulate matter

P_m = measured concentration of particulate matter

Y = measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003

a. Repealed.~~Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in LAC 33:III.6009. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these~~

~~facilities, the administrative authority will select an appropriate correction procedure, to be specified in the facility permit.~~

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1000 (June 2008), LR 34:**.

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

A. – B.2.b. …

c. regulation as used oil under this Chapter if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resulting mixture does not exhibit the characteristic of ignitability under LAC 33:V.4903.B.

B.3. – I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 34:631 (April 2008), LR 34:1017 (June 2008), LR 34:**.

Chapter 43. Interim Status

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

A. – B.9. …

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or ~~a certification under LAC 33:V.2235, and~~ the applicable notice required of a generator under LAC 33:V.2245~~;~~. All of this information must be maintained in the operating record until closure of the facility;

11. – 17. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658

(July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:633 (April 2008), LR 34:1018 (June 2008), LR 34:**.

Subchapter E. Groundwater Monitoring

§4367. Applicability

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. – C.5. …

D. The groundwater monitoring requirements of this Subchapter may be waived with respect to any surface impoundment that is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under LAC 33:V.4903.C~~B~~ or listed as hazardous wastes in LAC 33:V.4901 only for the reason that they are corrosive and the surface impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional and must be approved by the administrative authority.

E. – E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:633 (April 2008), LR 34:1002 (June 2008), LR 34:**.

Subchapter I. Tanks

§4437. Containment and Detection of Releases

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in ~~LAC 33:V.4437.F and G~~Subsections F and G of this Section):

A.1. – B.2. …

C. To meet the requirements of ~~LAC 33:V.4437.B~~Subsection B of this Section, secondary containment systems must be at a minimum:

1. constructed of or lined with materials that are compatible with the waste~~(s)~~ to be placed in the tank systems and must have sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

C.2. – D.4. …

E. In addition to the requirements of ~~LAC 33:V.4437.B-D~~Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. – 2.d. …

e. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets the ~~definition~~characteristics of ignitable waste under LAC 33:V.4903.B~~Chapter 49~~; or

ii. meets the ~~definition~~characteristics of reactive waste under LAC 33:V.4903.D~~Chapter 49~~ and may form an ignitable or explosive vapor; and

2.e.iii. – 3.c. …

F. Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of ~~LAC 33:V.4437.B and C~~Subsections B and C of this Section, except for:

F.1. – G.2.d.ii. ...

3. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of ~~LAC 33:V.4437.G.1~~Paragraph G.1 of this Section, at which a release of a hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.4441, except LAC 33:V.4441.D; and

b. decontaminate or remove contaminated soil to the extent necessary to:

i. enable the tank system, for which the variance was granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; ~~and~~or

c. ~~iii.~~ if contaminated soil cannot be removed or decontaminated in accordance with ~~LAC 33:V.4437.G.3.b~~Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of ~~LAC 33:V.4437.G.1~~Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. – b. …

c. if repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of ~~LAC 33:V.4437.A-F~~Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.4435 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed, and groundwater or surface water has not been contaminated.

H. – H.1. …

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with ~~LAC 33:V.4437.A~~Subsection A of this Section; and

1.b. – 4. …

5. The administrative authority will approve or disapprove the request for a variance within 90 days of receipt of the demonstration from the owner or operator and will notify in writing the owner or operator and each person who submitted written comments or requested notice of the variance decision. If the demonstration for a variance is incomplete or does not include sufficient information, the 90-day time period will begin when the administrative authority receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in ~~LAC 33:V.4437.H.4~~Paragraph H.4 of this Section is extended, the 90-day time period will be similarly extended.

I. – I.2. …

3. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with ~~LAC 33:V.4437.I.1-3~~Paragraphs I.1-2 of this Section.

4. If a tank system or component is found to be leaking or unfit-for-use as a result of the leak test or assessment in ~~LAC 33:V.4437.I.1-3~~Paragraphs I.1-2 of this Section, the owner or operator must comply with the requirements of LAC 33:V.4441.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:1004 (June 2008), LR 34:**.

Subchapter J. Surface Impoundments

§4459. Special Requirements for Ignitable or Reactive Waste

A. …

1. the waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the ~~definition~~characteristics of ignitable or reactive waste under LAC 33:V.4903.B~~A~~ ~~or~~and ~~4903.~~D,~~C~~ and 4321.B is complied with; or

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Subchapter P. Chemical, Physical, and Biological Treatment

§4545. Special Requirements for Ignitable or Reactive Waste

A. …

1. the waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that the resulting waste, mixture, or dissolution of material no longer meets the ~~definition~~characteristics of ignitable or reactive waste under LAC 33:V.4903.B~~A~~ and D~~C~~, and 4321.B is complied with; or

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:**.

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 9. Voluntary Remediation

§911. Application Process

A. – E. …

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the public notice and shall be fully considered by the ~~division~~administrative authority prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. – H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2139 (October 2007), LR 34:**.

Part VII. Solid Waste
Subpart 1. Solid Waste Regulations

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

A. – D.1.h. …

i. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

D.1.j. – F.3.d. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:**.

Subchapter C. Minor Processing and Disposal Facilities

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. – C.1.f. …

g. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

C.2. – E.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:**.

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 3. Permits

Subchapter A. General Requirements

§301. Scope

A. – G.…

H. On the effective date of these regulations the status of state permits shall be as follows.

1. All LWDPS permits shall be issued for a period not to exceed five years.

H.2. – N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), LR 34:**.

Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

A. – E. …

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	**Stream Description**	**Designated Uses**	**Numerical Criteria**						
			CL	**SO_4**	**DO**	**pH**	**BAC**	**°C**	**TDS**
Atchafalaya River Basin (01)									
* * * [See Prior Text in 010101 – 110701]									
Terrebonne Basin (12)									
* * * [See Prior Text in 120102 – 120301]									
120302	Bayou Folse–From headwaters to Company Canal~~Company Canal–From Bayou Lafourche to ICWW~~	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Bayou L'Eau Bleu–From Company Canal to ICWW~~Lake Long~~	A B C	500	150	5.0	6.5-9.0	1	32	1,000
* * * [See Prior Text in 120304 – 120806]									

ENDNOTES:

[1] – [24] …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:**.

Part XI. Underground Storage Tanks

Chapter 11. Financial Responsibility
§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. – B. …

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Assessment~~Services, Water and Waste Permits Division~~.

D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:**.

Part XV. Radiation Protection

Chapter 6. X-Rays in the Healing Arts

§609. X-Ray and Electron Therapy Systems with Energies of 1 MeV and Above

A. – E.1.a. ...

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance~~, Emergency and Radiological Services Division,~~ within 30 days of receipt of the report; and

c. …

2. Calibrations shall be performed as follows:

a. the calibration of systems subject to this Section shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Compliance~~, Emergency and Radiological Services Division,~~ for written concurrence that the protocol is acceptable;

2.b. – 3. ...

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Compliance~~, Emergency and Radiological Services Division,~~ prior to its implementation;

3.b. – 4.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality,

Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 34:**.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ074. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 WQ074. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: DMR Submittal

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

The electronic submittal of discharge monitoring reports (DMRs) to the department that is provided for in this proposed rule will be voluntary. Once the program is in place and operational it will allow an alternative for submittal of DMRs that will reduce the handling of paperwork and ultimately decrease staff workload. This proposed rule will allow local governmental staff to submit DMRs electronically, which will decrease their expenditures for postage and document preparation and handling.

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

There will be no change in revenue collections for state or local governments.

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

The electronic submittal of discharge monitoring reports (DMRs) to the department that is provided for in this proposed rule will be voluntary, but those in the regulated community who choose to use the process could see savings as a result of the proposed action. Paperwork and document preparation costs are greatly reduced when submitting DMRs electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Herman Robinson, CPM
Executive Counsel
0806#013

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Environmental Quality
~~(LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703;~~ III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, ~~5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609)~~
(MM008)

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 Environmental Quality regulations, LAC 33:I.107, 502, 603, 905, 1302, 1407, 2003, 2503, 3703; III.504, 605, 2132, 2133, 2135, 2137, 2143, 2145, 2301, 5151; V.105, 109, 519, 529, 1529, 1709, 1711, 1741, 1907, 2230, 2246, 2247, 2306, 2311, 2503, 2508, 2906, 3025, 3105, 3111, 4003, 4357, 4367, 4437, 4459, 4545; VI.911; VII.711, 721; IX.301, 1123; XI.1139; and XV.609 (Log #MM008).

This rule makes changes that were overlooked in a previous rulemaking, changing references to DEQ divisions in the regulations to references to the statutory office designations and updating some office designations to reflect the current organizational structure of the department. Miscellaneous typographical, grammatical, punctuation, and outline numbering corrections are made throughout the regulations. Outdated citations are corrected, and citation formatting is updated for consistency in the regulations. An introductory paragraph is added to several definition sections to clarify where the definitions that are presented in each corresponding section apply. This rule also corrects a mistake in a previous rule, WQ054, Water Quality Standards Triennial Revision; two changes left out of that rule are now being made. Other minor changes are made to the Air and Solid Waste regulations to clarify their meaning. The Environmental Quality Act requires the department to promulgate environmental regulations. Maintenance of these regulations is part of that responsibility. The basis and rationale for this rule are to maintain the regulations that protect the environment and public health of the state, as authorized by the Environmental Quality Act. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 1. Public Notification of Contamination
§107. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise

requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—those health and/or safety standards promulgated under federal or state health or safety laws or other universally accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site. Examples of *applicable federal or state health and safety standards* include, but are not limited to:

a. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;

b. Louisiana primary ambient air quality standards (LAC 33:III.Chapter 7); and

c. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action—activities conducted to protect human health and the environment.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the state of Louisiana, political subdivision of the state of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

Release Site—area within the property boundary of the site where the release has occurred.

Responsible Party—any person required by law or regulation to undertake corrective action at a site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:2039 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 5. Confidential Information Regulations

§502. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Air Emission Data—any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of any emission or discharge that has been emitted or discharged by a source; or any information necessary or used to determine or calculate the identity, amount, frequency, concentration, or other characteristic of an emission that, under an applicable standard or limitation, a source was authorized to emit or discharge, including, to the extent necessary to identify the source and to distinguish it from other sources, a description of the device, installation, or operation constituting the source. This includes the calculation of an "allowable" emission limit for a permit.

Complete—in reference to a request for confidentiality of information or records, the request contains everything necessary for a determination to be made. Designating a request complete does not preclude the department from requesting or accepting an amended request.

Financial Request—a single character request that contains financial information or records only. This includes, but is not limited to, financial accounts statements, gross revenues statements, profit and loss statements, projected revenues statements, tax returns, financial/accounting statements, and financial audit documentation/reports.

Mixed Character Record—a record submitted as part of a request for confidentiality that, in addition to information that meets the criteria for confidentiality specified by law, also contains information that either does not meet the criteria for confidentiality specified by law or is prohibited by law or regulation from being classified as confidential.

Mixed Character Request—a request for confidentiality that contains one or more mixed character records.

Single Character Request—a request for confidentiality that contains only information or records that meet the criteria for confidentiality specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended LR 30:742 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 6. Security-Sensitive Information

§603. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Distribution or Dissemination via the Internet—to make known to the public generally by posting to a web, FTP, database, or application server configured for anonymous public access under the direct control of the department.

Security-Sensitive Information—as defined in R.S. 44:3(A)(3), security procedures, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments created, collected, or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2030(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1322 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 9. Petition for Rulemaking

§905. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise

requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee, or the appropriate assistant secretary or his designee.

Department—the Department of Environmental Quality as created by R.S. 30:2001 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:297 (March 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2439 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 13. Risk Evaluation/Corrective Action Program

§1302. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Department—the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2272.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:2440 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 14. Groundwater Fees

§1407. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Assessment—planning, data gathering and reporting, and other activities used to generate a report that appraises groundwater contamination and draws conclusions as to the need for further assessment and/or corrective action.

Assessment Oversight—departmental review and evaluation of a facility's assessment activities.

Corrective Action Oversight—departmental review and evaluation of corrective action plans and of remedial actions undertaken to restore the quality of contaminated groundwater.

Corrective Action Plan—a plan that details a schedule of remedial actions that will restore the quality of contaminated groundwater.

Non-Regulated Facility—a facility that is not classified as a solid or hazardous waste facility but under which groundwater contamination has been detected.

Regulated Unit—a solid waste facility or a hazardous waste facility under which groundwater contamination has been detected.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 20. Records of Decision for Judicial Review

§2003. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Record of Decision—for purposes of this Chapter, all documents, evidence, and other items presented to, and/or actually considered by, the decision maker for the purpose of influencing the decision. This shall include, but is not limited to:

a. the record of any hearing or other proceeding held in connection with the decision or action;

b. any comments, written or oral, submitted to the department in connection with the decision or action;

c. any response to such comments issued by the department;

d. all matters officially noticed by the decision maker;

e. any written statement of the decision or action and reasons therefor; and

f. for permit actions:

i. the permit application, including all supplements and amendments thereto;

ii. any notices of deficiency issued by the department;

iii. any responses to notices of deficiency;

iv. any correspondence relating to the permit application;

v. any public notices relating to the permit action; and

vi. the final permit, if granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular, 2050.20.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:857 (May 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 25. Beneficial Environmental Projects

§2503. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Beneficial Environmental Project (BEP)—a project that provides for environmental mitigation which the defendant/respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of a settlement of a violation or penalty assessment.

Environmental Mitigation—that which tends to lead in any way to the protection from, reduction of, or general awareness of potential risks or harm to public health and the environment. Environmental mitigation includes any and all projects that conform to the requirements set forth in LAC 33:I.2505.

Not Otherwise Legally Required to Perform—the approved project is not required of the defendant/respondent by any federal, state, or local law, regulation, or permit (except that early compliance may be allowed) or actions

which the defendant/respondent may be required to perform as injunctive relief in the instant case or as part of a settlement or order in another action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1), 2031, and 2050.7(E).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1603 (August 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 37. Regulatory Innovations Programs

§3703. Definitions

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular Section.

Administrative Authority—the Secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Demonstration Project (DP)—a project containing all the elements required in LAC 33:I.3705, intended to be implemented in exchange for regulatory flexibility.

Final Project Agreement (FPA)—the final document agreed upon between the secretary and a program participant that specifically states the terms and duration of the proposed project. The final project agreement is an enforceable document.

Regulatory Flexibility—the power of the Secretary of the Department of Environmental Quality to exempt a qualified participant in a regulatory innovations program from regulations promulgated by the department under this Chapter, consistent with federal law and regulation.

Stakeholders—citizens in the communities near the project site, facility workers, government representatives, industry representatives, environmental groups, or other public interest groups with representatives in Louisiana and Louisiana citizens, or other similar interests.

Superior Environmental Performance—

a. a significant decrease of pollution to levels lower than the levels currently being achieved by the subject facility under applicable law or regulation, where these lower levels are better than required by applicable law and regulation; or

b. improved social or economic benefits, as determined by the secretary, to the state, while achieving protection to the environment equal to the protection currently being achieved by the subject facility under applicable law and regulation, provided that all requirements under current applicable law and regulation are being achieved by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2561 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2197 (November 1999), repromulgated LR 25:2399 (December 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. – J.15.b. …

K. Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

Building, Structure, Facility, or Installation—all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., they have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

* * *

L. – M.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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits Banking

§605. Definitions

A. The terms used in this Chapter are defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

Actual Emissions—the actual rate of emissions of an air pollutant from a source operation, equipment, or control apparatus. *Actual emissions* shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the baseline period. Acceptable methods for estimating the actual emissions may include, but are not limited to, any one or a combination of the following:

a. emission factors based on EPA's Compilation of Air Pollutant Emission Factors (AP-42) or other emission factors approved by the department, if better source specific data are not available;

b. fuel usage records, production records, purchase records, material balances, engineering calculations (approved by the department), source tests, waste disposal records, and emission reports such as emission inventory reports, SARA Title III, or MACT compliance certifications.

* * *

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 20:874 (August 1994), LR 25:1622 (September 1999), LR 26:2448 (November 2000), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 34:

Chapter 21. Control of Emission of Organic Compounds

Subchapter F. Gasoline Handling

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. - B.5. …

6. The regulated facility shall submit the following application information to the Office of Environmental Assessment prior to installation of the Stage II Vapor Recovery System:

B.6.a. - C.2. …

D. Testing

1. The owner/operator of the facility shall have the installed vapor recovery equipment tested prior to the start-up of the facility. The owner or operator shall notify the Office of Environmental Assessment at least five calendar days in advance of the scheduled date of testing. Testing must be performed by a contractor that is certified with the Department of Environmental Quality. Compliance with the emission specification for Stage II equipment shall be demonstrated by passing the following required tests or equivalent for each type of system:

1.a. - 2. …

3. The department reserves the right to confirm the results of the aforementioned testing at its discretion and at any time. Within 30 days after installation or major system modification of a vapor recovery system, the owner or operator of the facility shall submit to the Office of Environmental Assessment the date of completion of the installation or major system modification of a vapor recovery system and the results of all functional testing requirements.

E. - I. …

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:

§2133. Gasoline Bulk Plants

A. - C.4. …

D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. leak tests for monitoring during loading, EPA, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-51);

b. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

2. Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the bulk plant or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. – E.2. …

3. data to document compliance with Subsection D of this Section;

E.4. – F. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:610 (July 1990), LR 21:552 (June 1995), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34

§2135. Bulk Gasoline Terminals

A. - B.4. …

5. A facility subject to this Section shall service only those delivery trucks/transport vessels complying with LAC 33:III.2137.

C. Exemptions

1. Gasoline distribution facilities that have a gasoline throughput less than 20,000 gallons (75,708 liters) per day averaged over any consecutive 30-day period shall meet the provisions of LAC 33:III.2133. Once a facility's throughput exceeds this rate, it shall become subject to and shall comply with this Section and shall remain so regardless of any fluctuations in throughput.

2. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading and unloading only liquified petroleum gas are exempt from this Section.

3. Gasoline bulk terminals that are located in an attainment area and do not service facilities controlled by LAC 33:III.2131 and 2133 are exempt from the control requirements of Subsection B of this Section. Bulk terminals servicing exempted and controlled facilities are required to collect vapors from controlled facilities.

D. Compliance

1. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

a. Test Methods 1-4 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining flow rates, as necessary;

b. Test Method 18 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for measuring gaseous organic compound emissions by gas chromatographic analysis;

c. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks;

d. Test Method 25 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determining total gaseous nonmethane organic emissions as carbon;

e. EPA leak tests for monitoring during loading, Appendix B, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA 450/2-78-051); and

f. additional performance test procedures, or equivalent test methods, approved by the administrative authority*.

2 Monitoring Requirements. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the terminal or the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

E. - E.2. …

3. testing, sampling and analysis data to document compliance with Subsections B and D of this Section;

4. - 5.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 LR 16:611 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§2137. Gasoline Terminal Vapor-Tight Control Procedure

A. - A.1.…

2. Inspection Sticker Required. All tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date each tank last passed the pressure and vacuum test described in Paragraph A.1 of this Section. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.

B. - B.3.b. …

C. Exemptions. All loading and unloading facilities for crude oil and condensate, for ships and barges and for facilities loading or unloading only liquified petroleum gas are exempt from this Section.

D. Recordkeeping Requirements. The gasoline terminal operator shall maintain records at the facility for at least two years indicating the last time the vapor collection facility passed the requirements specified in Paragraph B.1 of this Section. Items that required repair in order to pass the specified requirements must also be recorded during the annual test procedure.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:612 (July 1990), LR 22:1212 (December 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter H. Graphic Arts

§2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes

A. - B. …

C. Compliance. The owner/operator of any facility subject to this Section shall install and maintain monitors to accurately measure and record operational parameters of all required control devices as necessary to ensure the proper functioning of those devices in accordance with the design specification. Compliance with this Section shall be determined by certification from the ink manufacturer concerning the solvent makeup of the ink or by applying the following test methods as appropriate:

1. - 4. …

D. Recordkeeping. The owner or operator of any graphic arts facility shall maintain records at the facility to verify compliance with or exemption from this Section. The records shall be maintained for at least two years and shall include, but not be limited to, the following:

1. records of any testing done in accordance with Subsection C of this Section;

D.2. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 18:1123 (October 1992), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1796 (October 1999), LR 28:1765 (August 2002), LR 30:746 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter I. Pharmaceutical Manufacturing Facilities

§2145. Pharmaceutical Manufacturing Facilities

A. - A.1.e. …

2. if equivalent controls are used, the VOC emissions must be reduced by at least as much as they would be by using a surface condenser that meets the requirements of Paragraph A.1 of this Section.

B. – F.4. …

G. Recordkeeping. The owner or operator of a pharmaceutical manufacturing facility shall maintain the following records at the facility for at least two years:

1. the results of all tests conducted in accordance with Subsection F of this Section;

2. – 4. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:964 (November 1990), LR 22:1212 (December 1996), LR 24:25 (January 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:70 (January 2008), LR 34:

Chapter 23. Control of Emissions for Specific Industries[1]

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

Subchapter A. Chemical Woodpulping Industry

§2301. Control of Emissions from the Chemical Woodpulping Industry

A. - D.2.…

3. Total Reduced Sulfur Emissions

a. Emissions of Total Reduced Sulfur (TRS) from existing sources specified below shall not exceed the following limits:

i. kraft recovery furnaces corrected to 8 percent oxygen by volume:

(a). new design straight kraft recovery furnaces, 5 parts per million (ppm);

(b). old design straight kraft recovery furnaces, 20 ppm;

(c). cross-recovery furnaces, 25 ppm;

(d). recovery furnaces constructed prior to 1960: The department may establish emission limitations different from those specified above for the remaining useful life of the unit. The emissions limit established for each affected furnace will reflect the lowest levels of TRS emissions consistently achievable utilizing best practicable technology;

ii. digester systems, 5 ppm;

iii. multiple effect evaporator systems, 5 ppm;

iv. lime kilns, corrected to 10 percent oxygen by volume, 20 ppm;

v. condensate stripper systems, 5 ppm;

vi. smelt dissolving tanks, 0.016 grams per kilogram black liquor solids fired. Compliance with the particulate emission limits of Subparagraph D.1.b of this Section by a scrubbing device employing fresh water as the scrubbing medium make up will be accepted as evidence of adequate TRS control on smelt dissolving tanks. Emission limits are given in terms of 12-hour averages. For recovery furnaces, 1 percent, and for lime kilns, 2 percent of all 12-hour TRS averages per quarter year above the specified level, under conditions of proper operation and maintenance, in the absence of start-ups, shutdowns and malfunctions, are not considered to be violations of the emission limitation. These are not running averages, but are instead for discrete contiguous 12-hour periods of time;

vii. in any facility with multiple sources subject to this Subchapter, alternative TRS emission limits from individual sources shall be established upon request, using the "Bubble Concept," provided that the total emissions from all the regulated sources do not exceed those permitted above;

viii. the department may establish alternative limits consistent with the purposes of this Section.

b Compliance. Affected sources shall achieve final compliance with the provisions of this Paragraph as expeditiously as practicable but not more than six years from the effective date of this Subchapter of the regulations.

4. Opacity Limitation

a. The emission of smoke from the recovery furnace shall be controlled so that the shade or appearance of the emission is not darker than 40 percent average opacity as to obscure vision to a degree equivalent to the above (see LAC 33:III.1503.D, Table 4) except that emitted may have an average opacity in excess of 40 percent for not more than one six-minute period in any 60 consecutive minutes.

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

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

ii. one test annually thereafter.

E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1564 (December 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2454 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 32:1841 (October 2006), LR 33:2088 (October 2007), LR 34:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. – F.2.c.iv.(a).(ii). …

(b). when the asbestos stripping or removal operation or demolition operation covered by this Subsection will begin on a date earlier than the original start date:

(i). provide the Office of Environmental Services with a written notice of the new start date at least 10 working days before asbestos stripping or removal work begins;

(ii). for demolitions covered by Subparagraph F.1.b of this Section, provide the Office of Environmental Services written notice of a new start date at least 10 working days before commencement of demolition. Delivery of the updated notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable;

F.2.c.iv.(c). – P.2.b. …

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 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. – D.2.k.…

l. injected groundwater that is hazardous only because it exhibits the toxicity characteristic (Hazardous Waste Codes D018-D043 only) in LAC 33:V.4903.E and that is re-injected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993

This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, arketing terminals, and bulk plants, until January 1, 1993. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

D.2.l.i. – P.2. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:0000 (June 2008), LR 34:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Corrosive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.C which, because of such properties as acidity or alkalinity, would tend to weaken or erode a common construction material.

* * *

Ignitable Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.B of such properties as to constitute a potential fire hazard during its management.

* * *

Reactive Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.D which is normally unstable or which may endanger life or property in the presence of other substances likely to be encountered in the management of waste.

* * *

Toxic Waste—a waste subject to these regulations pursuant to provisions of LAC 33:V.4903.E which, by its chemical properties, has the potential to endanger human health or other living organisms by means of acute or chronic adverse effects, including poisoning, mutagenic, teratogenic, or carcinogenic effects.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:0000 (June 2008), LR 34:

Chapter 5. Permit Application Contents

Subchapter E. Specific Information Requirements

§519. Contents of Part II: General Requirements

A. Part II of the permit application consists of the general information requirements of this Section, and the specific information requirements in LAC 33:V:519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706 applicable to the facility. The Part II information requirements presented in LAC 33:V:519, 520, 521, 523, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, and 706 reflect the standards promulgated in LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. These information requirements are necessary in order for the administrative authority to determine compliance with LAC 33:V.Chapters 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, and 37. If owners and operators of Hazardous Waste Management facilities can demonstrate that the information prescribed in Part II cannot be provided to the extent required, the administrative authority may make allowance for submission of such information on a case-by-case basis. Information required in Part II shall be submitted to the administrative authority and signed in accordance with requirements in Subchapter B of this Chapter. Certain technical data, such as design drawings and specifications and engineering studies, shall be certified by a Louisiana registered professional engineer. For post-closure permits,

only the information specified in LAC 33:V.528 is required in Part II of the permit application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:436 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1465 (August 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:0000 (June 2008), LR 34:

§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 and Subsection F of this Section provide otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section:

A. – A.1. …

2. documentation that the waste is listed as a hazardous waste in LAC 33:V.Chapter 49, solely because it is reactive (Hazard Code R) for characteristics other than those listed in LAC 33:V.4903.D.4 and 5, and will not be burned when other hazardous wastes are present in the combustion zone; or

3. …

4. documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in LAC 33:V.4903.D.1, 2, 3, 6, 7, or 8, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

B. – F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(24)(a) and 2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:817 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:2199 (November 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:292 (March 2001), LR 29:319 (March 2003), amended by the Office of Environmental Assessment, LR 31:1571 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:620 (April 2008), LR 34:0000 (June 2008), LR 34:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1529. Operating Record and Reporting Requirements

A. – B.11. …

12. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, a petition approved in accordance with LAC 33:V.2241 or 2271, a determination made under LAC 33:V.2273, or the applicable notice required by a generator under LAC 33:V.2245. This information must be maintained in the operating record until the closure of the facility;

13. for an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

14. for an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

15. for an off-site land disposal facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2245 or 2247, whichever is applicable;

16. for an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under LAC 33:V.2245 or LAC 33:V.2247, except for the manifest number;

17. for an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

18. for an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2245 or 2247;

B.19. – E.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:832 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1695 (September 1998), LR 25:437 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1799 (October 1999), LR 26:278 (February 2000), LR 26:2473 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:827 (May 2006), LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:0000 (June 2008), LR 34:

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1709. Standards: Closed-Vent Systems and Control Devices

A. – D.6. …

E. Visible Emissions

1. Reference Method 22 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, shall be used to determine the compliance of a flare with the visible emission provisions of this Subchapter. The observation period is two hours and shall be used according to Method 22.

2. The net heating value of the gas being combusted in a flare shall be calculated using the following equation.

$$H_T = K\left[\sum_{i=1}^{n} C_i H_i\right]$$

where:

H_T = net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mol is 20°C

K = constant, 1.74 X 10-1 (1/ppm) (g mol/scm) (MJ/kcal), where standard temperature for (g mol/scm) is 20°C

Ci = concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 in 40 CFR Part 60, Appendix A, incorporated by reference in

LAC 33:III.3003, and measured for hydrogen and carbon monoxide by ASTM D 1946-82

Hi = net heat of combustion of sample component i, kcal/9 mol at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382-83 if published values are not available or cannot be calculated

E.3. – O.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1698 (September 1998), LR 25:438 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§1711. Test Methods and Procedures

A. – B. …

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003.

B.2. – C.1. …

a. Method 2 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, for velocity and volumetric flow rate;

b. Method 18 or Method 25A in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003, for organic content. If Method 25A is used, the organic hazardous air pollutants (HAP) used as the calibration gas must be the single organic HAP representing the largest percent by volume of the emissions. The use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

C.1.c. – F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:818 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1699 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:0000 (June 2008), LR 34:

§1741. Test Methods and Procedures

A. – B. …

1. Monitoring shall comply with Reference Method 21 in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003.

B.2. – I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:819 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1701 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 34:0000 (June 2008), LR 34:

Chapter 19. Tanks

§1907. Containment and Detection of Releases

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in Subsections F and G of this Section):

A.1. – E.3.c. …

F. Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of Subsections B and C of this Section, except for:

F.1. – G.2.a.v. …

b. the potential adverse effects of a release on groundwater quality, taking into account:

b.i. – c.iv. …

v. the existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality.

3. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.1913, except 1913.D; and

b. decontaminate or remove contaminated soil to the extent necessary to:

i. enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

ii. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; or

c. if contaminated soil cannot be removed or decontaminated in accordance with Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with requirements of LAC 33:V.1913.A-D;

b. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with requirements of LAC 33:V.1915.B; and

c. if repairing, replacing or reinstalling the tank system, provide secondary containment in accordance with the requirements of Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.1905 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

H. The following procedures must be followed in order to request a variance from secondary containment.

1. The Office of Environmental Assessment must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in Subsection G of this Section according to the following schedule:

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with Subsection A of this Section;

b. for new tank systems, at least 30 days prior to entering into a contract for installation.

2. As part of the notification, the owner or operator must also submit to the administrative authority a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in Paragraph G.1 or 2 of this Section.

3. The demonstration for a variance must be completed within 180 days after notifying the administrative authority of an intent to conduct the demonstration.

4. If a variance is granted under this Paragraph, the administrative authority will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

I. – I.3. …

4. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with Paragraphs I.1-3 of this Section.

5. If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in Paragraphs I.1-3 of this Section, the owner or operator must comply with the requirements of LAC 33:V.1913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2475 (November 2000), amended by the Office of Environmental Assessment, LR 31:1572 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2107 (October 2007), LR 34:624 (April 2008), LR 34:0000 (June 2008), LR 34:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2230. Treatment Standards for Hazardous Debris

A. – B. …

1. the contaminants subject to treatment for debris that exhibit the Toxicity Characteristic (TC) described in LAC 33:V.4903.E are those extraction procedure (EP) constituents for which debris exhibit the TC toxicity characteristic;

B.2. – D.5.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:22 (January 1996), LR 23:565 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:445 (March 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§2246. Special Rules Regarding Wastes That Exhibit a Characteristic

A. – D.3. …

E. Generators or treaters who first claim that hazardous debris is excluded from the definition of *hazardous waste* under LAC 33:V.109.*Hazardous Waste*.6 (i.e., debris treated by an extraction or destruction technology provided by LAC 33:V.2299.Appendix, Table 8, and debris that the administrative authority has determined does not contain hazardous waste) are subject to the following notification and certification requirements.

E.1. – F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:669 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:281 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 33:2109 (October 2007), LR 34:0000 (June 2008), LR 34:

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping and Notice Requirements

A. – B.2.f. …

C. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in LAC 33:V.2223 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

A certification is also necessary for contaminated soil and it must state:

> "I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in LAC 33:V.2236 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

C.1. – H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266, 267 (March 1995), LR 21:1334 (December 1995), LR 22:22

(January 1996), LR 22:820 (September 1996), LR 23:566 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:670 (April 1998), LR 24:1730 (September 1998), LR 25:449 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:282 (February 2000), LR 26:2478 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2459 (October 2005), LR 32:607 (April 2006), LR 33:2110 (October 2007), LR 34:0000 (June 2008), LR 34:

Chapter 23. Waste Piles

§2306. Response Actions

A. – B. …

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2111 (October 2007), LR 34:

§2311. Special Requirements for Ignitable or Reactive Waste

A. – A.1. …

a. the resulting waste, mixture, or dissolution of material no longer meets the description of ignitable or reactive waste under the characteristics of ignitability or reactivity in LAC 33:V.4903.B or D; and

1.b. – 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Chapter 25. Landfills

§2503. Design and Operating Requirements

A. – K.1.j. …

k. it is not an ignitable waste as described in LAC 33:V.4903.B;

l. it is not a corrosive waste as characterized by the pH limits in LAC 33:V.4903.C;

m. it is not a reactive waste as described in LAC 33:V.4903.D;

K.1.n. – N.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:220 (March 1990), LR 17:368 (April 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266, 267 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2480 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

§2508. Response Actions

A. – B. …

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2481 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2461 (October 2005), LR 33:2111 (October 2007), LR 34:

Chapter 29. Surface Impoundments

§2906. Response Actions

A. – B. …

1. notify the Office of Environmental Services in writing of the exceedance within seven days of the determination;

B.2. – C.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2483 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2462 (October 2005), LR 33:2113 (October 2007), LR 34:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D.2.d, h, and i unless the device and the owner or operator meet the following requirements.

A. – B.2.a.Note. …

b. Metal Constituents. The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of LAC 33:V.4903.E must not exceed the levels specified in 40 CFR 266, Appendix VII, as adopted and amended at LAC 33:V.3099.Appendix G;

B.2.c. – C.2.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:826 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1107 (June 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), repromulgated LR 27:513 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:0000 (June 2008), LR 34:

Chapter 31. Incinerators

§3105. Applicability

A. – C. …

1. listed as a hazardous waste solely because it is ignitable or corrosive or both as described in LAC 33:V.4903.B and C; or

C.2. – E.Table 1.Footnote 1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:835 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:318 (February 1998), LR 24:681 (April 1998), LR 24:1741 (September 1998), LR 25:479 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:301 (March 2001), LR 28:1004 (May 2002), LR 29:323 (March 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:830 (May 2006), LR 34:629 (April 2008), LR 34:

§3111. Performance Standards

A. – A.3. …

4. An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the following formula. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the administrative authority will select an appropriate correction procedure, to be specified in the facility permit.

$$P_c = P_m \times \frac{14}{21 - Y}$$

where:

P_c = corrected concentration of particulate matter

P_m = measured concentration of particulate matter

Y = measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A, incorporated by reference in LAC 33:III.3003

a. Repealed.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 34:0000 (June 2008), LR 34:

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

A. – B.2.b.…

c. regulation as used oil under this Chapter if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resulting mixture does not exhibit the characteristic of ignitability under LAC 33:V.4903.B.

B.3. – I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:828, 836 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1108 (June 1998), LR 25:481 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2540 (October 2005), LR 34:631 (April 2008), LR 34:0000 (June 2008), LR 34:

Chapter 43. Interim Status

Subchapter D. Manifest System, Recordkeeping, and Reporting

§4357. Operating Record

A. – B.9. …

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted in accordance with LAC 33:V.2239, monitoring data required in accordance with an exemption under LAC 33:V.2241 or 2271 or the applicable notice required of a generator under LAC 33:V.2245. All of this information must be maintained in the operating record until closure of the facility;

11. – 17. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1744 (September 1998), LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1626 (August 2007), LR 34:633 (April 2008), LR 34:0000 (June 2008), LR 34:

Subchapter E. Groundwater Monitoring

§4367. Applicability

Facilities that have interim status must comply with this Subchapter in lieu of LAC 33:V.Chapter 33.

A. – C.5. …

D. The groundwater monitoring requirements of this Subchapter may be waived with respect to any surface impoundment that is used to neutralize wastes which are hazardous solely because they exhibit the corrosivity characteristic under LAC 33:V.4903.C or listed as hazardous wastes in LAC 33:V.4901 only for the reason that they are corrosive and the surface impoundment contains no other hazardous wastes, if the owner or operator can demonstrate that there is no potential for migration of hazardous wastes from the impoundment. The demonstration must establish, based upon consideration of the characteristics of the wastes and the impoundment, that the corrosive wastes will be neutralized to the extent that they no longer meet the corrosivity characteristic before they can migrate out of the impoundment. The demonstration must be in writing and must be certified by a qualified professional and must be approved by the administrative authority.

E. – E.2.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 25:484 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2499 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2126 (October 2007), LR 34:633 (April 2008), LR 34:0000 (June 2008), LR 34:

Subchapter I. Tanks

§4437. Containment and Detection of Releases

A. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this Section must be provided (except as provided in Subsections F and G of this Section):

A.1. – B.2.…

C. To meet the requirements of Subsection B of this Section, secondary containment systems must be at a minimum:

1. constructed of or lined with materials that are compatible with the waste to be placed in the tank systems and must have sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

C.2. – D.4.…

E. In addition to the requirements of Subsections B-D of this Section, secondary containment systems must satisfy the following requirements.

1. – 2.d. …

e. provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

i. meets the characteristics of ignitable waste under LAC 33:V.4903.B; or

ii. meets the characteristics of reactive waste under LAC 33:V.4903.D and may form an ignitable or explosive vapor; and

2.e.iii. – 3.c. …

F. Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of Subsections B and C of this Section, except for:

F.1. – G.2.d.ii. ...

3. The owner or operator of a tank system, for which a variance from secondary containment has been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of a hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

a. comply with the requirements of LAC 33:V.4441, except LAC 33:V.4441.D; and

b. decontaminate or remove contaminated soil to the extent necessary to:

i. enable the tank system, for which the variance was granted, to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

ii. prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; or

c. if contaminated soil cannot be removed or decontaminated in accordance with Subparagraph G.3.b of this Section, comply with the requirements of LAC 33:V.1915.B.

4. The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of Paragraph G.1 of this Section, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

a. – b. …

c. if repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of Subsections A-F of this Section or reapply for a variance from secondary containment and meet the requirements for new tank systems in LAC 33:V.4435 if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed, and groundwater or surface water has not been contaminated.

H. – H.1. …

a. for existing tank systems, at least 24 months prior to the date that secondary containment must be provided in accordance with Subsection A of this Section; and

2.b. – 4. …

5. The administrative authority will approve or disapprove the request for a variance within 90 days of receipt of the demonstration from the owner or operator and will notify in writing the owner or operator and each person who submitted written comments or requested notice of the variance decision. If the demonstration for a variance is incomplete or does not include sufficient information, the 90-day time period will begin when the administrative authority receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in Paragraph H.4 of this Section is extended, the 90-day time period will be similarly extended.

I. – I.2. …

3. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with Paragraphs I.1-2 of this Section.

4. If a tank system or component is found to be leaking or unfit-for-use as a result of the leak test or assessment in Paragraphs I.1-2 of this Section, the owner or operator must comply with the requirements of LAC 33:V.4441.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 14:790 (November 1988), LR 16:614 (July 1990), LR 18:723 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2507 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2482 (October 2005), LR 33:2134 (October 2007), LR 34:0000 (June 2008), LR 34:

Subchapter J. Surface Impoundments

§4459. Special Requirements for Ignitable or Reactive Waste

A. …

1. the waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that the resulting waste, mixture, or dissolution of material no longer meets the characteristics of ignitable or reactive waste under LAC 33:V.4903.B and D, and 4321.B is complied with; or

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:1057 (December 1990), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Subchapter P. Chemical, Physical, and Biological Treatment

§4545. Special Requirements for Ignitable or Reactive Waste

A. …

1. the waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that the resulting waste, mixture, or dissolution of material no longer meets the characteristics of ignitable or reactive waste under LAC 33:V.4903.B and D, and 4321.B is complied with; or

2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 9. Voluntary Remediation

§911. Application Process

A. – E. …

F. Public Hearing and Comment

1. Comments on the voluntary remedial action plan shall be accepted by the Office of Environmental Assessment for a period of 30 days after the date of the public notice and shall be fully considered by the administrative authority prior to final approval of the plan. However, if the administrative authority determines a shorter or longer comment period is warranted, the administrative authority may provide for a shorter or longer comment period in the public notice described in Paragraph D.1 of this Section. Also, the comment period provided in the public notice may be extended by the administrative authority if the administrative authority determines such an extension is warranted.

F.2. – H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:516 (April 2001), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2485 (October 2005), LR 33:2139 (October 2007), LR 34:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 7. Solid Waste Standards

Subchapter A. Landfills, Surface Impoundments, Landfarms

§711. Standards Governing Landfills (Type I and II)

A. – D.1.h.…

i. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

D.1.j. – F.3.d. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), repromulgated LR 19:1316 (October 1993), amended by the Office of the Secretary, LR 24:2251 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2523 (November 2000), repromulgated LR 27:704 (May 2001), amended LR 30:1676 (August 2004), amended by the Office of Environmental Assessment, LR 30:2024 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2492 (October 2005), LR 33:1047 (June 2007), LR 33:2145 (October 2007), LR 34:

Subchapter C. Minor Processing and Disposal Facilities

§721. Standards Governing Construction and Demolition Debris and Woodwaste Landfills (Type III)

A. – C.1.f. …

g. No solid waste shall be deposited in standing water, and standing water in contact with waste shall be removed immediately.

C.2. – E.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 20:1001 (September 1994), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), repromulgated LR 27:705 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), LR 31:1577 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1067 (June 2007), LR 33:2149 (October 2007), LR 34:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 3. Permits

Subchapter A. General Requirements

§301. Scope

A. – G. …

H. On the effective date of these regulations the status of state permits shall be as follows.

1. All LWDPS permits shall be issued for a period not to exceed five years.

H.2. – N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:1066 (November 1985), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Environmental

Assessment, Environmental Planning Division, LR 26:2273 (October 2000), LR 26:2538 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), LR 34:

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. – E. …

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO_4	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
* * * [See Prior Text in 010101 – 110701]									
Terrebonne Basin (12)									
* * * [See Prior Text in 120102 – 120301]									
120302	Bayou Folse–From headwaters to Company Canal	A B C D F	500	150	5.0	6.5-9.0	1	32	1,000
120303	Bayou L'Eau Bleu–From Company Canal to ICWW	A B C	500	150	5.0	6.5-9.0	1	32	1,000
* * * [See Prior Text in 120304 – 120806]									

ENDNOTES:

[1] – [24] …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:

Part XI. Underground Storage Tanks

Chapter 11. Financial Responsibility

§1139. Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

A. – B. …

C. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Chapter within 30 days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within 30 days after such notification, he must notify the Office of Environmental Assessment.

D. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), amended by the Office of Environmental Assessment, LR 31:1578 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2174 (October 2007), LR 34:

Part XV. Radiation Protection

Chapter 6. X-Rays in the Healing Arts

§609. X-Ray and Electron Therapy Systems with Energies of 1 MeV and Above

A. – E.1.a. ...

b. the registrant or licensee shall obtain a written report of the survey from the qualified expert, and a copy of the report shall be transmitted by the registrant or licensee to the Office of Environmental Compliance within 30 days of receipt of the report; and

c. …

2. Calibrations shall be performed as follows:

a. the calibration of systems subject to this Section shall be performed in accordance with an established calibration protocol acceptable to the department before the system is first used for irradiation of a patient and thereafter at intervals that do not exceed 12 months, and after any change that might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user shall submit that protocol to the Office of Environmental Compliance for written concurrence that the protocol is acceptable;

2.b. – 3. ...

a. the spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Office of Environmental Compliance prior to its implementation;

3.b. – 4.c....

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2586 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2532 (October 2005), LR 34:

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

A public hearing will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. 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 MM008. Such comments must be received no later than August 5, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. 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 MM008. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Environmental Quality

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

There will be no significant implementation costs or savings to state or local governmental units because of the proposed rule. The proposed rule makes technical changes to correct miscellaneous typographical, grammatical, punctuation, and numbering errors or omissions; and clarifies terms and definitions consistent with current administrative practice.

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 resulting from the proposed rule.

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

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups because of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment because of the proposed rule.

Herman Robinson, CPM
Executive Counsel
0806#015

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Performance Testing Notifications and Reports
(LAC 33:III.523, 2107, 2108, 2511,
2521, 2531, and 5113)(AQ294)

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.523, 2107, 2108, 2511, 2521, 2531, and 5113 (Log #AQ294).

This rule will amend the variety of timeframes in the regulations for submitting reports of results following the completion of performance testing so that all reports are due 60 days after the completion of testing. The 60-day timeframe is consistent with other state policy testing requirements and with the majority of federal testing requirements. This rule will also require submittal of testing notifications to the department at least 30 days prior to testing, where testing is required in the regulations. This requirement is already located in several places in the regulations and is included as a general condition in all air permits issued by the department. These changes will make the regulations more consistent. Requiring all performance testing reports to be submitted within the same timeframe reduces confusion for the regulated community. Currently, the department receives many requests for extensions to submit test results, especially for test results that are due within 30 days of testing. Thirty days can be a difficult timeframe in which to prepare a report or results, especially for testing that involves several methods or scenarios. Increasing the timeframe will reduce the burden to facilities. Clearly stating that notifications are required where testing is required in the regulations also reduces confusion and makes the regulations more consistent throughout and with air permits issued by the department. The basis and rationale for this rule are to make the regulations more consistent and to incorporate into the regulations a requirement of all air permits issued by the department. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§523. Procedures for Incorporating Test Results

A. – B.2. …

3. At least 30 days prior to performing any emission test, notification of testing shall be made to the Office of Environmental Assessment to afford the department the opportunity to conduct a pretest conference and to have an observer present.

MM 009
Methods of Payment

LAC 33:III.215

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment
(LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509)(MM009)

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 Environmental Quality regulations, LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509 (Log #MM009).

This Rule provides language that authorizes the department to accept credit card payments and other electronic methods of payment for obligations owed to the state. It also repeals hazardous waste fees no longer collected and clarifies the calculation of hazardous waste Application and Maintenance fees. This Rule is required in order to implement Act 119 of the 2008 Regular Session of the Legislature, which amended R.S. 49:316.1(A)(2)(a) and (c) to provide the department with authority to accept credit card payments for obligations owed to the state through use of a third-party processor and authorized the collection of a convenience fee to adequately cover the resulting transaction costs. The basis and rationale for this Rule are to implement Act 119 of the 2008 legislative session. 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 I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 12. Requests for Review of Environmental Conditions
§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial $1500 minimum fee.

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department with the request.

2. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

B. - E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October 2007), LR 35:2178 (October 2009).

Chapter 14. Groundwater Fees

[NOTE: The information contained in Chapter 14 was previously located in LAC 33:XIII.Chapter 13. It was relocated and renumbered in November, 1998.]

§1411. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), repromulgated LR 21:797 (August 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2178 (October 2009).

Chapter 19. Facility Name and Ownership/Operator Changes Process
§1911. Fees for Name and Ownership/Operator Changes

A. - A.Table. …

B. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the NOC-1 form.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005), amended LR 35:2178 (October 2009).

Chapter 23. Procedures for Public Record Requests
§2305. Standard Operating Procedures

A. - B. …

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court.

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality.

2. Persons wishing to make payments using the electronic pay method (e-pay) shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007), LR 35:2178 (October 2009).

§2307. Exceptions to Standard Operating Procedures

A. - A.2. …

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of proof of payment made by an approved method of payment, pending receipt of the actual payment.

1.a. – 2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 35:2179 (October 2009).

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§215. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and R.S. 49:316.1(A)(2)(a) and (c)

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 LR 14:612 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:706 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179 (October 2009).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. The applicant is required to calculate the appropriate application fee and, if applicable, siting fee according to the schedule included in the permit application form. Payment shall be made in accordance with the requirements of LAC 33:V.5127.

B. Application Fee Schedule

Item	Fee
Site Analysis—per acre site size	$330[1]
Process and Plan Analysis	$1,320
Facility Analysis—per facility[2]	$660
Management/Financial Analysis	$1,320

[Note: Fee equals total of the four items.]

[1] Up to 100 acres, no additional fee thereafter.

[2] Incinerator, land farm, treatment pond, etc., each counted as a facility.

C. Administrative Cost Fee

Application Fee x 0.30 = Administrative Cost Fee

D. Siting Fee. This fee will be applicable to new commercial hazardous waste treatment, storage, and disposal facilities. This fee will be used to assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, and on the environment. A portion of this fee shall be allocated to the local governmental subdivision for the preparation of an infrastructure assessment report as determined by the secretary. When siting a commercial facility, the secretary shall determine whether the local governmental subdivision should be compensated for any reasonable and necessary cost for preparation of the infrastructure report:

Application Fee x 0.05 = Siting Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:288 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179 (October 2009).

§5119. Calculation of Annual Maintenance Fees

A. - C.Table. …

D. Administrative Cost Fee

Annual Maintenance Fee x 0.30 = Administrative Cost Fee

E. Land Disposal Prohibitions Fee. The land disposal prohibitions fee includes treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	$1,320
Off-Site Noncommercial	$2,640
Reclaimer	$3,300
Off-Site Commercial	$6,600

F. Groundwater Protection Fee. (This fee applies only to sites with groundwater monitoring.) This fee shall be calculated in accordance with LAC 33:V.5139.

G. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5141.

H. Annual Landfill Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5143.

I. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee. This fee shall be calculated in accordance with LAC 33:V.5145.

J. Formula to Apportion Fees

Annual Maintenance Fee = Fee per Site + Fee per Facility + Fee based on Volume + Administrative Cost Fee + Land Disposal Prohibitions Fee + Groundwater Protection Annual Fee + Incineration Inspection and Monitoring Fee + Boiler/Industrial Furnace Inspection and Monitoring Fee + Annual Landfill Inspection and Monitoring Fee + Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179 (October 2009).

§5127. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2180 (October 2009).

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 7. Settlement and Negotiations

§709. De Minimis Settlements

A. - C. …

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a payment to the Office of Management and Finance by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for the settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. - F.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), LR 35:2180 (October 2009).

Chapter 9. Voluntary Remediation

§917. Fees and Direct Cost Recovery

A. - B.3. …

4. Methods of Payment

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

5. - 5.d.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:519 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2180 (October 2009).

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 15. Solid Waste Fees

§1505. Annual Monitoring and Maintenance Fee

A. - C. …

D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental

Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:2180 (October 2009).

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. - L.3.b. …

M. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

N. - N.Table. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1493 (August 2009), LR 35:2181 (October 2009).

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

A. - A.2.a.Table. …

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by one of the methods listed in LAC 33:IX.1309.M.1-2.b and shall be nonrefundable.

A.3. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 35:2181 (October 2009).

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. - B.1.Table. …

2. Methods of Payment

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

B.3. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2181 (October 2009).

Part XV. Radiation Protection

Chapter 25. Fee Schedule

§2509. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2182 (October 2009).

Herman Robinson, CPM
Executive Counsel

0910#036

RULE

Department of Health and Hospitals
Board of Medical Examiners

Clinical Laboratory Personnel, Licensure and Certification; Fees (LAC 46:XLV.3529)

The Louisiana State Board of Medical Examiners (the "board"), pursuant to the authority vested in the board by R.S. 37:1270A, 37:1281 and 37:1311-1329, and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., has amended its existing Rule prescribing the fees payable by all categories of clinical laboratory personnel for initial licensure or certification, annual renewal and temporary permits issued by the board, LAC 46:XLV, Subpart 2, Chapter 35, Subchapter C, Section 3529.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification

Chapter 35. Clinical Laboratory Personnel

Subchapter C. Procedures for Obtaining Licensure or Certification

§3529. Fees

A. General Provisions. Except as provided in §3529.B, the fee for obtaining or renewing a license or certificate as provided in this Chapter shall be as follows.

1.	clinical laboratory scientist (all categories)	$65
2.	cytotechnologist	$65
3.	laboratory assistant	$40
4.	phlebotomist	$40

B. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5), 37:1281 and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994), amended LR 35:2182 (October 2009).

Robert L. Marier, M.D.
Executive Director

0910#032

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services—Non-Rural, Non-State Hospitals—Reimbursement Rate Adjustment (LAC 50:V.953, 955, and 959)

Editor's Note: Sections 953, 955, and 959 are being repromulgated to correct a citation error. This Rule was originally promulgated in the September 20, 2009 *Louisiana Register* on page 1896.

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.953, 955, and 959 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - D. ...

E. Major Teaching Hospitals. Effective for dates of service on or after October 1, 2009, qualifying major teaching hospitals with current per diem rates that are less than 80 percent of the current peer group rate shall have their per diem rates adjusted to equal 80 percent of the current peer group rate.

F. Minor Teaching Hospitals. Effective for dates of service on or after October 1, 2009, qualifying minor teaching hospitals shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

G. Non-Teaching Hospitals

1. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with less than 58 beds shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

2. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with 58 through 138 beds shall have their per diem rates adjusted to equal 122 percent of the current peer group rate.

3. Effective for dates of service on or after October 1, 2009, qualifying non-teaching hospitals with more than 138 beds shall have their per diem rates adjusted to equal 103 percent of the current peer group rate.

D

DEPARTMENT OF ENVIRONMENTAL QUALITY

Methods of Payment

LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509

Log Number: MM009

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 1:30 p.m. on August 25, 2009.

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

H E A R I N G

MS. HAM:

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

The comment period for these amendments began on July 20, 2009, when the notices of intent were published in the Louisiana Register. The comment period will close at 4:30 p.m., September 1, 2009. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being 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 Environmental Quality amendment is designated by the Log Number MM009.

This rule provides language that authorizes the department to accept credit card payments and other electronic methods of payment for obligations owed to the state. It also repeals hazardous waste fees no longer collected and clarifies the calculation of hazardous waste Application and Maintenance fees. This rule is required in order to implement Act 119 of the 2008 Regular Session of the Legislature, which amended R.S. 49:316.1(A)(2)(a) and (c) to provide the department with authority to accept credit card payments for obligations owed to the state through use of a third-party processor and authorized the collection of a convenience fee to adequately cover the resulting transaction costs.

Does anyone care to comment on this regulation? If not, the hearing on MM009 is

closed.

Thank you for your attention and participation. This hearing is closed.

THE HEARING ENDED AT 1:32 P.M.

* * * * *

REPORTER'S PAGE

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

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

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

_____

Mark LaCour, C.C.R.

89054

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

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

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

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

_____

Mark LaCour, C.C.R.

89054

RECEIVED

JUL 23 2009

LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097 TELEPHONE (504) 826-3201

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment
(LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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 Environmental Quality regulations, LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509 (Log #MM009).

This rule provides language that authorizes the department to accept credit card payments and other electronic methods of payment for obligations owed to the state. It also repeals hazardous waste fees no longer collected and clarifies the calculation of hazardous waste Application and Maintenance fees. This rule is required in order to implement Act 119 of the 2008 Regular Session of the Legislature, which amended R.S. 49:316.1(A)(2)(a) and (c) to provide the department with authority to accept credit card payments for obligations owed to the state through use of a third-party processor and authorized the collection of a convenience fee to adequately cover the resulting transaction costs. The basis and rationale for this rule are to implement Act 119 of the 2008 legislative session. 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.

A public hearing will be held on August 25, 2009, 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.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM009. Such comments must be received no later than September 1, 2009, 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 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 MM009. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

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.

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Elizabeth C. Darcey who deposes and says that she is an Assistant Controller of The Times-Picayune, L.L.C., a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached

Legal Noticce (MM009)

Re:Notice of Intent Dept. of Environmental Quality
Methods of Payment LAC 33:I.1203,1411,1911,2305

Advertisement of La. Dept. of Environmental Quality

OSEC/Legal Affairs Division/Remedation & Regulation
P.O. BOX 4302/ Baton Rouge, La. 70821-4302

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates July 20, 2009

Elizabeth C Darcey

Sworn to and subscribed before me this

21st Day of July, 2009

Notary Public

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

Notary identification number 23492

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

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

07/16/09

Susan A. Bush, Public Notice Clerk

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

July 16, 2009

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

M. MONIC McCHRISTIAN NOTARY PUBLIC NOTARY NO. 88293 LIVINGSTON PARISH, LA

RECEIVED
JUL 24 2009
LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment (LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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 Environmental Quality regulations, LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509 (Log #MM009).

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

A public hearing will be held on August 25, 2009, 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.

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Herman Robinson, CPM
Executive Counsel

4121847-Jul 16-1t

DEQ - OSEC/LAD REG ***4121847***
REMENDER D. WEATHERSPOON
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

RECEIVED
AUG 07 2009
LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement

Was published in the NEWS-STAR.

A daily newspaper of general circulation.

Published in Monroe, Louisiana.

Parish of Ouachita in the issues of:

July 20, 2009

Elaine Parrish

LEGAL AD DEPT.

Sworn and subscribed before me by

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

21 day of July 20 09 AD

NOTARY PUBLIC

Steven L. Turner # 43154

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment
(LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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Herman Robinson, CPM
Executive Counsel
Monroe, LA
July 20, 2009

Homes for Rent

Mobile Homes Rent

Office Space

Mobile Homes Rent

Waterfront

Wanted To Rent

Resort Vacation Rent

Waterfront

Auto Accessories

Dodge

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Motor Homes

Oldsmobile

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1213200
NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment (LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; X1.307; XV.2509) (MM009)

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This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 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

CELEBRITY CIPHER
by Luis Campos

Celebrity Cipher cryptograms are created from quotations by famous people, past and present. Each letter in the cipher stands for another.

Today's clue: F equals M

"WRS FYKW EFXYTWUPW XSTKBMKEYP WYYD ZYR RMCS EP ZYDT SPWETS MTKSPMD CK EPWSHTEWZ." - HEH HENDMT

PREVIOUS SOLUTION: "To accomplish great things, we must not only act, but also dream; not only plan, but also believe." - Anatole France

(c) 2009 by NEA, Inc. 7-15

HOROSCOPES
By Eugenia Last
WEDNESDAY, JULY 15, 2009

CELEBRITIES BORN ON THIS DAY: Emily Roeske, 18; Brian Austin Green, 36; Forest Whitaker, 48; Linda Ronstadt, 63

Happy Birthday: Embrace the new and the unknown and hold onto the things and the people you treasure the most. Once you start taking care of your own needs instead of putting everyone else first, you will do better. Financial gains will help you follow your dreams. Your numbers are 3, 7, 19, 23, 26, 37, 41

ARIES (March 21-April 19): Rise above whatever obstacles are put in your way. You have no time to waste, so avoid anyone who is looking for an argument. Completing what you start will lead to your success. 3 stars

TAURUS (April 20-May 20): You will lose track of what's important if you don't keep things out in the open. Don't allow room for misinformation or you will end up in a critical state that will be difficult to alter. Your family will be counting on you. 3 stars

GEMINI (May 21-June 20): Calm down and be observant if you want to get ahead. Fully understanding what everyone else is doing will enable you to maneuver yourself into a key position. If you come across as overly opinionated, you may provoke an enemy. 4 stars

CANCER (June 21-July 22): You are likely to encounter someone who is trying to sell you something you don't really need. Take care of your responsibilities and stick close to home in order to avoid being taken advantage of by someone desperate and difficult to deal with. 2 stars

LEO (July 23-Aug. 22): Simplicity will win in the end. You can develop an interesting deal with someone who can lead to financial gains. Your influence will be greater than you realize. 5 stars

VIRGO (Aug. 23-Sept. 22): Tighten your budget and prepare to read the riot act to anyone in your circle who is being frivolous. Expect to face adversity and deal with it head on. The less of an edge you give any opposition you face, the better you will do. 3 stars

LIBRA (Sept. 23-Oct. 22): Take care of any personal problems you face before they get too difficult to handle and interfere with what you need to accomplish. Work alongside the people who have the most to offer and you will make your own job much easier. 3 stars

SCORPIO (Oct. 23-Nov. 21): Be aware of the possibilities in order to stay on top of what's going on. You will discover something beneficial to your future by observing the way someone handles a situation now. New beginnings are apparent. 3 stars

SAGITTARIUS (Nov. 22-Dec. 21): It's who you meet and know that will help you get what you want in the end. Getting out and networking will lead to someone who can aid you in achieving your goals. A sudden change will take you by surprise. Use it to your advantage. 5 stars

CAPRICORN (Dec. 22-Jan. 19): Step back from whatever situation you've been facing and view it from another angle. Once you get a chance to rethink what's going on, you can make a positive assessment and act accordingly. Your responsible attitude will help you come out on top. 5 stars

AQUARIUS (Jan. 20-Feb. 18): Keep an open mind and a close eye on what's going on around you. Someone may not be looking out for your interests and could easily use emotional tactics to get something from you. Proceed with caution. Love relationships will be difficult but worth fighting for. 2 stars

PISCES (Feb. 19-March 20): Something that happened in your past will motivate you to move forward with one of your old plans. Touch base with the people who inspired you the first time around. The timing is much better now. 4 stars

Birthday Baby: You are determined, aggressive and original. You have strong views but will always listen to reason. You are adaptable and persuasive.

Eugenia's Web sites: astroadvice.com for fun, eugenialast.com for confidential consultations.

There is no better way to sell or buy a car than Cars.com and Classified

SUDOKU
Difficulty: 3 (of 5)

	6		5					
		2			6		4	7
	4			8				1
			1				7	6
4	1						2	8
	9		2		5	1		
		6		2				3
		3				7		5
9			3			8		

7-15-09

(c) 2009 Conceptis Puzzles, Dist. by UFS, Inc./NEA

HOW TO PLAY: Each row, column and set of 3-by-3 boxes must contain the numbers 1 through 9 without repetition.

PREVIOUS SOLUTION

4	9	2	7	5	1	8	6	3
3	5	6	8	4	9	2	1	7
7	8	1	3	2	6	4	9	5
1	6	4	5	9	2	7	3	8
9	7	5	6	3	8	1	4	2
2	3	8	4	1	7	9	5	6
5	1	7	2	6	4	3	8	9
6	2	9	1	8	3	5	7	4
8	4	3	9	7	5	6	2	1

theadvertiser.com

1213200
NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment
(LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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 Environmental Quality regulations, LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509 (Log #MM009).

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

A public hearing will be held on August 25, 2009, 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.

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Herman Robinson, CPM
Executive Counsel

RECEIVED
JUL 22 2009
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment (LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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HERMAN ROBINSON, CPM
Executive Counsel

(7) 15

I, Harold Constance, Classified Sales Manager

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Public Notice (MM009)

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated July 15, 2009 and ending with the

issue dated July 15, 2009.

Harold Constance

Subscribed and sworn to before me this 15th day

of July, 2009 at Alexandria, Louisiana.

Terry A. Broussard
Notary Number 19477
My commission is for life.

RECEIVED
JUL 22 2009
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

Affidavit of Publication

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment (LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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A public hearing will

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dollins

who being duly sworn, deposes and says:

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

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

00544291 - $41.00
July 15, 2009

Karen Dollins
Duly Authorized Agent

Subscribed and sworn to before me on this 15th day of July, 2009 at Lake Charles, LA

Gwendolyn R. Dugas
Notary Public

00053262

LDEQ-OSEC-LAD

Gwendolyn R. Dugas
#056523

RECEIVED
JUL 17 2009
LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

The Times

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment (LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

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

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Methods of Payment (MM009)

As per copy of advertisement hereto annexed, was published in

The Times on the following dates to wit:

July 14, 2009

(Signed) Altheas Critton

Sworn to and subscribed before me this 14th day of July, 2009

Diana W. Barber

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

(Notary)

GANNETT

RECEIVED
JUL 17 2009
LA. DEPT. OF ENVIRONMENTAL QUALITY
LEGAL AFFAIRS DIVISION

The Times

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

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STATE OF LOUISIANA

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Diana W. Barber

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

(Notary)

NOTARY PUBLIC

GANNETT

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures

Chapter 12. Requests for Review of Environmental Conditions

§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial $1500 minimum fee. ~~All payments shall be made by check, draft, or money order payable to the Department of Environmental Quality.~~

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department with the request.

2. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

B. – E.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October 2007), LR 35:**.

Chapter 14. Groundwater Fees

[NOTE: The information contained in Chapter 14 was previously located in LAC 33:XIII.Chapter 13. It was relocated and renumbered in November, 1998.]

§1411. Methods of Payment

A. All ~~fee~~ payments ~~shall be~~ made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), repromulgated LR 21:797 (August 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

Chapter 19. Facility Name and Ownership/Operator Changes Process

§1911. Fees for Name and Ownership/Operator Changes

A. - A.Table. …

B. Methods of Payment~~. All fee payments made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the NOC-1 Form.~~

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the NOC-1 form.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005), amended LR 35:**.

Chapter 23. Procedures for Public Record Requests

§2305. Standard Operating Procedures

A. – B. …

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court.~~ Payment shall be made only by check or money order payable to the Department of Environmental Quality. The department does not accept cash.~~

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality.

2. Persons wishing to make payments using the electronic pay method (e-pay) shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007), LR 35:**.

§2307. Exceptions to Standard Operating Procedures

A. – A.2. …

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of ~~the~~ proof of payment made by an approved method of payment ~~check or money order~~, pending receipt of the actual payment.

1.a. – 2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 35:**.

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§215. Methods of Payment

A. All ~~fee~~ payments ~~shall be~~ made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

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2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and R.S. 49:316.1(A)(2)(a) and (c)

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 LR 14:612 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:706 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. The applicant is required to calculate the appropriate application fee~~, research and development fee,~~ and, if applicable, siting fee according to the schedule included in the permit application form. Payment ~~of this fee~~ shall~~must~~ be made in accordance with the requirements of LAC 33:V.5127~~attached to the application~~.

B. Application Fee Schedule

Item	Fee
Site Analysis—per acre site size	$330[1]
Process and Plan Analysis	$1,320
Facility Analysis—per facility[2]	$660
Management/Financial Analysis	$1,320

[NOTE: Fee equals total of the four items.]
[1] Up to 100 acres, no additional fee thereafter.
[2] Incinerator, land farm, treatment pond, etc., each counted as a facility.

~~C. Initial Research and Development Fee Schedule~~
~~Application Fee x 0.25 = Initial Research and Development Fee~~
~~D~~C. Administrative Cost Fee
~~(Fee per site + fee per facility + fee based on volume)~~

Application Fee x 0.30 = Administrative Cost Fee

~~E~~D. Siting Fee. This fee will be applicable to new commercial hazardous waste treatment, storage, and disposal facilities. This fee will be used to assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, and on the environment. A portion of this fee shall be allocated to the local governmental subdivision for the preparation of an infrastructure assessment report as determined by the secretary. When siting a commercial facility, the secretary shall determine whether the local governmental subdivision should be compensated for any reasonable and necessary cost for preparation of the infrastructure report:

Application Fee x 0.05 = Siting Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:288 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

§5119. Calculation of Annual Maintenance Fees

A. - C.Table. …

~~D. Annual Research and Development Fee~~
~~(Fee per Site + Fee per Facility + Fee based on Volume) x 0.25 = Annual Research and Development Fee~~

~~E~~D. Administrative Cost Fee
~~(Fee per Site + Fee per Facility + Fee based on Volume)~~

Annual Maintenance Fee x 0.30 = Administrative Cost Fee

~~F~~E. Land Disposal Prohibitions Fee. The land disposal prohibitions fee includes ~~T~~treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	$1,320
Off-Site Noncommercial	$2,640
Reclaimer	$3,300
Off-Site Commercial	$6,600

~~G~~F. Groundwater Protection Fee. (This fee applies only to sites with groundwater monitoring.) This fee shall be calculated in accordance with LAC 33:V.5139.

~~H~~G. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5141.

~~I~~H. Annual Landfill Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5143.

~~J~~I. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee. This fee shall be calculated in accordance with LAC 33:V.5145.

~~K~~J. Formula to Apportion Fees

Annual Maintenance Fee = Fee per Site + Fee per Facility + Fee based on Volume ~~+ Annual Research and Development Fee~~ + Administrative Cost Fee + Land Disposal Prohibitions Fee + Groundwater Protection Annual Fee + Incineration Inspection and Monitoring Fee + Boiler/Industrial Furnace Inspection and Monitoring Fee + Annual Landfill Inspection and Monitoring Fee + Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

§5127.Methods of Payment

A. All ~~fee~~ payments ~~shall be~~ made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 7. Settlement and Negotiations

§709. De Minimis Settlements

A. – C. …

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a ~~cash~~ payment to the Office of Management and Finance by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for the settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. – F.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), LR 35:**.

Chapter 9. Voluntary Remediation

§917. Fees and Direct Cost Recovery

A. – B.3. …

4. Methods of Payment~~Payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address shown on the invoice.~~

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the

website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

5. – 5.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:519 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 15. Solid Waste Fees

§1505. Annual Monitoring and Maintenance Fee

A. – C. …

D. Methods of Payment~~Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.~~

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

E. – G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:**.

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. – L.3.b. …

M. Methods of Payment~~. All fee payments shall be made by check, draft or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.~~

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

N. - N.Table. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1493 (August 2009), LR 35:**.

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

A. – A.2.a.Table. …

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by one of the methods listed in LAC 33:IX.1309.M.1-2.b ~~check or money order to Department of Environmental Quality, Office of Environmental Services,~~ and shall be nonrefundable.

A.3. – H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 35:**.

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. – B.1.Table. …

2. Methods of Payment~~Fee payment shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.~~

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

B.3. – D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.

Part XV. Radiation Protection

Chapter 25. Fee Schedule

§2509. Methods of Payment

A. All ~~Fee~~ payments ~~shall be~~ made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality,

~~Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:**.~~

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:

§1213. Responsibilities of LOSFA

A. - D.2. …

3. repealed.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2617 (December 2007), amended LR 34:239 (February 2008), LR 35:

§1217. Responsibilities of the Board of Regents

A. At least on an annual basis, the Board of Regents shall review and adjust, as necessary, the ECG threshold, to provide grants to eligible students with the funds appropriated for the GO Grant Program and shall provide notice to LOSFA of any change.

B. In the event of receipt of notice of a shortfall and additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 35:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. (SG09108NI)

Interested persons may submit written comments on the proposed changes (SG09108NI) until 4:30 p.m., July 10, 2009, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Louisana GO Grant

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

The proposed rule changes the need component of the Go Grant eligibility requirements and provides a formula to allocate Go Grant funds to postsecondary institutions so that the total amount awarded for Go Grants during any academic year is limited to the total amount appropriated for the award for that fiscal year. Adoption of the proposed rule will not result in any additional costs to the state or local governments.

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

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

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

The proposed rulemaking by itself will not change the Go Grant Program in a way that would have an impact on a student's financial aid package for postsecondary education. The Louisiana Office of Student Financial Assistance and the Board of Regents have a memorandum of understanding giving authority to the Board of Regents to prepare a plan to limit Go Grant awards to amounts appropriated by the Legislature. These proposed rules formalize and codify the method Regents will use to address shortfalls in funding of Go Grants in Fiscal Year 2009-10 and thereafter.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These changes by itself will have no impact on competition or employment.

George Badge Eldredge
General Counsel
0907#102

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Methods of Payment
(LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509) (MM009)

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 Environmental Quality regulations, LAC 33:I.1203, 1411, 1911, 2305, 2307; III.215; V.5111, 5119, 5127; VI.709, 917; VII.1505; IX.1309, 1507; XI.307; XV.2509 (Log #MM009).

This rule provides language that authorizes the department to accept credit card payments and other electronic methods of payment for obligations owed to the state. It also repeals hazardous waste fees no longer collected and clarifies the calculation of hazardous waste Application and Maintenance fees. This rule is required in order to implement Act 119 of the 2008 Regular Session of the Legislature, which amended R.S. 49:316.1(A)(2)(a) and (c) to provide the department with authority to accept credit card payments for obligations owed to the state through use of a third-party processor and authorized the collection of a convenience fee to adequately cover the resulting transaction costs. The basis and rationale for this rule are to implement Act 119 of the 2008 legislative session. 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 I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 12. Requests for Review of Environmental Conditions
§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial $1500 minimum fee.

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department with the request.

2. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

B. – E.2.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October 2007), LR 35:

Chapter 14. Groundwater Fees

[NOTE: The information contained in Chapter 14 was previously located in LAC 33:XIII.Chapter 13. It was relocated and renumbered in November, 1998.]

§1411. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), repromulgated LR 21:797 (August 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Chapter 19. Facility Name and Ownership/Operator Changes Process
§1911. Fees for Name and Ownership/Operator Changes

A. - A.Table. …

B. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the NOC-1 form.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:2429 (October 2005), amended LR 35:

Chapter 23. Procedures for Public Record Requests
§2305. Standard Operating Procedures

A. – B. …

C. Advance payment is required, except for a request for an administrative record of decision required to be lodged with a court.

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality.

2. Persons wishing to make payments using the electronic pay method (e-pay) shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of Environmental Assessment, LR 30:2020 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:88 (January 2007), LR 35:

§2307. Exceptions to Standard Operating Procedures

A. – A.2. …

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of proof of payment made by an approved method of payment, pending receipt of the actual payment.

1.a. – 2.c.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., and 44:1 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:702 (May 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 35:

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§215. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and R.S. 49:316.1(A)(2)(a) and (c)

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 LR 14:612 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:706 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. The applicant is required to calculate the appropriate application fee and, if applicable, siting fee according to the schedule included in the permit application form. Payment shall be made in accordance with the requirements of LAC 33:V.5127.

B. Application Fee Schedule

Item	Fee
Site Analysis—per acre site size	$330[1]
Process and Plan Analysis	$1,320
Facility Analysis—per facility[2]	$660
Management/Financial Analysis	$1,320

[Note: Fee equals total of the four items.]

[1] Up to 100 acres, no additional fee thereafter.

[2] Incinerator, land farm, treatment pond, etc., each counted as a facility.

C. Administrative Cost Fee

Application Fee x 0.30 = Administrative Cost Fee

D. Siting Fee. This fee will be applicable to new commercial hazardous waste treatment, storage, and disposal facilities. This fee will be used to assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, and on the environment. A portion of this fee shall be allocated to the local governmental subdivision for the preparation of an infrastructure assessment report as determined by the secretary. When siting a commercial facility, the secretary shall determine whether the local governmental subdivision should be compensated for any reasonable and necessary cost for preparation of the infrastructure report:

Application Fee x 0.05 = Siting Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:288 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

§5119. Calculation of Annual Maintenance Fees

A. - C.Table. …

D. Administrative Cost Fee

Annual Maintenance Fee x 0.30 = Administrative Cost Fee

E. Land Disposal Prohibitions Fee. The land disposal prohibitions fee includes treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	$1,320
Off-Site Noncommercial	$2,640
Reclaimer	$3,300
Off-Site Commercial	$6,600

F. Groundwater Protection Fee. (This fee applies only to sites with groundwater monitoring.) This fee shall be calculated in accordance with LAC 33:V.5139.

G. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5141.

H. Annual Landfill Inspection and Monitoring Fee. This fee shall be calculated in accordance with LAC 33:V.5143.

I. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee. This fee shall be calculated in accordance with LAC 33:V.5145.

J. Formula to Apportion Fees

Annual Maintenance Fee = Fee per Site + Fee per Facility + Fee based on Volume + Administrative Cost Fee + Land Disposal Prohibitions Fee + Groundwater Protection Annual Fee + Incineration Inspection and Monitoring Fee + Boiler/Industrial Furnace Inspection and Monitoring Fee + Annual Landfill Inspection and Monitoring Fee + Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

§5127. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Part VI. Inactive and Abandoned Hazardous Waste and Hazardous Substance Site Remediation

Chapter 7. Settlement and Negotiations

§709. De Minimis Settlements

A. - C. …

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a payment to the Office of Management and Finance by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for the settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

E. – F.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), amended LR 26:2513 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2139 (October 2007), LR 35:

Chapter 9. Voluntary Remediation

§917. Fees and Direct Cost Recovery

A. - B.3. …

4. Methods of Payment

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

5. - 5.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2285 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:519 (April 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 15. Solid Waste Fees

§1505. Annual Monitoring and Maintenance Fee

A. - C. …

D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. - L.3.b. …

M. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

N. - N.Table. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality Certification

A. – A.2.a.Table. …

b. Payment shall accompany the application for certification. The department shall consider the application incomplete and initiation of the application review process will not begin until payment of the processing fee is received. Payment shall be by one of the methods listed in LAC 33:IX.1309.M.1-2.b and shall be nonrefundable.

A.3. – H.2.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 35:

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. – B.1.Table. …

2. Methods of Payment

a. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

b. Electronic Methods of Payment

i. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

ii. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

c. Cash is not an acceptable form of payment.

B.3. – D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

Part XV. Radiation Protection

Chapter 25. Fee Schedule

§2509. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:

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

A public hearing will be held on August 25, 2009, 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.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM009. Such comments must be received no later than September 1, 2009, 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 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 MM009. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall

Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 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: Methods of Payment

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

This proposed rule is expected to have no significant effect on state or local governmental expenditures. Credit card and electronic payments will be managed in the same manner as the department currently manages payments made by check and money order.

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

No significant effect on state or local governmental revenue collections is anticipated. The convenience fee charged to the payor will be paid to and collected by a third-party processor, not a state or local governmental unit.

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

Costs and/or economic benefits to directly affected persons or non-governmental groups are anticipated to be minimal. The amount of the convenience fee charged to the payor and collected by the third-party processor must be approved by the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means, and has not yet been determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect on competition or employment is anticipated.

Herman Robinson, CPM	H. Gordon Monk
Executive Counsel	Legislative Fiscal Officer
0907#034	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Board of Regents

Registration, Licensure, and Consumer Protection
(LAC 28:XI.Chapters 1-5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and R.S. 17:1808, notice is hereby given that the State Board of Regents proposes to amend the rules and regulations to LAC Part Number IX, Regents, Chapters 1-5.

Title 28
EDUCATION
Part IX. Regents

Chapter 1. Rules for Registration and Licensure

§101. Definition of Terms

A. Terms used in these regulations such as *Board of Regents, Postsecondary, Academic Degree-Granting Institution*, *Registration*, *Licensure*, and *Fees* shall be interpreted in accordance with R.S. 17:1808.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 35:

§103. Registration and License Applications

A. All public and private postsecondary, academic degree-granting institutions offering instruction in the state of Louisiana must register annually with the Board of Regents. Regular licenses are reviewed every two years. Requests for registration forms and license applications should be made in writing and addressed to:

Commissioner of Higher Education
Louisiana Board of Regents
150 Third Street, Suite 129
Baton Rouge, LA 70801-1389

B. Completed registration forms and license applications should be returned to the address shown above.

C. License applications must be accompanied by a nonrefundable license application fee of $750. The license application fee must be paid by company or institutional check or by money order, and should be made payable to the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), amended LR 35:

§105. License Fees

A. The license application fee shall be $750. Those institutions granted a license to operate will be required to pay an additional $750 at the start of the second year of the two-year licensing period. License renewal fees are required during each subsequent two-year licensing period and are nonrefundable.

B. If a request for license renewal is not received at the Board of Regents' offices at least 30 days prior to its expiration date, the institution can be subject to a delinquent fee of $500 in addition to the renewal fee.

C. The Board of Regents may authorize assessment of special or supplemental fees to be paid by registered institutions pursuant to special actions or requests.

D. Institutions seeking licensure shall submit all required materials and the nonrefundable license fee to the Board of Regents. If a final determination concerning the institution's qualifications for licensure is not reached within 180 days of receipt of the license application, a provisional license will be issued to the institution. The provisional license will remain in effect pending a final licensing decision by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1551 (December 1993), amended LR 21:168 (February 1995), LR 35:

§107. Information Requirements for Registration[1]

A. All postsecondary, academic degree-granting institutions are required to provide the following information on an annual basis:

1 name and in-state address of the institution;
2. location of its main campus or office;
3. a role, scope, and mission statement;
4. degrees offered in Louisiana;
5. courses offered in Louisiana;