BOBBY JINDAL
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State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

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

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

Dear Mr. Robinson:

The Louisiana Department of Environmental Quality is proposing revisions to the Title V Program for Louisiana. This proposed SIP revision incorporates Title V regulations promulgated in the Louisiana Administrative Code during 2011-2013.

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

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

Sincerely,

Tegan Treadaway

Tegan Treadaway, Administrator
Air Permits Division

6/6/14
Date

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

OVERVIEW

PURPOSE

This proposed State Implementation Plan (SIP) revision incorporates rules promulgated in the Louisiana Administrative Code (LAC) during 2011 - 2013. The submittal includes revisions to regulations in LAC 33:III.Chapters 2, 3, 5, and 6. 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.

VOC Rule SIP

SUMMARY OF RULES PROMULGATED IN 2011-2013			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§211	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§223	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§501	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§503	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§523	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§537	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§2132	April 2011 LR 37:1144 **AQ 315**	Greenhouse Gases	This Rule removes carbon dioxide (CO2) from the list of pollutants that "need not be included in a permit application." Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants"...
§501	May 2011 LR 37:1391 **AQ 317**	Non-Road Engines	This rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4.

SUMMARY OF RULES PROMULGATED IN 2011-2013			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§502	May 2011 LR 37:1391 **AQ 317**	Non-Road Engines	This rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4.
§317	August 2012 LR 38:1955 **AQ 3121**	Regulatory Permit for Rock, Concrete, and Asphalt Crushing	This Rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities.
§319	April 2013 LR 39:1039 **AQ 322**	Regulatory Permit for Flaring of Materials Other than Natural Gas	This Rule provides for a regulatory permit which will authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia).
§501	Nivember 2011 LR 37:3233 **AQ 323**	Permit Term or Condition Referencing 40 CFR Part 63, Subpart DDDDD	This rule is to repeal and reserve LAC 33:III.501.B.8.
§504	May 2012 LR 38:1232 **AQ 326**	Nonattainment New Source Review Procedures	This Rule are to preserve ERC applied for or approved in accordance with LAC 33:III.Chapter 6 after Baton Rouge is formally designated as nonattainment under the 2008 8-hour ozone NAAQS.
§504	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§601	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§603	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.

SUMMARY OF RULES PROMULGATED IN 2011-2013			
LAC 33:III	***Louisiana Register* Citation**	**Description**	**Comments**
§605	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§607	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§615	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§619	November 2012 LR 38:1265 **AQ 327**	Offset Requirements and Emission Reduction Credits Banking	This Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOx and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other than NOx and VOC to be banked.
§533	November 2012 LR 38:1245 **AQ 334**	EPA Notice	This Rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Part 70

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

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

§1107. Exemptions

A. …

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011).

§1111. Exclusion

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

A. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1144 (April 2011).

Herman Robinson, CPM
Executive Counsel

1104#016

RULE

Department of Environmental Quality
Office of the Secretary

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.111, 211, 223, 501, 503, 523, 537, and 2132 (AQ315).

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

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

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

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

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

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 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Criteria Pollutant—any compound for which an ambient air quality standard has been listed in LAC 33:III.Chapter 7; however, *volatile organic compounds*, as defined in this Section, shall be included as a surrogate for ozone.

* * *

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 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009), LR 36:1773 (August 2010), LR 37:1145 (April 2011).

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.13.d.iii.…

e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a *Part 70 source* as defined in LAC 33:III.502. The permitted source must also emit or have the potential to emit less than 25 tons/year of any criteria pollutant, and less than 10 tons per year of any toxic air pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees.

14. - 15.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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:1145 (April 2011).

§223. Fee Schedule Listing

Table 1. - Table 2.Note 14a. …

Note 15. Applications must be accompanied by a certificate of eligibility authorized by the department's Small Business Technical Assistance Program. Final determination of a facility's eligibility is to be made by the administrative authority or his designee and may be based on (but not limited to) the following factors: risk assessment, proposed action, location, etc. For the purpose of this Chapter a small business is a facility which: has 50 employees or fewer; is independently owned; is a small business concern as defined pursuant to the Small Business Act; emits less than 5 tons/year of any single hazardous air pollutant and less than 15 tons/year of any combination of hazardous air pollutants; emits less than 25 tons/year of any criteria pollutant; has an annual gross revenue that does not exceed $5,000,000; is not a major stationary source; and does not incinerate, recycle, or recover any off-site hazardous, toxic, industrial, medical, or municipal waste.

Note 16. - Note 20. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:1145 (April 2011).

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.i. …

(a). five tons per year for each criteria pollutant as defined by the Clean Air Act;

2.d.i.(b). - 4.a. …

i. the source emits and has the potential to emit no more than 5 tons per year of any criteria pollutant;

4.a.ii. - 5.…

Table 1. Insignificant Activities List
A. Based on Size or Emission Rate Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1.external combustion equipment with a design rate greater than or equal to 1 million btu per hour, but less than or equal to 10 million btu per hour, provided that the aggregate criteria pollutant emissions from all such units listed as insignificant do not exceed 5 tons per year;
2.storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;

Table 1. Insignificant Activities List
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
4. - 5. …
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
7. …
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate criteria or toxic air pollutant emissions from all such tanks listed as insignificant do not exceed 5 tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, Subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided that the aggregate emissions from all such operations listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act.
B. - B.46. …
C. Based on Type of Pollutant Emissions of the following pollutants need not be included in a permit application:
1. - 2. …
3. nitrogen; and
4. hydrogen.
D. Exemptions Based on Emissions Levels The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate. a. The emissions unit emits and has the potential to emit no more than 5 tons per year of any criteria or toxic air pollutant. b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant. c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant. d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

[1] State or federal regulations may apply.

B.6. - 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), LR 37:1145 (April 2011).

§503. Minor Source Permit Requirements

A. - B.1. …

2. Small Source Permit. The owner or operator of a stationary source which is not a *Part 70 source* as defined in LAC 33:III.502 may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any criteria pollutant and 10 tons per year of any toxic air pollutant.

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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1146 (April 2011).

§523. Procedures for Incorporating Test Results

A. - A.1.a. …

b. increases in permitted emissions will not exceed 5 tons per year for any criteria or toxic air pollutant;

A.1.c. - B.5. …

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), LR 37:1146 (April 2011).

§537. Louisiana General Conditions

A. …

Table 1. Louisiana Air Emission Permit General Conditions
I. - XVI. …
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 of criteria and toxic air pollutants; 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

Table 1. Louisiana Air Emission Permit General Conditions
all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.
XVIII. - XX. ..

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), amended LR 37:1146 (April 2011).

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. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows.

* * *

Independent Small Marketer of Gasoline (ISBM)—a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

a. is a refiner; or

b. controls, is controlled by, or is under common control with, a refiner; or

c. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or

d. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term *refiner* shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. Control of a corporation means ownership of more than 50 percent of its stock.

* * *

Small Business Stationary Source—a stationary source that:

a. is owned or operated by a person that employs 100 or fewer individuals;

b. is a small business concern as defined in the Small Business Act;

c. is not a major stationary source;

d. does not emit 50 tons or more per year of any criteria or toxic air pollutant; and

e. emits less than 75 tons per year of all criteria or toxic air pollutants.

* * *

B. - 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), LR 34:2397 (November 2008), LR 37:1147 (April 2011).

Herman Robinson, CPM
Executive Counsel

1104#013

RULE

Department of Environmental Quality
Office of the Secretary

Greenhouse Gas (GHG) Tailoring
(LAC 33:III.502 and 509)(AQ314ft)

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.502.A and 509.B (AQ314ft).

This Rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, pages 31606-31607, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a Rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final Rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO2e). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

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

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

* * *

Significant—

* * *

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

NECESSARY REGULATORY REVISIONS PROMPTED BY GHG REGULATION

LOG #: AQ315

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 1:31 p.m., on February 22, 2011.

BEFORE:

Lori B. Overland
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:

Susan Ham
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 8

REPORTER'S CERTIFICATE 9

* * * * *

1 * * * * *

2 MS. HAM:

3 Good afternoon. My name is Susan

4 Ham. 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 air

9 regulations.

10 The comment period for these

11 amendments began on January 20, 2011,

12 when the notices of intent were published

13 in the Louisiana Register. The comment

14 period will close at 4:30 p.m., March 1,

15 2011. It would be helpful to us if all

16 oral comments received today were

17 followed up in writing.

18 This public hearing provides a forum

19 for all interest parties to present

20 comments on the proposed changes. This

21 hearing is not being conducted in a

22 question and answer format. Please

23 remember that the purpose of this public

24 hearing is to allow you, the public, an

25 opportunity to express your thoughts

1 concerning today's proposed amendments.
2 I'll ask that each person commenting
3 come up and sit at the front table and
4 begin by stating his or her name and
5 affiliation for the record.
6 The first amendment is designated by
7 the Log Number AQ315.
8 This rule removes carbon dioxide
9 (CO2) from the list of pollutants that
10 "need not be included in a permit
11 application". Also, a number of
12 thresholds within the air quality
13 regulations are currently set in terms of
14 a source's emissions of "regulated
15 pollutants" or "regulated air
16 pollutants". These thresholds will be
17 revised to be based on emissions of
18 criteria and toxic air pollutants.
19 On April 2, 2010, EPA published a
20 final rule entitled "Reconsideration of
21 Interpretation of Regulations That
22 Determine Pollutants Covered by Clean Air
23 Act Permitting Programs" (75 FR 17004).
24 Under the terms of this action,
25 greenhouses gas (GHGs) become "subject to

1 regulation," and Title V and PSD program
2 requirements begin to apply on January 2,
3 2011.
4 LAC 33:III.501.B.5, Item C.3
5 currently specifies that emissions of
6 carbon dioxide (CO2) "need not be
7 included in a permit application".
8 Information concerning potential
9 emissions of GHGs, which includes CO2,
10 will be necessary in order to assess
11 major source status and applicability of
12 the PSD program. GHGs also include
13 nitrous oxide, methane,
14 hydrofluorocarbons, perfluorocarbons, and
15 sulfur hexafluoride.
16 Further, as a consequence of GHGs
17 becoming a "regulated" pollutant,
18 revisions to other state air quality
19 regulations will be necessary. This is
20 because thresholds for small source
21 permits, exemptions, insignificant
22 activities, and General Condition XVII
23 activities are dependent on a source's
24 emissions of "regulated pollutants" or
25 "regulated air pollutants". Moreover,

1 whether a source can be classified as a
2 small business is also based, in part, on
3 its emissions of "regulated pollutants".
4 Absent this regulatory change, fuel-
5 burning equipment and other
6 sources/activities emitting GHGs could no
7 longer be considered as insignificant
8 activities or General Condition XVII
9 activities, nor could the facilities from
10 which such emissions originate qualify
11 for an exemption from the need to obtain
12 an air permit, for a small source permit,
13 or as a small business if they were
14 otherwise eligible.
15 Does anyone care to comment on this
16 regulation?
17 If not, the hearing on AQ315 is
18 closed.
19 Thank you for your attention and
20 participation.
21 This hearing is closed.
22 THE HEARING CONCLUDED AT 1:35 P.M.
23 * * * * *
24
25

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

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

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

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

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

_____

Lori Overland, C.C.R.

97083

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FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
John R. Justice Grant Program

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

The proposed rules implement the J. R. Justice Loan Forgiveness Program. Under this program, twelve (12) prosecutors will receive awards of $5,000 each and six (6) public defenders will receive awards of $10,000 each in 2011, based on an initial allocation of $127,106 in federal funding from the U. S. Department of Justice. Louisiana may receive additional federal funding for subsequent awards, and no state general funds are required for this program.

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 retention of experienced prosecutors and public defenders will benefit local citizens and families by increasing access to quality legal services for the poor, crime victims and their families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no direct impact on competition or employment due to these changes.

George Badge Eldredge	H. Gordon Monk
General Counsel	Legislative Fiscal Officer
1101#025	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

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

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.111, 211, 223, 501, 503, 523, 537, and 2132 (AQ315).

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

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

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

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

Absent this regulatory change, fuel-burning equipment and other sources/activities emitting GHGs could no longer be considered as insignificant activities or General Condition XVII activities, nor could the facilities from which such emissions originate qualify for an exemption from the need to obtain an air permit, for a small source permit, or as a small business if they were otherwise eligible. The basis and rationale for this Rule are to ensure LDEQ can require CO2 emissions data in air permit applications and to preserve existing thresholds within the air quality regulations once GHGs become "subject to regulation" on January 2, 2011. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 1. General Provisions
§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Criteria Pollutant—any compound for which an ambient air quality standard has been listed in LAC 33:III.Chapter 7; however, *volatile organic compounds*, as defined in this Section, shall be included as a surrogate for ozone.

* * *

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 14:348 (June 1988), LR 15:1061 (December 1989), amended by the

Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009), LR 36:1773 (August 2010), LR 37:

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.13.d.iii. …

e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a *Part 70 source* as defined in LAC 33:III.502. The permitted source must also emit or have the potential to emit less than 25 tons/year of any criteria pollutant, and less than 10 tons per year of any toxic air pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees.

14. - 15.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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:

§223. Fee Schedule Listing

Table 1. - Table 2.Note 14a. …

Note 15. Applications must be accompanied by a certificate of eligibility authorized by the department's Small Business Technical Assistance Program. Final determination of a facility's eligibility is to be made by the administrative authority or his designee and may be based on (but not limited to) the following factors: risk assessment, proposed action, location, etc. For the purpose of this Chapter a small business is a facility which: has 50 employees or fewer; is independently owned; is a small business concern as defined pursuant to the Small Business Act; emits less than 5 tons/year of any single hazardous air pollutant and less than 15 tons/year of any combination of hazardous air pollutants; emits less than 25 tons/year of any criteria pollutant; has an annual gross revenue that does not exceed $5,000,000; is not a major stationary source; and does not incinerate, recycle, or recover any off-site hazardous, toxic, industrial, medical, or municipal waste.

Note 16. - Note 20. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.i. …

(a). five tons per year for each criteria pollutant as defined by the Clean Air Act;

2.d.i.(b). - 4.a. …

i. the source emits and has the potential to emit no more than 5 tons per year of any criteria pollutant;

4.a.ii. - 5. …

Table 1. Insignificant Activities List
A. Based on Size or Emission Rate Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1.external combustion equipment with a design rate greater than or equal to 1 million Btu per hour, but less than or equal to 10 million Btu per hour, provided that the aggregate criteria pollutant emissions from all such units listed as insignificant do not exceed 5 tons per year;
2.storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
4. - 5. …
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
7. …
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate criteria or toxic air pollutant emissions from all such tanks listed as insignificant do not exceed 5 tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;

Table 1. Insignificant Activities List
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, Subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided that the aggregate emissions from all such operations listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act.
B. - B.46. …
C. Based on Type of Pollutant Emissions of the following pollutants need not be included in a permit application:
1. - 2. …
3. nitrogen; and
4. hydrogen.
D. Exemptions Based on Emissions Levels The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate. a. The emissions unit emits and has the potential to emit no more than 5 tons per year of any criteria or toxic air pollutant. b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant. c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant. a. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

[1] State or federal regulations may apply.

B.6. - 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), LR 37:

§503. Minor Source Permit Requirements

A. - B.1. …

2. Small Source Permit. The owner or operator of a stationary source which is not a *Part 70 source* as defined in LAC 33:III.502 may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any criteria pollutant and 10 tons per year of any toxic air pollutant.

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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 37:

§523. Procedures for Incorporating Test Results

A. - A.1.a. …

b. increases in permitted emissions will not exceed 5 tons per year for any criteria or toxic air pollutant;

A.1.c. - B.5. …

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), LR 37:

§537. Louisiana General Conditions

A. …

Table 1. Louisiana Air Emission Permit General Conditions
I. - XVI. …
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 of criteria and toxic air pollutants; 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. - XX. ..

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), amended LR 37:

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. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows.

* * *

Independent Small Marketer of Gasoline (ISBM)—a person engaged in the marketing of gasoline who would be

required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

a. is a refiner; or

b. controls, is controlled by, or is under common control with, a refiner; or

c. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or

d. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term *refiner* shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. Control of a corporation means ownership of more than 50 percent of its stock.

* * *

Small Business Stationary Source—a stationary source that:

a. is owned or operated by a person that employs 100 or fewer individuals;

b. is a small business concern as defined in the Small Business Act;

c. is not a major stationary source;

d. does not emit 50 tons or more per year of any criteria or toxic air pollutant; and

e. emits less than 75 tons per year of all criteria or toxic air pollutants.

* * *

B. - 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), LR 34:2397 (November 2008), LR 37:

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 proposed regulations by AQ315. Such comments must be received no later than March 1, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ315. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on February 22, 2011, 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.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Green House Gases

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

The proposed rule change may result in a minimal increase in Department of Environmental Quality administrative costs associated with reviewing and preparing Prevention of Significant Deterioration (PSD) permits for greenhouse gases. However, these costs will be offset with the surcharge associated with the PSD permit program.

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

The proposed rule change may result in an indeterminable increase in revenue collections due to receipt of fees associated with PSD permit applications for greenhouse gases. Any additional permit fees will be deposited into the Environmental Trust Fund.

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

The owner or operator of sources which emit or have the potential to emit carbon dioxide (CO_2) will be affected by the proposed rule. The rule removes CO_2 from the list of pollutants that "need not be included in a permit application." Information concerning potential emissions of greenhouses gases (GHGs), which include CO_2, will be necessary in order for LDEQ to assess major source status and applicability of the Prevention of Significant Deterioration (PSD) program once GHGs become "subject to regulation" on January 2, 2011. Thus, permit applicants will be required to calculate and include in permit applications estimates of CO_2 emissions.

Because permit applicants are already required to submit calculations addressing criteria and toxic air pollutants, determining emissions of CO_2 (which is necessary to quantify GHGs) should not be overly burdensome. Emission factors for CO_2 are generally available in AP-42, EPA's Compilation of Air Pollutant Emission Factors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1101#057	Legislative Fiscal Office

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Criteria Pollutant—any compound for which an ambient air quality standard has been listed in LAC 33:III.Chapter 7; however, *volatile organic compounds*, as defined in this Section, shall be included as a surrogate for ozone.

* * *

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 14:348 (June 1988), LR 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009), LR 36:1773 (August 2010), LR 37:**.

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.13.d.iii. …

e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a ~~major source~~ *Part 70 source* as defined in LAC 33:III.502. The permitted source must also emit ~~and~~or have the potential to emit less than 25 tons/year of any ~~regulated~~ criteria pollutant, and less than 10 tons per year of any toxic air pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees

14. - 15.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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:**.

§223. Fee Schedule Listing

Table 1. - Explanatory Notes for Fee Schedule.

Note 1. - Note 14a. …

Note 15. Applications must be accompanied by a certificate of eligibility authorized by the department's Small Business Technical Assistance Program. Final determination of a facility's eligibility is to be made by the administrative authority or his designee and may be based on (but not limited to) the following factors: risk assessment, proposed action, location, etc. For the purpose of this Chapter a small business is a facility which: has 50 employees or fewer; is independently owned; is a small business concern as defined pursuant to the Small Business Act; emits less than 5 tons/year of any single hazardous air pollutant and less than 15 tons/year of any combination of hazardous air pollutants; emits less than 25 tons/year of any ~~regulated~~criteria pollutant; has an annual gross revenue that does not exceed $5,000,000; is not a major stationary source; and does not incinerate, recycle, or recover any off-site hazardous, toxic, industrial, medical, or municipal waste.

Note 16. - Note 20. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:**.

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.i. …

(a). five tons per year for each ~~of any regulated air~~criteria pollutant as defined by the Clean Air Act,

(b). - B.4.a. …

i. the source emits and has the potential to emit no more than 5 tons per year of any ~~regulated air~~criteria pollutant;

ii. - 5. …

Table 1.Insignificant Activities List
A. Based on Size or Emission Rate Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1. external combustion equipment with a design rate greater than or equal to 1 million Btu per hour, but less than or equal to 10 million Btu per hour, provided that the aggregate criteria pollutant emissions from all such units listed as insignificant do not exceed 5 tons per year;
2. storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;

Table 1.Insignificant Activities List
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
A.4. - A.5. …
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
A.7. …
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate criteria or toxic air pollutant emissions from all such tanks listed as insignificant do not exceed 5 tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, Subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
11. catalyst charging operations, provided that the aggregate emissions from all such operations listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act; and
12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed 5 tons per year of criteria or toxic air pollutants, do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act.
B. - B.46. …
C. Based on Type of Pollutant Emissions of the following pollutants need not be included in a permit application:
C.1. - C.2. …
~~3. carbon dioxide;~~
~~4~~3. nitrogen; and
~~5~~4. hydrogen.

Table 1.Insignificant Activities List
D. Exemptions Based on Emissions Levels
The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate. a. The emissions unit emits and has the potential to emit no more than 5 tons per year of any ~~regulated~~ criteria or toxic air pollutant. b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant. c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant. d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

[1] State or federal regulations may apply.

6. - 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), LR 37:**.

§503. Minor Source Permit Requirements

A. - B.1. …

2. Small Source Permit. The owner or operator of a stationary source which is not a ~~major source~~*Part 70 source* as defined in LAC 33:III.502 may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any ~~regulated~~criteria pollutant and 10 tons per year of any toxic air pollutant.

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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 37:**.

§523. Procedures for Incorporating Test Results

A. - A.1.a. …

b. increases in permitted emissions will not exceed 5 tons per year for any ~~regulated~~criteria or toxic air pollutant;

c. - B.5. …

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), LR 37:**.

§537. Louisiana General Conditions

A. …

Table 1.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 of criteria and toxic air pollutants; 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.
* * *

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), LR 37:**.

Chapter 21. Control of Emission of Organic Compounds

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows.

* * *

Independent Small Marketer of Gasoline (ISBM)—a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

~~1~~a. is a refiner; or

~~2~~b. controls, is controlled by, or is under common control with, a refiner; or

~~3~~c. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or

~~4~~d. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term *refiner* shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. Control of a corporation means ownership of more than 50 percent of its stock.

* * *

Small Business Stationary Source—a stationary source that:

~~1~~a. is owned or operated by a person that employs 100 or fewer individuals;

~~2~~b. is a small business concern as defined in the Small Business Act;

~~3~~c. is not a major stationary source;

~~4~~d. does not emit 50 tons or more per year of any ~~regulated~~criteria or toxic air pollutant; and

~~5~~e. emits less than 75 tons per year of all ~~regulated~~criteria or toxic air pollutants.

* * *

B. - 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), LR 34:2397 (November 2008), LR 37:**.

of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011).

Herman Robinson, CPM
Executive Counsel

1104#011

RULE

Department of Environmental Quality
Office of the Secretary

Non-Road Engines
(LAC 33:III.501 and 502)(AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;
2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and
3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

> "exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21."

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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.b. …

c. mobile sources such as automobiles, trucks, and aircraft;

d. any *upset*, as defined in LAC 33:III.507.J.1; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39; or

e. a *nonroad engine*, as defined in LAC 33:III.502.A.

2. - 5. …

Table 1. - Insignificant Activities List
* * * [See Prior Text in A. – B.3.]
4. vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources. . This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
* * * [See Prior Text in B.5 - D.]

B.6. - C.14. …

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), LR 37:1391 (May 2011).

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this

Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

Nonroad Engine—

a. Except as discussed in Subparagraph b of this definition, a nonroad engine is any internal combustion engine:

i. used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers);

ii. used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

iii. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

b. An internal combustion engine is not a nonroad engine if:

i. the engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition;

ii. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or

iii. the engine otherwise included in Clause a.iii of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location for approximately three months (or more) each year. [Note: Clause b.iii of this definition does not apply to an engine after it is removed from the location.]

* * *

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 Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1391 (May 2011).

Herman Robinson, CPM
Executive Counsel

1105#033

RULE

Board of Trustees of the Firefighters' Pension and Relief Fund

Tax Qualification Provisions (LAC 58:V.2001)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans ("fund"), pursuant to R.S. 11:3363(F), has amended LAC 58:V. The restatement and amendment adds a Chapter 20 to address federal tax qualification issues. All currently stated rules of the fund, unless amended herein, shall remain in full force and effect.

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity
Chapter 20. Tax Qualification Provisions
§2001. General Provisions

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the Internal Revenue Code of 1986, as amended. In accordance with the requirements of the Internal Revenue Code, the following provisions shall apply to the fund.

1. The assets of the fund shall be held for the exclusive benefit of the members of the fund, the retirees thereof, and the survivors and beneficiaries of the retirees and members. No part of the funds held by the trustees of the fund shall be used or diverted for any reason, including any contingency or event or by any other means, to other purposes, including but not limited to reversion to any employer.

2. The retirement benefit of a member shall be fully vested and nonforfeitable no later than the date on which he becomes eligible to retire. Benefits of members shall also become vested and nonforfeitable upon the termination of the fund or the complete discontinuance of contributions to the system.

3. Forfeitures shall not be used to increase the benefits of the remaining members of the fund. This shall specifically not preclude any increase in benefits by amendment to the benefit formula made possible by a change in contribution rate, favorable investment results, or other means.

4. A member's benefit shall begin to be distributed not later than the latest date provided for the commencement of benefits for governmental plans under section 401(a)(9)(C) of the Internal Revenue Code of 1986, as amended. Distributions to a surviving spouse, dependent, successor and/or beneficiary of a member shall be made at least as soon as distributions are required to be made by qualified governmental plans under the Internal Revenue Code of 1986, as amended. Benefits payable shall be limited in accordance with IRC section 415 and applicable treasury regulations as applied to governmental plans.

5. In computing benefit accruals, there shall not be taken into account compensation in excess of the limitations specified in section 401(a)(17) of the Internal Revenue Code, as amended. Such compensation limit was $200,000 for tax years beginning after December 31, 2001.

DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.
March 29, 2011

AQ317 — Non-Road Engines
AQ318 — Pm2.5 NSR Implementation Rule

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
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Michelle Morgan	LDEQ				
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Brenda Hayden	DEQ				NO
Henry Graham	LCA	One Amer Place #2040	BR La 70825	376 7642	N
N.B. Mills	LDEQ				N

In The Matter Of:

NON-ROAD ENGINES

Log Number: AQ 317

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LEGAL AFFAIRS DIVISION

DEPARTMENT OF ENVIRONMENTAL QUALITY

April 29, 2011

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Page 1

DEPARTMENT OF ENVIRONMENTAL QUALITY

NON-ROAD ENGINES

Log Number: AQ 317

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 March 29, 2011.

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

Page 2

HEARING

MS. RICE:

Good afternoon! My name is Susan Rice. 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 air regulations.

The comment period for these amendments began on February 20, 2011, when the notices of intent were published in the Louisiana Register. The comment period will close at 4:30 p.m., April 5, 2011. 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

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allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

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

The first amendment is designated by the Log Number AQ317.

In order to eliminate the overlap between LAC 33:III.501.B.1.c, and LAC 33:iii.501.B5, Item B.4 and to correct an apparent discrepancy in Item B.4: One, a general exemption for, quote, "nonroad engines," unquote, will be created under LAC 33:III.501.B.1; two, references to, quote, "exhaust emissions," unquote, from self-propelled mobile sources will be removed from Item B.4; and three, references to, quote, "transportable emissions units," unquote, will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under

Page 4

"B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and, quote, "transportable," unquote, emissions units as follows:

Exhaust emissions or vehicle refueling emissions from cars, trucks, folklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c,

Page 5

which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts, quote, "transportable," unquote, emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses, quote, "nonroad engines," unquote, in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities.

Does anyone care to comment on this regulation? If not, the hearing on AQ317 is closed.

THE HEARING ENDED AT 1:34 P.M.

* * * * *

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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

Page 7

CERTIFICATION

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

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ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

NON-ROAD ENGINES

Log Number: AQ 317

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 March 29, 2011.

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

1 H E A R I N G
2 MS. RICE:
3 Good afternoon! My name is Susan
4 Rice. 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 air
9 regulations.
10 The comment period for these
11 amendments began on February 20, 2011,
12 when the notices of intent were
13 published in the Louisiana Register.
14 The comment period will close at 4:30
15 p.m., April 5, 2011. It would be
16 helpful to us if all oral comments
17 received today were followed up in
18 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 opportunity to
2 express your thoughts concerning today's
3 proposed amendments.
4 I'll ask that each person
5 commenting please come up and sit at the
6 front table and begin by stating his or
7 her name and affiliation for the record.
8 The first amendment is designated
9 by the Log Number AQ317.
10 In order to eliminate the overlap
11 between LAC 33:III.501.B.1.c, and LAC
12 33:iii.501.B5, Item B.4 and to correct
13 an apparent discrepancy in Item B.4:
14 One, a general exemption for, quote,
15 "nonroad engines," unquote, will be
16 created under LAC 33:III.501.B.1; two,
17 references to, quote, "exhaust
18 emissions," unquote, from self-propelled
19 mobile sources will be removed from Item
20 B.4; and three, references to, quote,
21 "transportable emissions units,"
22 unquote, will be removed from Item B.4.
23 LAC 33:III.501.B.5 establishes the
24 insignificant activities list in the air
25 quality regulations. Activities under

1 "B" need not be included in a permit
2 application. Item B.4 of this list
3 addresses self-propelled mobile sources
4 and, quote, "transportable," unquote,
5 emissions units as follows:
6 Exhaust emissions or vehicle
7 refueling emissions from cars, trucks,
8 folklifts, courier vehicles, front
9 loaders, graders, cranes, carts,
10 maintenance trucks, locomotives,
11 helicopters, marine vessels, and other
12 self-propelled on-road and nonroad
13 mobile sources unless required to obtain
14 a permit under Title V of the Clean Air
15 Act. This exemption does not include
16 any transportable emissions units such
17 as temporary compressors or boilers,
18 unless regulated by Title II of the
19 Clean Air Act. This exemption does not
20 cover loading racks or fueling
21 operations covered by LAC 33:III.Chapter
22 21.
23 With respect to exhaust emissions
24 from self-propelled mobile sources, Item
25 B.4 duplicates LAC 33:III.501.B.1.c,

which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts, quote, "transportable," unquote, emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses, quote, "nonroad engines," unquote, in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities.

Does anyone care to comment on this regulation? If not, the hearing on AQ317 is closed.

THE HEARING ENDED AT 1:34 P.M.

* * * * *

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 Mark LaCour, C.C.R.
24 # 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
MARK LACOUR
Certified Court Reporter
24 In and for the State of Louisiana
Certificate Number 89054
25 Certificate expires 12-31-11

Mark LaCour, C.C.R.
89054

In The Matter Of:

NON-ROAD ENGINES

Log Number: AQ 317

DEPARTMENT OF ENVIRONMENTAL QUALITY

April 29, 2011

Associated Reporters Inc.

2431 South Acadian Thruway

Suite 550

Baton Rouge, LA 70808

(225) 216-2036 Fax (225) 216-2220

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after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

(a). up to the equivalent of eight full time semesters of postsecondary education in full time semesters for the TOPS Opportunity, Performance and Honors Award; or

(b). up to the equivalent of two years of postsecondary education in full time semesters and summer sessions for the TOPS Tech Award.

b. Beginning with the spring semester, quarter or term of the 2010-2011 award year:

i. the tuition and mandatory fees authorized in Subparagraph a above; or

ii. the tuition fee amount published by the postsecondary institution, whichever is greater.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2011), LR 37:

Family Impact Statement

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

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG11125NI) until 4:30 p.m., March 14, 2011, 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: Scholarship/Grant Programs—Tuition

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

Taylor Opportunity Program for Students (TOPS) expenditures will increase by an estimated $623,000 in Fiscal Year 2010-11 due to the requirement under R. S. 17:3048.1 to pay a TOPS award amount that is equal to the tuition charged by participating institutions and the fact that, in implementing authorized increases to tuition and mandatory fees, the approved tuition at some institutions has increased more than others. TOPS Awards may increase by an estimated $685,000 in Fiscal Year 2011-12 and $754,000 in Fiscal Year 2012-13. These estimates in Fiscal Years 2012-13 and 2013-14 are based on the maximum 10 percent increase each year authorized by Act 915 of 2008 and the Grad Act of 2010. However, the actual amounts could be more or less depending on Grad Act educational performance goals and future increases authorized by the Legislature. The Louisiana Office of Student Financial Assistance can fund these additional Awards in Fiscal Year 2010-11 with the agency's current appropriation amount.

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)

Adjusting the maximum TOPS payment to comply with the provisions of R.S. 17:3048.1 will result in some students receiving an increased TOPS Award Amount to pay their cost of attendance (tuition, books, room and board etc.) and thus reducing their out-of-pocket expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and Employment will not be affected by the proposed change.

George Badge Eldredge	Evan Brasseaux
General Counsel	Staff Director
1102#001	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Non-Road Engines
(LAC 33:III.501 and 502)(AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;

2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and

3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

"exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21."

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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.b. …

c. mobile sources such as automobiles, trucks, and aircraft;

d. any *upset*, as defined in LAC 33:III.507.J.1; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39; or

e. a *nonroad engine*, as defined in LAC 33:III.502.A.

2. - 5. …

Table 1. - Insignificant Activities List
* * * [See Prior Text in A. – B.3.]
4. vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources. . This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
* * * [See Prior Text in B.5 – D.]

B.6. - 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), LR 37:

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

Nonroad Engine—

a. Except as discussed in Subparagraph b of this definition, a nonroad engine is any internal combustion engine:

i. used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers);

ii. used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

iii. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

b. An internal combustion engine is not a nonroad engine if:

i. the engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition;

ii. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or

iii. the engine otherwise included in Clause a.iii of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single

location on a permanent basis (i.e., at least two years) and that operates at that single location for approximately three months (or more) each year. [Note: Clause b.iii of this definition does not apply to an engine after it is removed from the location.]

* * *

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 Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:

Family Impact Statement

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

Public Hearing

A public hearing will be held on March 29, 2011, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Non-Road Engines

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

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule creates a general exemption for "non-road engines," which are currently addressed in the Insignificant Activities (IA) list. It also removes "exhaust emissions" from mobile sources from the IA list, as a general exemption for such emissions already exists. Finally, "transportable emissions units" will be deleted from the IA list. As noted above, non-road engines, a type of transportable emissions unit, will be addressed by a general exemption. Other transportable emissions units should not be considered "insignificant" under the existing provision because they are not regulated by Title II of the Clean Air Act.

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 as a result of the proposed rule.

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1102#068	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Pm2.5 NSR Implementation
(LAC 33:III.504 and 509)(AQ318)

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.504 and 509 (Log #AQ318).

This Rule incorporates the provisions of the Environmental Protection Agency's (EPA) final rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM2.5)", found at 73 FR 28321, May 16. 2008, into the Louisiana air quality regulations. This action also addresses concerns raised by the EPA in correspondence dated January 24, 2008. The Clean Air Act requires both major and minor NSR programs to address any pollutant for which there is a National Ambient Air Quality Standard (NAAQS) and precursors to the formation of such pollutant when identified for regulation by EPA. EPA's PM2.5 NSR implementation Rule amends the federal NSR regulations to establish the minimum elements for state programs implementing NSR for the PM2.5 NAAQS and requires states with SIP-approved PSD programs (like Louisiana) to "submit revised PSD programs and revised NNSR programs for PM2.5" by May 16, 2011. By letter dated January 24, 2008, EPA submitted comments on revisions to LDEQ's Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) rules promulgated on December 20, 2005. LDEQ responded to EPA's concerns on October 6,

2/28/11

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Acadiana's Daily Newspaper

THE ADVERTISER

1100 Bertrand Drive
LAFAYETTE, LA 70506

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

AFFIDAVIT OF PUBLICATION

Laura Almond
LA Department of Environmental Quality
OSEC/Legal Affairs Division
Remediation & Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302

Account No.: 8DEQRD
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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
Non-Road Engines
(LAC 33:III.501.B.1.e and 502.A.) (AQ317)

was published in THE ADVERTISER on the following dates:

***Wednesday, February 16, 2011**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 16th day of February, 2011.

Christie Veazey

Notary Public - Christie Veazey ID# 058555

390923

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Non-Road Engines
(LAC 33:III.501.B.1.e
and 502.A.) (AQ317)

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In order to eliminate he overlap between AC 33:III.501.B.1.c nd LAC 33:III.501.B.5, em B.4 and to correct n apparent discrepany in Item B.4:

1. a general exemption for "nonroad engines" will be created nder LAC 3:III.501.B.1;

2. references to "exaust emissions" from elf-propelled mobile ources will be reoved from Item B.4; nd

3. references to transportable emisons units" will be reoved from Item B.4.

LAC 33:III.501.B.5 esblishes the insignifiant activities list in he air quality regulaons. Activities under B" need not be includd in a permit applicaon. Item B.4 of this st addresses selfropelled mobile soures and "transportale" emissions units as llows:

xhaust emissions or ehicle refueling emisons from cars, ucks, forklifts, couri- vehicles, front loads, graders, cranes, arts, maintenance ucks, locomotives, elicopters, marine essels, and other selfropelled on-road and onroad mobile soures unless required to btain a permit under itle V of the Clean Air ct. This exemption oes not include any ansportable emisons units such as mporary compresors or boilers, unless egulated by Title II of he Clean Air Act. This xemption does not over loading racks or eling operations coved by LAC 3:III.Chapter 21.

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Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 aufonomy as described in R.S. 49:972.

A public hearing will be held on March 29, 2011, 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 AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson,
CPM

2/28/11 (2)

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The Times

PROOF OF PUBLICATION

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 Non-Road Engines (AQ317)

February 20, 2011

(Signed) Altheas Critton

Sworn to and subscribed before me this 22nd day of February, 2011

Diana W. Barber

(Notary)

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

GANNETT

Public Notices

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Non-Road Engines (LAC 33:III.501.B.1.e and 502.A.) (AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;
2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and
3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 29, 2011, 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 AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are 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: February 20, 2011

POTPOURRI

2/28/11 (2)

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The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097 TELEPHONE (504) 826-3201

Exhibit A Attached

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: Non-Road Engines (LAC 33:III.501.B.1.e and 502.A.) (AQ317)

Advertisement of Louisiana Dept of Environmental Quality
PO Box 4301
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave
New Orleans, LA 70125

On the following dates February 18, 2011

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.

Elizabeth C Darcey

Sworn to and subscribed before me this 18th Day of February, 2011

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

Non-Road Engines
(LAC 33:III.501.B.1.e and 502.A.)
(AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;
2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and
3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 29, 2011, 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

2/28/11 (e)

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Affidavit of Publication

RECEIVED
FEB 24 2011
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dehlens

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:

00664347 - $51.00
February 17, 2011

Karen Dehlens
Duly Authorized Agent

Subscribed and sworn to before me on this 17th day of February, 2011 at Lake Charles, LA

Jacqueline M Fontenot
Jacqueline M. Fontenot Notary Public
#23111

00053262
LDEQ-OSEC-LAD

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Non-Road Engines (LAC 33:III.501.B.1.e and 502.A.) (AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;

2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and

3. references to "transportable emissions units" will be removed from Item B.4. LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

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Herman Robinson, CPM
Executive Counsel

Feb 17 1t
00664347

CAPITAL CITY PRESS

2/28/11 ②

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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:

02/16/11

Susan A. Bush, Public Notice Clerk

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

February 16, 2011

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

Non-Road Engines
(LAC 33:III.501.B.1.e and 502.A.) (AQ317)

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exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 29, 2011, 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 AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx

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

Herman Robinson, CPM
Executive Counsel

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DEQ - OSEC/LAD REG ***4421130***
LAURA ALMOND
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

2/28/11 (b)

CERTIFIED COPY

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Non-Road Engines
(LAC 33:III.501.B.1.e and 502.A.) (AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;

2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and

3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 29, 2011, 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 amendment. 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 AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

HERMAN ROBINSON, CPM
Executive Counsel

(2) 16

I, Harold Constance, Classified Sales Manager

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Public Notice (AQ317)

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 16, 2011 and ending with the

issue dated February 16, 2011.

Harold Constance

Subscribed and sworn to before me this 16th day

of February, 2011 at Alexandria, Louisiana.

Denise D. Fossett
Notary Number 60164
My commission is for life.

2/28/11 (D)

CERTIFIED COPY

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 17, 2011

LEGAL AD DEPT.

Sworn and subscribed before me by

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

21st day of February 20 11 AD

SARAH M. WALKER
OUACHITA PARISH
NOTARY PUBLIC

Sarah M Walker

NOTARY PUBLIC

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Non-Road Engines
(LAC 33:III.501.B.1.e and 502.A.) (AQ317)

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.B.1.e and 502.A. (AQ317).

In order to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4:

1. a general exemption for "nonroad engines" will be created under LAC 33:III.501.B.1;

2. references to "exhaust emissions" from self-propelled mobile sources will be removed from Item B.4; and

3. references to "transportable emissions units" will be removed from Item B.4.

LAC 33:III.501.B.5 establishes the insignificant activities list in the air quality regulations. Activities under "B" need not be included in a permit application. Item B.4 of this list addresses self-propelled mobile sources and "transportable" emissions units as follows:

exhaust emissions or vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources unless required to obtain a permit under Title V of the Clean Air Act. This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21.

With respect to exhaust emissions from self-propelled mobile sources, Item B.4 duplicates LAC 33:III.501.B.1.c, which states that the requirement to obtain a permit in accordance with LAC 33:III.Chapter 5 does not apply to mobile sources such as automobiles, trucks, and aircraft.

Item B.4 also exempts "transportable" emissions units such as temporary compressors or boilers if they are regulated by Title II of the Clean Air Act. Title II addresses "nonroad engines" in Section 213 (42 U.S.C. 7547); however, it does not address boilers. Consequently, portable boilers should not be classified as insignificant activities. The basis and rationale for this rule are to eliminate the overlap between LAC 33:III.501.B.1.c and LAC 33:III.501.B.5, Item B.4 and to correct an apparent discrepancy in Item B.4. 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 29, 2011, 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 AQ317. Such comments must be received no later than April 5, 2011, 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) 219-4068 or by e-mail to donald.trahan@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ317. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

Monroe, LA
February 17, 2011
0001390875

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.1.b. …

c. mobile sources such as automobiles, trucks, and aircraft; ~~or~~

d. any *upset*, as defined in LAC 33:III.507.J.1; however, the permitting authority shall be advised of such occurrences without delay, in accordance with all applicable upset or emergency provisions of Louisiana Air Quality regulations and of LAC 33:I.Chapter 39~~.~~; or

e. a *nonroad engine*, as defined in LAC 33:III.502.A.

2. - 5. …

Table 1. - Insignificant Activities List	
* * * [See Prior Text in A. – B.3.]	
4.	~~exhaust emissions or~~vehicle refueling emissions from cars, trucks, forklifts, courier vehicles, front-loaders, graders, cranes, carts, maintenance trucks, locomotives, helicopters, marine vessels, and other self-propelled on-road and nonroad mobile sources~~unless required to obtain a permit under Title V of the Clean Air Act~~. ~~This exemption does not include any transportable emissions units such as temporary compressors or boilers, unless regulated by Title II of the Clean Air Act~~. This exemption does not cover loading racks or fueling operations covered by LAC 33:III.Chapter 21;
* * * [See Prior Text in B.5 – D.]	

B.6. - 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), LR 37:1145, 1148 (April 2011), LR 37:1391 (May 2011).

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

Nonroad Engine—

a. Except as discussed in Subparagraph b of this definition, a nonroad engine is any internal combustion engine:

i. used in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes, and bulldozers);

ii. used in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

iii. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

b. An internal combustion engine is not a nonroad engine if:

i. the engine is used to propel a motor vehicle, an aircraft, or equipment used solely for competition;

ii. the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the Act (42 U.S.C. 7411); or

iii. the engine otherwise included in Clause a.iii of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure,

facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location for approximately three months (or more) each year. [Note: Clause b.iii of this definition does not apply to an engine after it is removed from the location.]

* * *

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 Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1148 (April 2011), LR 37:1391 (May 2011).

review a working draft permit renewal or a modification to a hazardous waste, solid waste, water discharge, or air quality permit before public notice is provided. If the draft permit includes revisions to an existing permit, the working draft permit, as defined in LAC 33:I.1503, shall clearly identify each change made by the department to the existing permit.

2. When public notice is not required, the department shall provide the applicant with a reasonable opportunity to review the working draft permit or permit modification prior to a final permit decision if:

a. a technical review period, as defined in LAC 33:I.1503, is requested by the applicant; or

b. the department proposes modifications or revisions not associated with the applicant's request. In lieu of a technical review period, the department may reopen the permit in accordance with applicable law.

3. When a technical review period is not requested or required by Subparagraph A.2.b of this Section, an opportunity to review a working draft permit may be provided to the permit applicant upon a determination of need by the department.

B. Permit Differences Report. If requested by the permit applicant, the department shall transmit to the applicant, with the working draft permit, a permit differences report, as defined in LAC 33:I.1503, when such report can be generated by the department's database, as defined in LAC 33:I.1503. Where the database cannot generate a permit differences report, a written summary of specific changes to the existing permit shall be provided whenever the department prepares a draft database permit renewal, extension, or substantial modification.

C. The technical review period shall be no longer than 10 business days. The department may extend the review period upon request of the permit applicant.

D. The permit applicant shall name a designated contact to receive the working draft permit, and provide the appropriate mailing and electronic mail addresses for the contact. Hardcopies of working draft permits shall be provided only when electronic copies are not available.

E. Comments on a working draft permit provided by the permit applicant shall be submitted by the designated contact using the appropriate form provided by the department.

F. When public notice is required, the notice shall indicate that a working draft of the proposed permit was provided to the permit applicant's designated contact and that any remarks submitted on behalf of the permit applicant, and the department's responses thereto, are included in the permit record that is available for public review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:1586 (July 2012), repromulgated LR 38:1954 (August 2012).

Herman Robinson, CPM
Executive Counsel

1208#061

RULE

Department of Environmental Quality
Office of the Secretary

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities (LAC 33:III.317)(AQ321)

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 (AQ321).

This Rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities. The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this Rule are to establish a regulatory permit to authorize air emissions from concrete, rock, and asphalt crushing 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
§317. Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of rock, concrete, and asphalt crushing facilities, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection H of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both fixed and portable crushers. Fixed crushers are those attached by a cable, chain, turnbuckle, bolt, or other means to any anchor, slab, or structure, including bedrock.

B. New Source Performance Standards. Each fixed crusher with a capacity of more than 25 tons per hour and each portable crusher with a capacity of more than 150 tons per hour for which construction, modification, or reconstruction commenced after August 31, 1983, shall comply with the applicable provisions of 40 CFR 60, Subpart OOO–Standards of Performance for Nonmetallic Mineral Processing Plants. Modification and reconstruction are described in 40 CFR 60.14 and 15, respectively.

C. Control of Fugitive Emissions

1. 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.

2. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, 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, active 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.

4. If dust cannot be controlled by other means, the department may require permanently mounted spray bars to be installed at the inlet and outlet of the crusher, at all shaker screens, and/or at all material transfer points and used as necessary.

5. Best housekeeping and maintenance practices shall be employed to minimize emissions of organic compounds. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

D. 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 no less than once every six months or more frequently if daily 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 D.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph D.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph D.1.c of this Section.

3. The daily monitoring and recordkeeping requirements in this Subsection shall not apply when the crusher is not operational.

E. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including any used oil, facility byproducts, or other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used as a fuel in ICEs.

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. Subparagraph E.2.a of this Section shall not apply if the presence of uncombined water is the only reason for failure of an emission to meet the opacity limitations.

b. Monitoring, Recordkeeping, and Reporting

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, within 3 operating days.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity in accordance with Method 9 of 40 CFR 60, Appendix A, the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading shall be repeated in accordance with Method 9. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after the occurrence of any Method 9 readings 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. 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).

4. 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.

5. 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.

F. Operating Time. The crusher and associated equipment (excluding stockpiles and storage vessels) shall not operate for more than 4380 hours per calendar year.

1. Operating time shall be monitored by any technically sound means.

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

G. Monitoring of Capacity. The department may require the crusher to be equipped with a weigh hopper or scale belt to accurately determine the weight of material being crushed.

H. Notification Requirements. Written notification describing the crusher shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification form shall be submitted for each crusher.

I. Relocation. The permittee shall notify the department prior to moving the crusher to a new operating site. The permittee shall obtain approval from the department before commencing operations at a new site.

J. Standby Plan. The permittee shall develop and retain on site 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 designed in accordance with the objectives set forth in LAC 33:III.5611, Tables 5, 6, and 7.

1. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 5 when the department declares an Air Pollution Alert.

2. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 6 when the department declares an Air Pollution Warning.

3. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 7 when the department declares an Air Pollution Emergency.

K. Fees. In accordance with LAC 33:III.223, Table 1, the new permit application fee for this regulatory permit shall be $2,080 (fee number 0870). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $416. If potential emissions from the crusher are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, then fee number 1722 located in LAC 33:III.223, Table 1 shall apply in accordance with LAC 33:III.211.B.13.e.

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 38:1955 (August 2012).

Herman Robinson, CPM
Executive Counsel

1208#062

RULE

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Certification of Transcript (LAC 46:XXI.1103)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters has amended the court reporting procedures Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 11. Court Reporting Procedures
§1103. Certification of Transcript

A. Effective January 1, 2013, each certified court reporter shall attest to the accuracy of every transcript prepared by that reporter by dating, signing, and sealing a certification page containing substantially the following language.

> This certification is valid only for a transcript accompanied by my original signature and original required seal on this page.
>
> I, [reporter's name], Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that [name of person(s) to whom oath was administered], after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing [number of] pages; that this testimony was reported by me in the [stenotype; stenomask; penwriter; electronic] reporting method, 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 the transcript has been prepared in compliance with transcript format guidelines required by statute or by rules of the board, that I have acted in compliance with the prohibition on contractual relationships, as defined by Louisiana Code of Civil Procedure Article 1434 and in rules and advisory opinions of the board; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

B. ...

C. Effective January 1, 2013, each certified official or deputy official court reporter shall attest to the accuracy of every transcript prepared by that reporter by dating, signing, and sealing a certification page containing substantially the following language.

> This certificate is valid only for a transcript accompanied by my original signature and original required seal on this page.

Comment Summary Response & Concise Statement – Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities LAC 33:III.317 Log Number AQ321

COMMENT 1: There is not one sentence in this Notice of Intent (AQ321) that refers to the Environmental/Health Impact of PEOPLE that are exposed to the Toxic Dust/particles. "No report required"? An Environmental Impact Study needs to be conducted. Why not use some of the money from the oil and gas revenues? CIPA? That is where the money is coming from for coastal restoration and "recycling" projects such as the dump/toxic concrete crushing operation taking place in Lakeshore Estates (Slidell Site) this very minute; right in the middle of a residential neighborhood. Which neighborhood next?

FOR: An environmental impact study needs to be conducted.

AGAINST: A report regarding environmental/health benefits and social/economic costs associated with this rulemaking is not required.

RESPONSE 1: This Comment Summary Response & Concise Statement pertains only to the rulemaking promulgating the regulatory permit for rock, concrete, and asphalt crushing facilities (LAC 33:III.317). LAC 33:III.317 does not authorize the construction and/or operation of any rock, concrete, and asphalt crushing facility, and does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana (i.e., Bertucci Contracting Company, LLC – see below).

LAC 33:III.303.H requires an applicant seeking to authorize air emissions using a regulatory permit to submit an application to the Louisiana Department of Environmental Quality (LDEQ). LAC 33:III.305.A precludes operation of the source or activity addressed by a regulatory permit until LDEQ has notified the applicant that the application has been determined to be complete.

The Notice of Intent states that the 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

* indicates a fast-track regulation

social/economic costs is required." In short, these provisions require LDEQ to make a written determination, based on sound scientific information, that the environmental and public health benefits to be derived from the proposed rule outweigh the social and economic costs reasonably expected to result from the proposed rule. However, this requirement does not apply to any rule that:

- is required for compliance with a federal law or regulation;
- is identical to a federal law or regulation applicable in Louisiana;
- will cost the state and affected persons less than one million dollars, in the aggregate, to implement; or
- is an emergency rule under R.S. 49:953(B).

In the instant case, LAC 33:III.317 will cost the state and affected persons less than one million dollars, in the aggregate, to implement.

On March 7, 2012, LDEQ received a small source permit application from Bertucci Contracting Company, LLC for the PO-36 Orleans Landbridge Shoreline Protection Project, located at 1301 East End Boulevard in Slidell. The permit application, which was subsequently withdrawn, along with other documents related to this facility, can be assessed via LDEQ's Electronic Database Management System (EDMS), http://edms.deq.louisiana.gov, under Agency Interest (AI) 179170.

COMMENT 2: There are many reasons that this Regulatory Permit should not be allowed, the most important: It is a HEALTH HAZARD! The dust contains TOXINS!

Please see the attached pictures taken from my front porch of the 'CONCRETE CRUSHING DUMP/FACILITY ACROSS THE STREET in a gated, exclusive. [*sic*] This should not pass! People should not be exposed to these toxins or have to clean toxins out of their home daily; much less breath [*sic*] in the concrete particles.

FOR: The regulatory permit should not be approved due to the amount of pollution emitted by rock, concrete, and asphalt crushing facilities.

AGAINST: Appropriate safeguards are in place to ensure that human health

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and the environment will not be adversely impacted.

RESPONSE 2: This rulemaking does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana. Complaints concerning this facility should be directed to LDEQ's Single Point of Contact (SPOC). For more information, see http://www.deq.louisiana.gov/portal/tabid/1617/Default.aspx.

When a permit application is received, LDEQ ensures that the proposed facility or modification will not cause air quality impacts which could adversely affect human health or the environment by verifying that potential emissions from the project comply with the federal national ambient air quality standards (NAAQS) and Louisiana ambient air standards (AAS).

The Clean Air Act (Act) required the U.S. Environmental Protection Agency (EPA) to establish health-based NAAQS for pollutants considered harmful to public health and the environment. The Act established two types of standards. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings. According to EPA, air quality that adheres to such standards is protective of public health, animals, soils, and vegetation.

EPA has set NAAQS for six principal pollutants, called criteria pollutants – lead, particulate matter (PM_{10} and $PM_{2.5}$), sulfur dioxide, nitrogen dioxide, carbon monoxide, and ozone. PM_{10} and $PM_{2.5}$ are particles of less than 10 and 2.5 microns in nominal diameter, respectively.

Louisiana has also established risk-based AAS for toxic air pollutants (TAPs). TAPs include the federally-regulated hazardous air pollutants (HAPs), as well as a handful of other compounds such as ammonia and hydrogen sulfide.

While crystalline silica is not regulated as a HAP or a TAP, silica dust is regulated as $PM_{10}/PM_{2.5}$.

COMMENT 3: After reading the referenced AQ321, it's evident why the residents of Lakeshore Estates ("Slidell Site" where citizens are

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being exposed to toxic concrete particles, etc.) have been ignored and have received the "run around"; from the St. Tammany Parish President to the State Capital!

RS: 2054 and RS: 2060
These two revised stats. are not difficult for LDEQ to satisfy in order to obtain a permit for AQ321.....(Would like to see the permit for Lakeshore Estates)

Question: The Secretary of Environmental Quality has the powers and duties to adopt and promulgate rules and regulations regarding Air Quality, when Environmental Studies are not done?

Example: Environmental Impact Study concerning the toxic pollutants that are released in close proximity to humans from a Concrete Crushing Facility. I've asked the DEQ for such an [*sic*] Study, (concerning Slidell Site) a residential neighborhood plagued with such a site; one does not exist. Which Agency would be obligated to conducts these studies, if not the DEQ?

It looks like none of the Agencies involved are (at all) concerned with Public Safety. More emphasis is placed on tolerance for polluters and funding for these projects.

RS: 2052 (not listed in Notice of Intent)
The legislature finds and declares that the purity of the air in the environment is a matter of vital concern to the welfare of the people of the state and to promote an environment free from Pollution that jeopardizes the health and welfare of the citizens of the state, consistent with sound policies for employment and industrial development, it is necessary to establish an efficient method for the regulation and control of discharge of contaminants into the air resources of the state. The legislature further finds and declares the policy of the state of Louisiana to promote an environment free from noise that endangers the health or welfare of its people.

RS: 2053
Definitions
Toxic air pollutant" [*sic*] means an air pollutant which, based on scientifically accepted date is known <u>to cause or can reasonably be anticipated</u> to cause either directly or indirectly through ambient concentrations, exposure levels, bioaccumulation levels,

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or deposition levels, adverse effects in HUMANS, including but not limited to (i) cancer (ii) mutagenic, teratogenic, or Neurotoxic effects (iii) reproductive dysfunction (iv) acute health effects (v) chronic health effects

OPEN AND READ THE SHORT VERSION OF ATTACHED HEALTH HAZARDS!

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

RESPONSE 3: R.S. 30:2060 provides the authority for LDEQ to, among other things, "adopt and promulgate rules and regulations." R.S. 30:2060 is the statutory basis for LDEQ's Comprehensive Toxic Air Pollutant Emission Control Program under LAC 33:III.Chapter 51.

It seems the commenter is concerned that regulations may be promulgated without "environmental studies." This matter is addressed in Response to Comment 1. See Response to Comment 2 for information related to health impacts.

LDEQ is an assertive proponent of a clean and healthy environment – the maintenance of a healthful and safe environment for the people of Louisiana is a matter of critical concern. LDEQ is committed to administering and enforcing the environmental laws of this state to achieve this objective.

Nonetheless, the Louisiana constitution does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social, and other factors.

COMMENT 4: I am writing to express my opposition to the application for a permit which would allow air emissions from concrete, rock and asphalt crushing facilities. This is an outrageous proposition with dangerous consequences to the health and safety of anyone exposed to the toxic by-product of such crushing facilities. I am familiar with such a facility currently operational in Lakeshore Estates in Slidell. This was once an [*sic*] desirable exclusive gated community. Now, due to the constant transport and crushing of hundreds of tons of concrete, the once tranquil and

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scenic neighborhood is engulfed in clouds of toxic dust which the residents cannot avoid breathing, and which penetrates theirs [*sic*] homes. The noise and commotion created by this facility is unbearable. There is no air quality or safety monitoring at this facility. The health of the residents is at jeopardy. The value of their homes have [*sic*] drastically dropped due to the toxic waste dump next door. This cannot be tolerated! THE FACILITY AT LAKESHORE MUST BE SHUT DOWN IMMEDIATELY AND NO OTHER SUCH FACILITIES SHOULD BE CONSIDERED IN POPULATED AREAS.

WE MUST DO EVERYTHING POSSIBLE TO PROTECT OUR FAMILIES AND NEIGHBORS FROM FURTHER DESTRUCTION OF OUR ENVIRONMENT!

FOR: The regulatory permit should not be approved due to the amount of pollution emitted by rock, concrete, and asphalt crushing facilities.

AGAINST: Appropriate safeguards are in place to ensure that human health and the environment will not be adversely impacted.

RESPONSE 4: Regarding health impacts, see Response to Comment 2. Regarding noise, see Response to Comment 7.

COMMENT 5: The Notice of Intent states that there is an "exception" which provides that no report regarding environmental/health benefits and social/economic costs is required. Presently living next to one of these facilities, I beg to differ. This operation is a nuisance which produces loud noises & concrete dust. It is also devaluing our properties.

FOR: An environmental impact study needs to be conducted.

AGAINST: A report regarding environmental/health benefits and social/economic costs associated with this rulemaking is not required.

RESPONSE 5: See Response to Comment 1.

COMMENT 6: The proposed rule states that the emission from the facility cannot be denser than 20 percent average opacity. I don't know what this means, but if the facility is allowed to emit any dust that

* indicates a fast-track regulation

is going to affect people's property & health, it should be prohibited.

FOR: The opacity standard imposed by the regulatory permit should be lower than 20 percent.

AGAINST: The regulatory permit reflects the opacity standard established by LAC 33:III.1311.C; more stringent opacity standards may apply.

RESPONSE 6: Opacity is the degree to which emission reduce the transmission of light and obscure the view of an object in the background. LAC 33:III.303.F mandates that regulatory permits "require compliance will all applicable provisions of the Louisiana air quality regulations, the Louisiana Environmental Quality Act, and the federal Clean Air Act." LAC 33:III.303.C.1 reflects the opacity standard established by §1311.C of Chapter 13 – Emission Standards for Particulate Matter.

Per LAC 33:III.317.B, each fixed crusher with a capacity of more than 25 tons per hour and each portable crusher with a capacity of more than 150 tons per hour for which construction, modification, or reconstruction commenced after August 31, 1983, must comply with the applicable provisions of 40 CFR 60, Subpart OOO – Standards of Performance for Nonmetallic Mineral Processing Plants.

40 CFR 60.672(a) & (b) establish opacity standards ranging from 7 to 15 percent, depending on when the facility commenced construction, modification, or reconstruction; the configuration of the facility; and the source of emissions at the facility (e.g., crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, etc.).

Regarding health impacts, see Response to Comment 2.

COMMENT 7: The proposed rule is deficient in that it does not address location, noise or expiration date.

FOR: The regulatory permit should restrict the location of rock, concrete, and asphalt crushing facilities; address noise from such facilities; and have an expiration date.

AGAINST: LDEQ verifies that the location of the rock, concrete, and asphalt

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crushing facility is properly zoned via the permit application process. Noise levels can be more effectively regulated by local authorities. A regulatory permit is a permit that is promulgated as a regulation, which does not expire.

RESPONSE 7: LAC 33:III.303.H requires an applicant seeking to authorize air emissions using a regulatory permit to submit an application to LDEQ. This application requires the owner or operator to provide the local zoning code of the proposed operating location (e.g., heavy industrial, commercial); the local zoning authority (e.g., parish police jury); a contact for the local zoning authority; and documentation that the rock, concrete, and asphalt crushing facility can be operated at that location.

LDEQ does not have the authority to override local zoning codes or land use restrictions. Therefore, concerns about the suitability of a particular location should be directed to local authorities.

LDEQ has no regulations that govern ambient noise levels. This is because acceptable noise levels are usually site-specific, often related to zoning or existing land use patterns, and can be addressed more effectively at the local level.

Both St. Tammany Parish and the City of Slidell have noise ordinances. See Article IV (Noise and Sound) of the St. Tammany Parish Code of Ordinances – http://www.stpgov.org/code/content.php?keyword=noise&parent=1289#node1327. See also Section 13-1 (Noise) of the City of Slidell's Code of Ordinances – http://library.municode.com/index.aspx?clientId=11576.

A regulatory permit is a permit that is promulgated as a regulation (LAC 33:III.317 in the instant case). A regulation remains in effect unless revised or rescinded in accordance with applicable law.

COMMENT 8: Also, it is my opinion that some type of public hearing should be held before these types of permits are issued so any health, noise & location issues can be addressed.

FOR: A public hearing should be conducted prior to the issuance of a regulatory permit.

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AGAINST: A public hearing is required prior to the promulgation of a regulatory permit, but not prior to the issuance of an individual air permit.

RESPONSE 8: A public hearing is required prior to the promulgation of a regulatory permit. Per R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations. R.S. 30:2019(D) states:

> All rules and regulations shall be promulgated in accordance with the procedure set forth in R.S. 49:950 et seq. [the Administrative Procedure Act]. Prior to the adoption of any rule or regulation, the secretary shall hold a public hearing to receive comments and recommendations from all interested parties and the public.

The public hearing for LAC 33:III.317 was held on October 26, 2011.

There are no laws or regulations that require LDEQ to conduct a public hearing prior to the issuance of an *individual* air permit. However, an interested party may request that a public hearing be held prior to a final decision on any permit application submitted for review. If LDEQ finds a significant degree of public interest, a public hearing will be held.

Permit applications received by LDEQ are posted at http://www.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/PermitApplicationsReceived.aspx.

COMMENT 9: The Fiscal & Economic Impact Statement states that only owners of the crushing facilities will be impacted. This is false. What about the neighboring property owners & residents who will be exposed to the concrete dust, noise & decreased property values?

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

RESPONSE 9: The Fiscal and Economic Impact Statement (FEIS) pertains only to the rulemaking promulgating the regulatory permit for rock,

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concrete, and asphalt crushing facilities (LAC 33:III.317). LAC 33:III.317 does not authorize the construction and/or operation of any rock, concrete, and asphalt crushing facility, and does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana.

COMMENT 10: I don't understand how the DEQ would give a permit to companies that operate this type of rock, asphalt crushing facility in a middle – – in the middle of a gated community that is releasing toxins into the air.

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

RESPONSE 10: LAC 33:III.317 does not authorize the construction and/or operation of any rock, concrete, and asphalt crushing facility, and does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana.

See Response to Comment 7 for information related to zoning and Response to Comment 2 for information related to health impacts.

COMMENT 11: And it's a very loud nuisance to be in the location where it is.

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

RESPONSE 11: See Response to Comment 7.

COMMENT 12: And the health hazards, namely one, Silicosis, is frightening. We're inhaling these particles daily.

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

RESPONSE 12: See Response to Comment 2.

COMMENT 13: If it does happen to pass that it should be a – – a certain distance away from homes. It shouldn't be in a residential neighborhood. It shouldn't be in close proximity to – – proximity to homes. And I don't see anything like that in there.

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FOR: The regulatory permit should require rock, concrete, and asphalt crushing facilities to be located a prescribed distance from residences.

AGAINST: LDEQ verifies that the location of the rock, concrete, and asphalt crushing facility is properly zoned via the permit application process.

RESPONSE 13: See Response to Comment 7.

COMMENT 14: The Notice of Intent, first of all, says that there is some type of an exception which does not require an environmental health benefit or social economic clause. These things directly affect people's heath.

And as far as social economic costs, this facility that is close to our house has severely damaged the value of our properties.

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

RESPONSE 14: See Response to Comment 1 for more information concerning the report regarding environmental/health benefits and social/economic costs.

Regarding health impacts, see Response to Comment 2.

COMMENT 15: In paragraph three of the Notice of Intent, it says, "This rule has no known impact on family formation stability or autonomy. I'm not exactly sure what this requires, but I can tell you definitely it is affecting our family life.

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

RESPONSE 15: R.S. 49:953(A)(1)(a)(viii) and 972 require each state agency, prior to the adoption and implementation of rules, to consider and state in writing the impact of such rules on family formation, stability, and autonomy. The family impact statement must address how the proposed rule will affect:

1.) the stability of the family;

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2.) the authority and rights of parents regarding the education and supervision of their children;
3.) the functioning of the family;
4.) family earnings and family budget;
5.) the behavior and personal responsibility of children; and
6.) the ability of the family or a local government to perform the function as contained in the proposed rule.

COMMENT 16: In the document titled, "Title 33 Environmental Quality, Part Three Air, Subsection C1, says, "Emission of the particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity." Well, in my opinion, that's very high when you're dealing with people's health.

FOR: The opacity standard imposed by the regulatory permit should be lower than 20 percent.

AGAINST: The regulatory permit reflects the opacity standard established by LAC 33:III.1311.C; more stringent opacity standards may apply.

RESPONSE 16: Regarding opacity, see Response to Comment 6. Regarding health impacts, see Response to Comment 2.

COMMENT 17: [I]n Subsection (C)(3)(C) in plant roads, active work areas, material stockpiles and other surfaces of the facility shall be water treated, et cetera." That is not being done as far as we can tell at the facility which is close to our home.

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

RESPONSE 17: As explained in Response to Comment 1, this rulemaking does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana.

However, LAC 33:III.1305 is applicable to the facility (regardless of permit status). This regulation requires all reasonable precautions to be taken to prevent particulate matter from becoming airborne, including, but not limited to:

1. use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, and the grading of roads;

* indicates a fast-track regulation

2. application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dusts;
3. installation and use of dust collectors to enclose and vent the handling of dusty materials;
4. open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion;
5. paving roadways and maintaining the roadways in a clean condition; and
6. the prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth-moving equipment, erosion by water, or other means.

Complaints concerning this facility should be directed to LDEQ's Single Point of Contact (SPOC). For more information, see http://www.deq.louisiana.gov/portal/tabid/1617/Default.aspx.

COMMENT 18: And it doesn't say on here who's going to enforce this.

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

RESPONSE 18: LDEQ will assess a facility's compliance with the terms and conditions of a regulatory permit.

LAC 33:III.303.E states that:

> Regulatory permits shall not preclude the administrative authority [i.e., LDEQ] 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.

COMMENT 19: There's nothing in the regulation which addresses the location. As Ms. Wagner said, you know, maybe these types of facilities

* indicates a fast-track regulation

are fine in an industrial area, but they definitely do not belong next to a residential area.

FOR: The regulatory permit should require rock, concrete, and asphalt crushing facilities to be located in industrial areas.

AGAINST: LDEQ verifies that the location of the rock, concrete, and asphalt crushing facility is properly zoned via the permit application process.

RESPONSE 19: See Response to Comment 7.

COMMENT 20: There's nothing in here that addresses the noise, constant noise that comes from this facility.

FOR: The regulatory permit should address noise from rock, concrete, and asphalt crushing facilities.

AGAINST: Noise levels can be regulated more effectively by local authorities.

RESPONSE 20: See Response to Comment 7.

COMMENT 21: I think there should be a provision for a public hearing before any of these types of permits are issued so that people who are going to be directly affected by the facility can have some input.

FOR: A public hearing should be conducted prior to the issuance of a regulatory permit.

AGAINST: A public hearing is required prior to the promulgation of a regulatory permit, but not prior to the issuance of an individual air permit.

RESPONSE 21: See Response to Comment 8.

COMMENT 22: Also, there's nothing in here that mentions an expiration date for the permit.

FOR: The regulatory permit should have an expiration date.

AGAINST: A regulatory permit is a permit that is promulgated as a regulation, which does not expire.

* indicates a fast-track regulation

RESPONSE 22: See Response to Comment 7.

COMMENT 23: [I]n the fiscal and economic impact statement worksheet, it says under Subsection Three, "Costs and/or economic benefits to directly affect a person's or non-governmental groups." What persons or non-governmental groups would be affected by the proposed action? The only people who are listed in here are the owners of – – or operators of rock, concrete and asphalt crushing facilities. Well, what about the neighbors? What about the people who are adjacent to this facility? They definitely have an economic problem because of this rock crushing facility.

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

RESPONSE 23: See Response to Comment 9.

COMMENT 24: And – – and now, approval has been granted evidently to – – to – – to operate this facility, which my understanding, it should be in a zoned heavy industrial neighborhood, not a residential neighborhood.

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

RESPONSE 24: LAC 33:III.317 does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana. Regarding zoning issues, see Response to Comment 7.

COMMENT 25: The health concerns, the noise concerns, and water concerns are all issues we have.

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

RESPONSE 25: See Response to Comment 2 for information related to health impacts and Response to Comment 7 for information related to noise. LAC 33:III.317 does not authorize any discharges to waters of the state. Such discharges are addressed by the Louisiana Pollutant Discharge Elimination System (LPDES) program under LAC 33:IX and must be permitted separately.

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COMMENT 26: I don't understand how something like this can be placed in a residential neighborhood without it being, I guess, permitted from the standpoint, we're heaving a hearing today on permit, but this place is already up and running, you know. It seems like you'd have to get the permit and have all these studies done, and environmental impact studies and health studies and air quality studies before you can ever let them start. And – – and – – and it's – – it's started. It's running. And – – and now we're having a permit hearing.

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

RESPONSE 26: This rulemaking does not constitute a permit for the crushing operation located near Lakeshore Estates in Slidell, Louisiana. See Response to Comment 1.

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Comment Summary Response & Concise Statement
Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities
LAC 33:III.317
Log Number AQ321

Comments 1 - 9 were received by electronic mail; comments 10 - 26 were received at the public hearing held on October 26, 2011. Comments reflected in this document are taken verbatim from the written submittals and hearing transcript.

COMMENT #	SUGGESTED BY
1 - 3, 10 - 13	Shirley Jarrell Wagner
4	Debra Jarrell
5 - 9, 14 - 23	Elaine Dimiceli
24 - 26	Greg Walters

Total Commenters: 4
Total Comments: 22

* indicates a fast-track regulation

In The Matter Of:

IN RE: REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 26, 2011

Associated Reporters Inc.

2431 South Acadian Thruway

Suite 550

Baton Rouge, LA 70808

(225) 216-2036 Fax (225) 216-2220

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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

LOG #: AQ321

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 October 26, 2011.

BEFORE:
Lori B. Overland
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:

Susan Ham
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	18
REPORTER'S CERTIFICATE	19

* * * * *

* * * * *

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 air and office of the secretary regulations.

The comment period for these amendments began on September 20, 2011, when the notices of intent were published in the Louisiana Register. The comment period will close at 4:30 p.m., November 2, 2011. 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

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1 concerning today's proposed amendments.
2 I'll ask that each person commenting
3 come up and sit at the front table and
4 begin by stating his or her name and
5 affiliation for the record.
6 The first amendment is designated by the
7 Log Number AQ321.
8 This rule will provide for a
9 regulatory permit which will authorize
10 air emissions from concrete, rock, and
11 asphalt crushing facilities. The
12 authorization will become effective only
13 upon notification by the department that
14 the application required by the
15 regulatory permit has been determined
16 complete. R.S. 30:2054(B)(9)(a) allows
17 LDEQ to develop regulatory permits for
18 certain sources of air emissions provided
19 the conditions in R.S. 30:2054(B)(9)(b)
20 are satisfied. Pursuant to R.S.
21 30:2054(B)(9)(b)(viii), all regulatory
22 permits shall be promulgated in
23 accordance with the procedures provided
24 in R.S. 30:2019-Promulgation of rules and
25 regulations (i.e., the Administrative

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1 Procedure Act, R.S. 49:950 et seq.).
2 I understand that several people
3 would like to make comments. So I'll
4 call your name. If you would, come to
5 the front and tell us your name and if
6 you have an affiliation.
7 First would be Shirley Wagner.
8 MS. WAGNER:
9 Good morning. My name's Shirley
10 Wagner, 2392 Sunset Boulevard. And my
11 affiliation is that we have a rock
12 crushing facility located in the middle
13 of our residential neighborhood. And
14 comments have already been sent to Perry
15 Theriot. We - I, my family, are opposed
16 to any regulatory permit that would allow
17 this to continue or to end up in someone
18 else's front yard or backyard. And I
19 understand that there's a permit already
20 in existence. I couldn't find it. I'm
21 still doing some research, but I - I -
22 I don't understand how the DEQ would give
23 a permit to companies that operate this
24 type of rock, asphalt crushing facility
25 in a middle - in the middle of a gated

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1 community that is releasing toxins into
2 the air. And it's a very loud nuisance
3 to be in the location where it is. And I
4 have sent several emails to Perry Theriot
5 concerning this. I've sent pictures.
6 And the health hazards, namely one,
7 Silicosis, is frightening. We're
8 inhaling these particles daily. And I
9 would not want to see anyone else have to
10 go through this process that we're going
11 through at this time. And that's just
12 one health - I - I could go down a list
13 of - of health reasons why this should
14 not be permitted. But as I've said
15 before, my comments were sent via email
16 to Perry Theriot. And hopefully, this
17 won't be allowed to - to happen anywhere
18 else. There should be regulations added
19 into this. If it does happen to pass
20 that it should be a - a certain distance
21 away from homes. It shouldn't be in a
22 residential neighborhood. It shouldn't
23 be in close proximity to - proximity to
24 homes. And I don't see anything like
25 that in there. I haven't found it yet,

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1 so -- and no one has sent me a copy of
2 anything that states the human element of
3 an operation as this.
4 MS. HAM:
5 Thank you. Thank you for your
6 comments. And we have received your
7 previous emails. So we have those.
8 MS. WAGNER:
9 And I have some pictures attached,
10 too.
11 MS. HAM:
12 I believe we have the pictures also.
13 MS. WAGNER:
14 Okay.
15 MS. HAM:
16 Would you like to leave the pictures
17 that you have with you today?
18 MS. WAGNER:
19 No. I need this for something else
20 -
21 MS. HAM:
22 Okay.
23 MS. WAGNER:
24 -- I'm taking care of. Thank you.
25 MS. HAM:

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1 Thank you.
2 The next commenter is Elaine
3 Dimiceli.
4 MS. DIMICELI:
5 My name is Elaine Dimiceli. I live
6 in Lakeshore Estates in Slidell,
7 Louisiana. I'm one of Ms. Wagner's -
8 not immediate neighbors, but we live in
9 the same facility.
10 When I looked at this - first of
11 all, I'm going to make comments on some
12 specific things in all the paperwork we
13 were furnished. The Notice of Intent,
14 first of all, says that there is some
15 type of an exception which does not
16 require an environmental health benefit
17 or social economic clause. These things
18 directly affect people's health. People
19 in our neighborhood have respiratory
20 problems. They have runny eyes. I mean,
21 if you go outside to try to work in your
22 garden, you come back in, your eyes are
23 stinging and all watery. I have a - a
24 - some kind of a respiratory thing. I
25 had to go to the doctor, get some

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1 medicine. That seems to have helped.
2 But we just can't keep going on with
3 this. And as far as social economic
4 costs, this facility that is close to our
5 house has severely damaged the value of
6 our properties. In fact, the assessor
7 for St. Tammany Parish has issued a
8 temporary reduction in the assessments
9 based on the fact that this is a
10 nuisance.
11 In paragraph three of the Notice of
12 Intent, it says, "This rule has no known
13 impact on family formation stability or
14 autonomy." I'm not exactly sure what
15 this requires, but I can tell you
16 definitely it is affecting our family
17 life. We cannot use our backyards. We
18 don't want to have people over to our
19 house and expose them to the concrete
20 dust.
21 In the document titled, "Title 33
22 Environmental Quality, Part Three Air,
23 Subsection C1, says, "Emission of the
24 particulate matter shall be controlled so
25 that the shade or appearance of the

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1 emission is not denser than 20 percent
2 average opacity." Well, in my opinion,
3 that's very high when you're dealing with
4 people's health. That is mentioned again
5 - oh, also in Subsection (C)(3)(C) in
6 plant roads, active work areas, material
7 stockpiles and other surfaces of the
8 facility shall be water treated, et
9 cetera." That is not being done as far
10 as we can tell at the facility which is
11 close to our house. And it doesn't say
12 in here who's going to enforce this.
13 We've tried to get DEQ to come out to do
14 something about it and we're not getting
15 anywhere.
16 There's nothing in the regulation
17 which addresses the location. As Ms.
18 Wagner said, you know, maybe these types
19 of facilities are fine in an industrial
20 area, but they definitely do not belong
21 next to a residential area.
22 There's nothing in here that
23 addresses the noise, constant noise that
24 comes from this facility. It is not only
25 aggravating, it is irritating. You go

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1 out in your yard in the morning, hoping
2 to have a cup of coffee on your patio and
3 all you can hear is concrete stuff
4 clanging all over.
5 I think also there should be a
6 provision for a public hearing before any
7 of these types of permits are issued so
8 that people who are going to be directly
9 affected by the facility can have some
10 input.
11 Also, there's nothing in here that
12 mentions an expiration date for the
13 permit. So I don't know if these people
14 could go on and on and on for years and
15 years.
16 And finally, in the fiscal and
17 economic impact statement worksheet, it
18 says under Subsection Three, "Costs
19 and/or economic benefits to directly
20 affect a person's or non-governmental
21 groups." What persons or non-
22 governmental groups would be affected by
23 the proposed action? The only people who
24 are listed in here are the owners of -
25 or operators of rock, concrete and

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1 asphalt crushing facilities. Well, what
2 about the neighbors? What about the
3 people who are adjacent to this facility?
4 They definitely have an economic problem
5 because of this rock crushing facility.
6 And that's all my comments.
7 MS. HAM:
8 Thank you.
9 Next will be Greg Walters.
10 MR. WALTERS:
11 My name is Greg Walters, and I too
12 live in Lakeshore Estates Subdivision at
13 2388 Sunset Boulevard. I'm directly
14 across the waterway from the already up
15 and running rock crushing operation.
16 From reading in the Times Picayune,
17 this is a result of the demolished I-10
18 twin spans that was demolished by
19 Hurricane Katrina back in 2005. And -
20 and now, the remnants of the twin spans
21 are being barged into our residential
22 neighborhood through our waterways which
23 should've been only used for recreational
24 purposes and - and - and not for
25 commercial operations.

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1 The - they - they - they've taken
2 tons and tons of concrete out of Lake
3 Pontchartrain, bringing it into our
4 subdivision. The noise from the
5 operation of the tugboats bringing the -
6 the concrete structures in, then the
7 unloading and then the crushing of the -
8 of the concrete between the - the dust
9 and the - the dust going into our
10 waterways, it could have impact on our
11 fisheries.
12 All this was done without any
13 notification whatsoever to the residents
14 of our subdivision. Our subdivision was
15 - was sold to us as an upscale
16 residential subdivision with marina and
17 movie theaters and things of that nature.
18 And - and now, approval has been granted
19 evidently to - to - to operate this
20 facility, which my understanding, it
21 should be in a zoned heavy industrial
22 neighborhood, not a residential
23 neighborhood. Zoning's an issue, from
24 what I understand from speaking to - to
25 members within our subdivision that

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1 Parish President, Kevin Davis, granted
2 some type of an emergency zoning permit
3 based on something that happened in
4 Hurricane Katrina five or six ago. So it
5 hadn't even gone through proper zoning
6 approval through St. Tammany Parish,
7 which - which again, you know, we have
8 issues with.
9 The health concerns, the noise
10 concerns, the water concerns are all
11 issues that we have. Again, from my
12 understanding, the crushed rock is
13 supposed to be used to - to help out
14 hurricane protection along Lake Borne.
15 There are many, many other areas along
16 the Lake Pontchartrain shoreline that are
17 not in residential neighborhoods that
18 this operation could be, you know, could
19 be moved to, you know.
20 Again, the - in addition to health
21 hazards, it's definitely reduced the
22 value of our properties. And, you know,
23 again, someone should be held responsible
24 for the reduction in values of our
25 properties.

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1 Again, the Parish Assessor, Patricia
2 Core, has reduced our property value by
3 40 percent, according to the most recent
4 assessment based upon this nuisance
5 that's been placed in our - in our
6 neighborhood.
7 So, you know, I'm college educated.
8 I've got 35 years with - with federal
9 government service in law enforcement. I
10 don't understand how something like this
11 can be placed in a residential
12 neighborhood without it being, I guess,
13 permitted from the standpoint, we're
14 having a hearing today on permits, but
15 this place is already up and running, you
16 know. It seems like you'd have to get
17 the permit and have all these studies
18 done, and environmental impact studies
19 and health studies and air quality
20 studies and water studies before you can
21 ever let them start. And - and - and
22 it's - it's started. It's running. And
23 - and now we're having a permit hearing.
24 I just don't understand that. And - and
25 I would - hopefully, I hope DEQ could do

1 something to resolve the issues that's
2 impacting the residents of our
3 neighborhood. Thank you.
4 MS. HAM:
5 Thank you for your comments.
6 Does anyone else care to comment on
7 this rule?
8 If not, the hearing on AQ321 is
9 closed.
10 Thank you for your attention and
11 participation.
12 This hearing is closed.
13 THE HEARING CONCLUDED AT 1:47 P.M.
14 * * * * *
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25

1 REPORTER'S PAGE
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

1 CERTIFICATION
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

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In The Matter Of:

IN RE: REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 26, 2011

Associated Reporters Inc.
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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

LOG #: AQ321

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 October 26, 2011.

BEFORE:
Lori B. Overland
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:

Susan Ham
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 18
REPORTER'S CERTIFICATE 19

* * * * *

* * * * *

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 air and office of the secretary regulations.

The comment period for these amendments began on September 20, 2011, when the notices of intent were published in the Louisiana Register. The comment period will close at 4:30 p.m., November 2, 2011. 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

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1 concerning today's proposed amendments.
2 I'll ask that each person commenting
3 come up and sit at the front table and
4 begin by stating his or her name and
5 affiliation for the record.
6 The first amendment is designated by the
7 Log Number AQ321.
8 This rule will provide for a
9 regulatory permit which will authorize
10 air emissions from concrete, rock, and
11 asphalt crushing facilities. The
12 authorization will become effective only
13 upon notification by the department that
14 the application required by the
15 regulatory permit has been determined
16 complete. R.S. 30:2054(B)(9)(a) allows
17 LDEQ to develop regulatory permits for
18 certain sources of air emissions provided
19 the conditions in R.S. 30:2054(B)(9)(b)
20 are satisfied. Pursuant to R.S.
21 30:2054(B)(9)(b)(viii), all regulatory
22 permits shall be promulgated in
23 accordance with the procedures provided
24 in R.S. 30:2019-Promulgation of rules and
25 regulations (i.e., the Administrative

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1 Procedure Act, R.S. 49:950 et seq.).
2 I understand that several people
3 would like to make comments. So I'll
4 call your name. If you would, come to
5 the front and tell us your name and if
6 you have an affiliation.
7 First would be Shirley Wagner.
8 MS. WAGNER:
9 Good morning. My name's Shirley
10 Wagner, 2392 Sunset Boulevard. And my
11 affiliation is that we have a rock
12 crushing facility located in the middle
13 of our residential neighborhood. And
14 comments have already been sent to Perry
15 Theriot. We - I, my family, are opposed
16 to any regulatory permit that would allow
17 this to continue or to end up in someone
18 else's front yard or backyard. And I
19 understand that there's a permit already
20 in existence. I couldn't find it. I'm
21 still doing some research, but I - I -
22 I don't understand how the DEQ would give
23 a permit to companies that operate this
24 type of rock, asphalt crushing facility
25 in a middle - in the middle of a gated

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1 community that is releasing toxins into
2 the air. And it's a very loud nuisance
3 to be in the location where it is. And I
4 have sent several emails to Perry Theriot
5 concerning this. I've sent pictures.
6 And the health hazards, namely one,
7 Silicosis, is frightening. We're
8 inhaling these particles daily. And I
9 would not want to see anyone else have to
10 go through this process that we're going
11 through at this time. And that's just
12 one health - I - I could go down a list
13 of - of health reasons why this should
14 not be permitted. But as I've said
15 before, my comments were sent via email
16 to Perry Theriot. And hopefully, this
17 won't be allowed to - to happen anywhere
18 else. There should be regulations added
19 into this. If it does happen to pass
20 that it should be a - a certain distance
21 away from homes. It shouldn't be in a
22 residential neighborhood. It shouldn't
23 be in close proximity to - proximity to
24 homes. And I don't see anything like
25 that in there. I haven't found it yet,

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1 so -- and no one has sent me a copy of
2 anything that states the human element of
3 an operation as this.
4 MS. HAM:
5 Thank you. Thank you for your
6 comments. And we have received your
7 previous emails. So we have those.
8 MS. WAGNER:
9 And I have some pictures attached,
10 too.
11 MS. HAM:
12 I believe we have the pictures also.
13 MS. WAGNER:
14 Okay.
15 MS. HAM:
16 Would you like to leave the pictures
17 that you have with you today?
18 MS. WAGNER:
19 No. I need this for something else
20 -
21 MS. HAM:
22 Okay.
23 MS. WAGNER:
24 – I'm taking care of. Thank you.
25 MS. HAM:

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1 Thank you.
2 The next commenter is Elaine
3 Dimiceli.
4 MS. DIMICELI:
5 My name is Elaine Dimiceli. I live
6 in Lakeshore Estates in Slidell,
7 Louisiana. I'm one of Ms. Wagner's -
8 not immediate neighbors, but we live in
9 the same facility.
10 When I looked at this - first of
11 all, I'm going to make comments on some
12 specific things in all the paperwork we
13 were furnished. The Notice of Intent,
14 first of all, says that there is some
15 type of an exception which does not
16 require an environmental health benefit
17 or social economic clause. These things
18 directly affect people's health. People
19 in our neighborhood have respiratory
20 problems. They have runny eyes. I mean,
21 if you go outside to try to work in your
22 garden, you come back in, your eyes are
23 stinging and all watery. I have a - a
24 - some kind of a respiratory thing. I
25 had to go to the doctor, get some

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1 medicine. That seems to have helped.
2 But we just can't keep going on with
3 this. And as far as social economic
4 costs, this facility that is close to our
5 house has severely damaged the value of
6 our properties. In fact, the assessor
7 for St. Tammany Parish has issued a
8 temporary reduction in the assessments
9 based on the fact that this is a
10 nuisance.
11 In paragraph three of the Notice of
12 Intent, it says, "This rule has no known
13 impact on family formation stability or
14 autonomy." I'm not exactly sure what
15 this requires, but I can tell you
16 definitely it is affecting our family
17 life. We cannot use our backyards. We
18 don't want to have people over to our
19 house and expose them to the concrete
20 dust.
21 In the document titled, "Title 33
22 Environmental Quality, Part Three Air,
23 Subsection C1, says, "Emission of the
24 particulate matter shall be controlled so
25 that the shade or appearance of the

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1 emission is not denser than 20 percent
2 average opacity." Well, in my opinion,
3 that's very high when you're dealing with
4 people's health. That is mentioned again
5 - oh, also in Subsection (C)(3)(C) in
6 plant roads, active work areas, material
7 stockpiles and other surfaces of the
8 facility shall be water treated, et
9 cetera." That is not being done as far
10 as we can tell at the facility which is
11 close to our house. And it doesn't say
12 in here who's going to enforce this.
13 We've tried to get DEQ to come out to do
14 something about it and we're not getting
15 anywhere.
16 There's nothing in the regulation
17 which addresses the location. As Ms.
18 Wagner said, you know, maybe these types
19 of facilities are fine in an industrial
20 area, but they definitely do not belong
21 next to a residential area.
22 There's nothing in here that
23 addresses the noise, constant noise that
24 comes from this facility. It is not only
25 aggravating, it is irritating. You go

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1 out in your yard in the morning, hoping
2 to have a cup of coffee on your patio and
3 all you can hear is concrete stuff
4 clanging all over.
5 I think also there should be a
6 provision for a public hearing before any
7 of these types of permits are issued so
8 that people who are going to be directly
9 affected by the facility can have some
10 input.
11 Also, there's nothing in here that
12 mentions an expiration date for the
13 permit. So I don't know if these people
14 could go on and on and on for years and
15 years.
16 And finally, in the fiscal and
17 economic impact statement worksheet, it
18 says under Subsection Three, "Costs
19 and/or economic benefits to directly
20 affect a person's or non-governmental
21 groups." What persons or non-
22 governmental groups would be affected by
23 the proposed action? The only people who
24 are listed in here are the owners of -
25 or operators of rock, concrete and

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1 asphalt crushing facilities. Well, what
2 about the neighbors? What about the
3 people who are adjacent to this facility?
4 They definitely have an economic problem
5 because of this rock crushing facility.
6 And that's all my comments.
7 MS. HAM:
8 Thank you.
9 Next will be Greg Walters.
10 MR. WALTERS:
11 My name is Greg Walters, and I too
12 live in Lakeshore Estates Subdivision at
13 2388 Sunset Boulevard. I'm directly
14 across the waterway from the already up
15 and running rock crushing operation.
16 From reading in the Times Picayune,
17 this is a result of the demolished I-10
18 twin spans that was demolished by
19 Hurricane Katrina back in 2005. And -
20 and now, the remnants of the twin spans
21 are being barged into our residential
22 neighborhood through our waterways which
23 should've been only used for recreational
24 purposes and - and - and not for
25 commercial operations.

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1 The - they - they - they've taken
2 tons and tons of concrete out of Lake
3 Pontchartrain, bringing it into our
4 subdivision. The noise from the
5 operation of the tugboats bringing the -
6 the concrete structures in, then the
7 unloading and then the crushing of the -
8 of the concrete between the - the dust
9 and the - the dust going into our
10 waterways, it could have impact on our
11 fisheries.
12 All this was done without any
13 notification whatsoever to the residents
14 of our subdivision. Our subdivision was
15 - was sold to us as an upscale
16 residential subdivision with marina and
17 movie theaters and things of that nature.
18 And - and now, approval has been granted
19 evidently to - to - to operate this
20 facility, which my understanding, it
21 should be in a zoned heavy industrial
22 neighborhood, not a residential
23 neighborhood. Zoning's an issue, from
24 what I understand from speaking to - to
25 members within our subdivision that

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1 Parish President, Kevin Davis, granted
2 some type of an emergency zoning permit
3 based on something that happened in
4 Hurricane Katrina five or six ago. So it
5 hadn't even gone through proper zoning
6 approval through St. Tammany Parish,
7 which - which again, you know, we have
8 issues with.
9 The health concerns, the noise
10 concerns, the water concerns are all
11 issues that we have. Again, from my
12 understanding, the crushed rock is
13 supposed to be used to - to help out
14 hurricane protection along Lake Borne.
15 There are many, many other areas along
16 the Lake Pontchartrain shoreline that are
17 not in residential neighborhoods that
18 this operation could be, you know, could
19 be moved to, you know.
20 Again, the - in addition to health
21 hazards, it's definitely reduced the
22 value of our properties. And, you know,
23 again, someone should be held responsible
24 for the reduction in values of our
25 properties.

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1 Again, the Parish Assessor, Patricia
2 Core, has reduced our property value by
3 40 percent, according to the most recent
4 assessment based upon this nuisance
5 that's been placed in our - in our
6 neighborhood.
7 So, you know, I'm college educated.
8 I've got 35 years with - with federal
9 government service in law enforcement. I
10 don't understand how something like this
11 can be placed in a residential
12 neighborhood without it being, I guess,
13 permitted from the standpoint, we're
14 having a hearing today on permits, but
15 this place is already up and running, you
16 know. It seems like you'd have to get
17 the permit and have all these studies
18 done, and environmental impact studies
19 and health studies and air quality
20 studies and water studies before you can
21 ever let them start. And - and - and
22 it's - it's started. It's running. And
23 - and now we're having a permit hearing.
24 I just don't understand that. And - and
25 I would - hopefully, I hope DEQ could do

1 something to resolve the issues that's
2 impacting the residents of our
3 neighborhood. Thank you.
4 MS. HAM:
5 Thank you for your comments.
6 Does anyone else care to comment on
7 this rule?
8 If not, the hearing on AQ321 is
9 closed.
10 Thank you for your attention and
11 participation.
12 This hearing is closed.
13 THE HEARING CONCLUDED AT 1:47 P.M.
14 * * * * *
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25

1 REPORTER'S PAGE
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,
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13 pauses, changes in thought, and/or talk
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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

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2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a
4 true and correct transcription of the
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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

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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

LOG #: AQ321

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 October 26, 2011.

BEFORE:

Lori B. Overland
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:

Susan Ham
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	18
REPORTER'S CERTIFICATE	19

* * * * *

1 * * * * *

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Ham. 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 air and office
9 of the secretary regulations.
10 The comment period for these
11 amendments began on September 20, 2011,
12 when the notices of intent were published
13 in the Louisiana Register. The comment
14 period will close at 4:30 p.m., November
15 2, 2011. It would be helpful to us if
16 all oral comments received today were
17 followed up in writing.
18 This public hearing provides a forum
19 for all interested parties to present
20 comments on the proposed changes. This
21 hearing is not being conducted in a
22 question and answer format. Please
23 remember that the purpose of this public
24 hearing is to allow you, the public, an
25 opportunity to express your thoughts

1 concerning today's proposed amendments.
2 I'll ask that each person commenting
3 come up and sit at the front table and
4 begin by stating his or her name and
5 affiliation for the record.
6 The first amendment is designated by the
7 Log Number AQ321.
8 This rule will provide for a
9 regulatory permit which will authorize
10 air emissions from concrete, rock, and
11 asphalt crushing facilities. The
12 authorization will become effective only
13 upon notification by the department that
14 the application required by the
15 regulatory permit has been determined
16 complete. R.S. 30:2054(B)(9)(a) allows
17 LDEQ to develop regulatory permits for
18 certain sources of air emissions provided
19 the conditions in R.S. 30:2054(B)(9)(b)
20 are satisfied. Pursuant to R.S.
21 30:2054(B)(9)(b)(viii), all regulatory
22 permits shall be promulgated in
23 accordance with the procedures provided
24 in R.S. 30:2019-Promulgation of rules and
25 regulations (i.e., the Administrative

1 Procedure Act, R.S. 49:950 et seq.).
2 I understand that several people
3 would like to make comments. So I'll
4 call your name. If you would, come to
5 the front and tell us your name and if
6 you have an affiliation.
7 First would be Shirley Wagner.
8 **MS. WAGNER:**
9 Good morning. My name's Shirley
10 Wagner, 2392 Sunset Boulevard. And my
11 affiliation is that we have a rock
12 crushing facility located in the middle
13 of our residential neighborhood. And
14 comments have already been sent to Perry
15 Theriot. We -- I, my family, are opposed
16 to any regulatory permit that would allow
17 this to continue or to end up in someone
18 else's front yard or backyard. And I
19 understand that there's a permit already
20 in existence. I couldn't find it. I'm
21 still doing some research, but I -- I --
22 I don't understand how the DEQ would give
23 a permit to companies that operate this
24 type of rock, asphalt crushing facility
25 in a middle -- in the middle of a gated

1 community that is releasing toxins into
2 the air. And it's a very loud nuisance
3 to be in the location where it is. And I
4 have sent several emails to Perry Theriot
5 concerning this. I've sent pictures.
6 And the health hazards, namely one,
7 Silicosis, is frightening. We're
8 inhaling these particles daily. And I
9 would not want to see anyone else have to
10 go through this process that we're going
11 through at this time. And that's just
12 one health -- I -- I could go down a list
13 of -- of health reasons why this should
14 not be permitted. But as I've said
15 before, my comments were sent via email
16 to Perry Theriot. And hopefully, this
17 won't be allowed to -- to happen anywhere
18 else. There should be regulations added
19 into this. If it does happen to pass
20 that it should be a -- a certain distance
21 away from homes. It shouldn't be in a
22 residential neighborhood. It shouldn't
23 be in close proximity to -- proximity to
24 homes. And I don't see anything like
25 that in there. I haven't found it yet,

so -- and no one has sent me a copy of anything that states the human element of an operation as this.

MS. HAM:

Thank you. Thank you for your comments. And we have received your previous emails. So we have those.

MS. WAGNER:

And I have some pictures attached, too.

MS. HAM:

I believe we have the pictures also.

MS. WAGNER:

Okay.

MS. HAM:

Would you like to leave the pictures that you have with you today?

MS. WAGNER:

No. I need this for something else --

MS. HAM:

Okay.

MS. WAGNER:

-- I'm taking care of. Thank you.

MS. HAM:

1 Thank you.
2 The next commenter is Elaine
3 Dimiceli.
4 **MS. DIMICELI:**
5 My name is Elaine Dimiceli. I live
6 in Lakeshore Estates in Slidell,
7 Louisiana. I'm one of Ms. Wagner's --
8 not immediate neighbors, but we live in
9 the same facility.
10 When I looked at this -- first of
11 all, I'm going to make comments on some
12 specific things in all the paperwork we
13 were furnished. The Notice of Intent,
14 first of all, says that there is some
15 type of an exception which does not
16 require an environmental health benefit
17 or social economic clause. These things
18 directly affect people's health. People
19 in our neighborhood have respiratory
20 problems. They have runny eyes. I mean,
21 if you go outside to try to work in your
22 garden, you come back in, your eyes are
23 stinging and all watery. I have a -- a
24 -- some kind of a respiratory thing. I
25 had to go to the doctor, get some

1 medicine. That seems to have helped.
2 But we just can't keep going on with
3 this. And as far as social economic
4 costs, this facility that is close to our
5 house has severely damaged the value of
6 our properties. In fact, the assessor
7 for St. Tammany Parish has issued a
8 temporary reduction in the assessments
9 based on the fact that this is a
10 nuisance.
11 In paragraph three of the Notice of
12 Intent, it says, "This rule has no known
13 impact on family formation stability or
14 autonomy." I'm not exactly sure what
15 this requires, but I can tell you
16 definitely it is affecting our family
17 life. We cannot use our backyards. We
18 don't want to have people over to our
19 house and expose them to the concrete
20 dust.
21 In the document titled, "Title 33
22 Environmental Quality, Part Three Air,
23 Subsection C1, says, "Emission of the
24 particulate matter shall be controlled so
25 that the shade or appearance of the

1 emission is not denser than 20 percent
2 average opacity." Well, in my opinion,
3 that's very high when you're dealing with
4 people's health. That is mentioned again
5 -- oh, also in Subsection (C)(3)(C) in
6 plant roads, active work areas, material
7 stockpiles and other surfaces of the
8 facility shall be water treated, et
9 cetera." That is not being done as far
10 as we can tell at the facility which is
11 close to our house. And it doesn't say
12 in here who's going to enforce this.
13 We've tried to get DEQ to come out to do
14 something about it and we're not getting
15 anywhere.
16 There's nothing in the regulation
17 which addresses the location. As Ms.
18 Wagner said, you know, maybe these types
19 of facilities are fine in an industrial
20 area, but they definitely do not belong
21 next to a residential area.
22 There's nothing in here that
23 addresses the noise, constant noise that
24 comes from this facility. It is not only
25 aggravating, it is irritating. You go

1 out in your yard in the morning, hoping
2 to have a cup of coffee on your patio and
3 all you can hear is concrete stuff
4 clanging all over.
5 I think also there should be a
6 provision for a public hearing before any
7 of these types of permits are issued so
8 that people who are going to be directly
9 affected by the facility can have some
10 input.
11 Also, there's nothing in here that
12 mentions an expiration date for the
13 permit. So I don't know if these people
14 could go on and on and on for years and
15 years.
16 And finally, in the fiscal and
17 economic impact statement worksheet, it
18 says under Subsection Three, "Costs
19 and/or economic benefits to directly
20 affect a person's or non-governmental
21 groups." What persons or non-
22 governmental groups would be affected by
23 the proposed action? The only people who
24 are listed in here are the owners of --
25 or operators of rock, concrete and

1 asphalt crushing facilities. Well, what
2 about the neighbors? What about the
3 people who are adjacent to this facility?
4 They definitely have an economic problem
5 because of this rock crushing facility.
6 And that's all my comments.
7 **MS. HAM:**
8 Thank you.
9 Next will be Greg Walters.
10 **MR. WALTERS:**
11 My name is Greg Walters, and I too
12 live in Lakeshore Estates Subdivision at
13 2388 Sunset Boulevard. I'm directly
14 across the waterway from the already up
15 and running rock crushing operation.
16 From reading in the Times Picayune,
17 this is a result of the demolished I-10
18 twin spans that was demolished by
19 Hurricane Katrina back in 2005. And --
20 and now, the remnants of the twin spans
21 are being barged into our residential
22 neighborhood through our waterways which
23 should've been only used for recreational
24 purposes and -- and -- and not for
25 commercial operations.

1 The -- they -- they -- they've taken
2 tons and tons of concrete out of Lake
3 Pontchartrain, bringing it into our
4 subdivision. The noise from the
5 operation of the tugboats bringing the --
6 the concrete structures in, then the
7 unloading and then the crushing of the --
8 of the concrete between the -- the dust
9 and the -- the dust going into our
10 waterways, it could have impact on our
11 fisheries.
12 All this was done without any
13 notification whatsoever to the residents
14 of our subdivision. Our subdivision was
15 -- was sold to us as an upscale
16 residential subdivision with marina and
17 movie theaters and things of that nature.
18 And -- and now, approval has been granted
19 evidently to -- to -- to operate this
20 facility, which my understanding, it
21 should be in a zoned heavy industrial
22 neighborhood, not a residential
23 neighborhood. Zoning's an issue, from
24 what I understand from speaking to -- to
25 members within our subdivision that

1 Parish President, Kevin Davis, granted
2 some type of an emergency zoning permit
3 based on something that happened in
4 Hurricane Katrina five or six ago. So it
5 hadn't even gone through proper zoning
6 approval through St. Tammany Parish,
7 which -- which again, you know, we have
8 issues with.
9 The health concerns, the noise
10 concerns, the water concerns are all
11 issues that we have. Again, from my
12 understanding, the crushed rock is
13 supposed to be used to -- to help out
14 hurricane protection along Lake Borne.
15 There are many, many other areas along
16 the Lake Pontchartrain shoreline that are
17 not in residential neighborhoods that
18 this operation could be, you know, could
19 be moved to, you know.
20 Again, the -- in addition to health
21 hazards, it's definitely reduced the
22 value of our properties. And, you know,
23 again, someone should be held responsible
24 for the reduction in values of our
25 properties.

1 Again, the Parish Assessor, Patricia
2 Core, has reduced our property value by
3 40 percent, according to the most recent
4 assessment based upon this nuisance
5 that's been placed in our -- in our
6 neighborhood.
7 So, you know, I'm college educated.
8 I've got 35 years with -- with federal
9 government service in law enforcement. I
10 don't understand how something like this
11 can be placed in a residential
12 neighborhood without it being, I guess,
13 permitted from the standpoint, we're
14 having a hearing today on permits, but
15 this place is already up and running, you
16 know. It seems like you'd have to get
17 the permit and have all these studies
18 done, and environmental impact studies
19 and health studies and air quality
20 studies and water studies before you can
21 ever let them start. And -- and -- and
22 it's -- it's started. It's running. And
23 -- and now we're having a permit hearing.
24 I just don't understand that. And -- and
25 I would -- hopefully, I hope DEQ could do

1 something to resolve the issues that's
2 impacting the residents of our
3 neighborhood. Thank you.
4 **MS. HAM:**
5 Thank you for your comments.
6 Does anyone else care to comment on
7 this rule?
8 If not, the hearing on AQ321 is
9 closed.
10 Thank you for your attention and
11 participation.
12 This hearing is closed.
13 **THE HEARING CONCLUDED AT 1:47 P.M.**
14 * * * * *

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

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3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
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10 That due to the interaction in the
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LORI B. OVERLAND
Certified Court Reporter
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7 under my supervision, to the best of my
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9 place hereinbefore noted, in the above
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18 of the parties, and that I have no interest
19 in the outcome of this action.
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21 good standing as a court reporter in and for
22 the state of Louisiana.
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24 Lori Overland C.C.R.
25 OFFICIAL SEAL
LORI B. OVERLAND
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-11

In The Matter Of:

IN RE: REGULATORY PERMIT FOR ROCK, CONCRETE, AND ASPHALT CRUSHING FACILITES

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 26, 2011

Associated Reporters Inc.

2431 South Acadian Thruway

Suite 550

Baton Rouge, LA 70808

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students that are denied Early Start courses may incur costs to fund such courses in high school or in the post secondary setting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

George Badge Eldredge	Evan Brasseaux
General Counsel	Staff Director
1109#005	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities (LAC 33:III.317)(AQ321)

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 (AQ321).

This Rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities. The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this Rule are to establish a regulatory permit to authorize air emissions from concrete, rock, and asphalt crushing 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
§317. Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of rock, concrete, and asphalt crushing facilities, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection H of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both fixed and portable crushers. Fixed crushers are those attached by a cable, chain, turnbuckle, bolt, or other means to any anchor, slab, or structure, including bedrock.

B. New Source Performance Standards. Each fixed crusher with a capacity of more than 25 tons per hour and each portable crusher with a capacity of more than 150 tons per hour for which construction, modification, or reconstruction commenced after August 31, 1983, shall comply with the applicable provisions of 40 CFR 60, Subpart OOO–Standards of Performance for Nonmetallic Mineral Processing Plants. Modification and reconstruction are described in 40 CFR 60.14 and 15, respectively.

C. Control of Fugitive Emissions

1. 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.

2. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, 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, active 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.

4. If dust cannot be controlled by other means, the department may require permanently mounted spray bars to be installed at the inlet and outlet of the crusher, at all shaker screens, and/or at all material transfer points and used as necessary.

5. Best housekeeping and maintenance practices shall be employed to minimize emissions of organic compounds. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

D. 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 no less than once every six months or more frequently if daily 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 D.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph D.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph D.1.c of this Section.

3. The daily monitoring and recordkeeping requirements in this Subsection shall not apply when the crusher is not operational.

E. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including any used oil, facility byproducts, or other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used as a fuel in ICEs.

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. Subparagraph E.2.a of this Section shall not apply if the presence of uncombined water is the only reason for failure of an emission to meet the opacity limitations.

b. Monitoring, Recordkeeping, and Reporting

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, within 3 operating days.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity in accordance with Method 9 of 40 CFR 60, Appendix A, the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading shall be repeated in accordance with Method 9. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after the occurrence of any Method 9 readings 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. 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).

4. 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.

5. 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.

F. Operating Time. The crusher and associated equipment (excluding stockpiles and storage vessels) shall not operate for more than 4380 hours per calendar year.

1. Operating time shall be monitored by any technically sound means.

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

G. Monitoring of Capacity. The department may require the crusher to be equipped with a weigh hopper or scale belt to accurately determine the weight of material being crushed.

H. Notification Requirements. Written notification describing the crusher shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification form shall be submitted for each crusher.

I. Relocation. The permittee shall notify the department prior to moving the crusher to a new operating site. The permittee shall obtain approval from the department before commencing operations at a new site.

J. Standby Plan. The permittee shall develop and retain on site 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 designed in accordance with the objectives set forth in LAC 33:III.5611.Tables 5, 6, and 7.

1. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 5 when the department declares an Air Pollution Alert.

2. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 6 when the department declares an Air Pollution Warning.

3. Activate the pre-planned abatement strategies listed in LAC 33:III.5611.Table 7 when the department declares an Air Pollution Emergency.

K. Fees. In accordance with LAC 33:III.223, Table 1, the new permit application fee for this regulatory permit shall be $2,080 (fee number 0870). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $416. If potential emissions from the crusher are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, then fee number 1722 located in LAC 33:III.223, Table 1 shall apply in accordance with LAC 33:III.211.B.13.e.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:

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 AQ321. Such comments must be received no later than November 2, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ321. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on October 26, 2011, 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 Perry Theriot at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

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

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed Rule change will create a more efficient process for rock, concrete, and asphalt crushing facilities to apply for air emissions permits. The permit application will be specific to the source category and simplify the administrative process.

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

No increase or decrease in revenues to state or local governmental units 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 processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

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

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." However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., rock, concrete, and asphalt crushing facilities) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department's review of such documents. A final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule change will have no effect on competition or employment in the public or private sector.

Herman Robinson, CPM
Executive Counsel
1109#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Permit Review
(LAC 33:I.1503 and 1507)(OS087)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.Chapter 15 (OS087).

The Rule will provide a technical review period for working draft permit documents. This technical review period will provide the applicant an opportunity to provide comments of a technical nature regarding the working draft permit document so that significant errors are avoided prior to issuance of a draft permit decision. By allowing this review period, the department will benefit by not having to reissue draft permit decisions for public comment based on

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SEP 26 2011
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LEGAL AFFAIRS DIVISION

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A daily newspaper of general circulation.

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September 15, 2011

Elaine Lanich

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Sworn and subscribed before me by

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

15 day of September 20 11 AD

SARAH M. WALKER
OUACHITA PARISH
MY COMMISSION IS FOR LIFE
ID# 0402
NOTARY PUBLIC
LOUISIANA

Sarah M Walker

NOTARY PUBLIC

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities
(LAC 33:III.317)
(AQ321)

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 (AQ321).

This rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities. The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this rule are to establish a regulatory permit to authorize air emissions from concrete, rock, and asphalt crushing 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 October 26, 2011, 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 Perry Theriot 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 AQ321. Such comments must be received no later than November 2, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ321. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

Monroe, LA
September 15, 2011
0001445057

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities
(LAC 33:III.317)
(AQ321)

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 (AQ321).

This rule will provide for a regulatory permit which will authorize air emissions from concrete, rock, and asphalt crushing facilities. The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this rule are to establish a regulatory permit to authorize air emissions from concrete, rock, and asphalt crushing 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 October 26, 2011, 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 Perry Theriot 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 AQ321. Such comments must be received no later than November 2, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ321. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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Herman Robinson, CPM
Executive Counsel

Monroe, LA
September 15, 2011
0001445057

The Times

PROOF OF PUBLICATION

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 published entitled:

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Division Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities (AQ321)

September 13, 2011

(Signed) Altheas Critton

Sworn to and subscribed before me this 13th day of September, 2011

Diana W. Barber

(Notary)

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

NOTARY PUBLIC CADDO PARISH LA

GANNETT

CES

Public Notices

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Herman Robinson, CPM
Executive Counsel

The Times: September 13, 2011

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:

09/14/11

Shelley Calloni, Public Notice Clerk

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

September 14, 2011

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

DEQ - OSEC/LAD REG ***4532478***
SUSAN HAM
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

PUBLIC NOTICE

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Office of the Secretary
Legal Division

Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities
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Herman Robinson, CPM
Executive Counsel

4532478 - sep 14 - 1t

Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Hebert

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:

00706237 - $41.00
September 14, 2011

Karen Hebert
Duly Authorized Agent

Subscribed and sworn to before me on this 14th day of September, 2011 at Lake Charles, LA

Robin D. Hebert
Notary Public

00053262
LDEQ-OSEC-LAD

ROBIN D. HEBERT
NOTARY PUBLIC ID #058AA03
MY COMMISSION IS FOR LIFE
CALCASIEU PARISH, LA

NOTICE OF INTENT

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Office of the Secretary
Legal Division

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Herman Robinson, CPM
Executive Counsel

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

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Herman Robinson,
CPM
Executive Counse

(9) 16

I, Harold Constance, Classified Sales Manager,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Legal Notice

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated September 16, 2011 and ending with the

issue dated September 16,2011.

Harold Constance

Subscribed and sworn to before me
this 19th day of September, 2011 at
Alexandria, Louisiana.

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

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70125-1429 TELEPHONE (504) 826-3201

Exhibit A
Attached

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: Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities (LAC 33:III.317) (AQ321)

Advertisement of Louisiana Dept of Environmental Quality
PO Box 4301
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave
New Orleans, LA 70125

On the following dates September 20, 2011

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.

Elizabeth C Darcey

Sworn to and subscribed before me this 21st Day of September, 2011

Notary Public

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

Notary identification number 23492

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Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§317. Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

A. Applicability

1. This regulatory permit authorizes the construction and operation of rock, concrete, and asphalt crushing facilities, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection H of this Section has been determined to be complete.

2. This regulatory permit may be used to authorize both fixed and portable crushers. Fixed crushers are those attached by a cable, chain, turnbuckle, bolt, or other means to any anchor, slab, or structure, including bedrock.

B. New Source Performance Standards. Each fixed crusher with a capacity of more than 25 tons per hour and each portable crusher with a capacity of more than 150 tons per hour for which construction, modification, or reconstruction commenced after August 31, 1983, shall comply with the applicable provisions of 40 CFR 60, Subpart OOO–Standards of Performance for Nonmetallic Mineral Processing Plants. Modification and reconstruction are described in 40 CFR 60.14 and 15, respectively.

C. Control of Fugitive Emissions

1. 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.

2. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, 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, active 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.

4. If dust cannot be controlled by other means, the department may require permanently mounted spray bars to be installed at the inlet and outlet of the crusher, at all shaker screens, and/or at all material transfer points and used as necessary.

5. Best housekeeping and maintenance practices shall be employed to minimize emissions of organic compounds. Good housekeeping shall include, but not be limited to, the practices described in LAC 33:III.2113.A.1-4.

D. 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 no less than once every six months or more frequently if daily 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 D.1.a of this Section;

b. the dates and results of the maintenance inspections required by Subparagraph D.1.b of this Section; and

c. the dates and a description of any maintenance or repair conducted in accordance with Subparagraph D.1.c of this Section.

3. The daily monitoring and recordkeeping requirements in this Subsection shall not apply when the crusher is not operational.

E. Internal Combustion Engines

1. Fuels and Fuel Sulfur Content

a. Internal combustion engines (ICEs) shall not combust noncommercial fuels, including any used oil, facility byproducts, or other type of waste material. Only commercially available fuels such as diesel or gasoline shall be used as a fuel in ICEs.

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. Subparagraph E.2.a of this Section shall not apply if the presence of uncombined water is the only reason for failure of an emission to meet the opacity limitations.

b. Monitoring, Recordkeeping, and Reporting

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, within 3 operating days.

iii. If the shade or appearance of the emission is darker than 20 percent average opacity in accordance with Method 9 of 40 CFR 60, Appendix A, the permittee shall take corrective action to return the ICE to its proper operating condition, and the 6-minute opacity reading shall be repeated in accordance with Method 9. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after the occurrence of any Method 9 readings 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. 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).

4. 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.

5. 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.

F. Operating Time. The crusher and associated equipment (excluding stockpiles and storage vessels) shall not operate for more than 4380 hours per calendar year.

1. Operating time shall be monitored by any technically sound means.

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

G. Monitoring of Capacity. The department may require the crusher to be equipped with a weigh hopper or scale belt to accurately determine the weight of material being crushed.

H. Notification Requirements. Written notification describing the crusher shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification form shall be submitted for each crusher.

I. Relocation. The permittee shall notify the department prior to moving the crusher to a new operating site. The permittee shall obtain approval from the department before commencing operations at a new site.

J. Standby Plan. The permittee shall develop and retain on site 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 designed in accordance with the objectives set forth in LAC 33:III.5611, Tables 5, 6, and 7.

1. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 5 when the department declares an Air Pollution Alert.

2. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 6 when the department declares an Air Pollution Warning.

3. Activate the pre-planned abatement strategies listed in LAC 33:III.5611, Table 7 when the department declares an Air Pollution Emergency.

K. Fees. In accordance with LAC 33:III.223, Table 1, the new permit application fee for this regulatory permit shall be $2,080 (fee number 0870). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be $416. If potential emissions from the crusher are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, then fee number 1722 located in LAC 33:III.223, Table 1 shall apply in accordance with LAC 33:III.211.B.13.e.

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 38:**.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 30. Standards of Performance for New Stationary Sources (NSPS)
Subchapter A. Incorporation by Reference
§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2012, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: Subpart OOOO as promulgated on August 16, 2012, in the *Federal Register*, 77 FR 49490-49600.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, 38:2754 (November 2012), LR 39:1039 (April 2013).

Herman Robinson, CPM
Executive Counsel

1304#014

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulatory Permit for Flaring of Materials Other than Natural Gas (LAC 33:III.319)(AQ322)

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.319 (AQ322).

This Rule provides for a regulatory permit which will authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019, Promulgation of Rules and Regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this Rule are to establish a regulatory permit to authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). 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
§319. Regulatory Permit for Flaring of Materials Other than Natural Gas

A. Applicability

1. This regulatory permit authorizes the flaring of gaseous materials other than natural gas (e.g., propane, ethylene, propylene, ammonia) resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification that the department has determined the application (i.e., notification form) submitted in accordance with Subsection G of this Section to be complete. The material to be flared may be supplemented with natural gas.

2. The material to be flared must have a higher heating value greater than or equal to 300 Btu per standard cubic foot.

B. The flare must be capable of accommodating the maximum amount of material to be combusted at any point during the flaring event.

C. Opacity

1. 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.

2. 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.

3. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by impairment of visibility, as defined in LAC 33:III.111, or intensify an existing traffic hazard condition are prohibited.

4. The owner or operator of the flare 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.

D. The authorization for the flaring event associated with the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection G of this Section shall remain effective for 60 days following the date on which the department determines that the application is complete.

E. Flaring events with a duration of more than 10 calendar days shall not be authorized by this regulatory permit and must be approved separately by the department.

F. When an ozone action day has been declared by the department, flaring of ethylene or propylene shall be restricted to between the hours of 4 p.m. and 10 a.m.

G. Notification Requirements

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

a. name of the owner or operator;

b. material to be flared;

c. estimated volume of the material to be flared;

d. reason for the flaring event;

e. physical location;

f. date(s) and expected duration of the flaring event; and

g. estimated emissions of criteria pollutants and toxic air pollutants (TAPs) associated with the flaring event. TAPs are listed in LAC 33:III.5112, Tables 51.1 and 51.3.

2. A copy of the notification required by Paragraph G.1 of this Section shall be submitted to the appropriate DEQ regional office.

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

H. Monitoring, Recordkeeping, and Reporting

1. The volume of material combusted during the flaring event shall be monitored using a flow meter. Alternatively, the volume may be determined using engineering calculations.

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

a. date(s) and duration of the flaring event;

b. actual volume of material flared including calculations if the volume was not monitored using a flow meter; and

c. actual criteria pollutant and TAP emissions associated with the flaring event.

I. In accordance with LAC 33:III.223, Table 1, 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 Division, LR 39:1039 (April 2013).

Herman Robinson, CPM
Executive Counsel

1304#059

RULE

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Continuing Education (LAC 46:XXI.603 and 607)

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters has amended the continuing education rules.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 6. Continuing Education
§603. Continuing Education Credits

A. Beginning January 1, 1991, and thereafter, each certificate holder shall be required to obtain at least 12 continuing education credits during each two-year continuing education cycle. Each continuing education cycle shall consist of two consecutive years beginning January 1 of the odd-numbered year and ending December 31 of the even-numbered year, inclusive. The board shall award one continuing education credit for each half hour of instruction time. For the two-year cycle beginning January 1, 2013 and each two-year cycle thereafter, four of the required 12 continuing education credits shall be instructions pertaining to Louisiana court reporting ethics and CSR board rules and regulations.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:32 (January 1991), amended LR 20:412 (April 1994), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2419 (November 2007), LR 35:1881 (September 2009), LR 39:1040 (April 2013).

§607. Maintenance of Record

A. …

B. On or before December 31 of each even-numbered calendar year, each reporter issued a certificate by the board shall submit or cause to be submitted to the board in written record or continuing education credits earned by the reporter for the preceding two calendar years.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991), amended LR 17:578 (June 1991), LR 19:1539 (December 1993), amended by the Office of the Governor, Board of Certified Shorthand Reporters, LR 33:2419.9 (November 2007), LR 35:1881 (September 2009), LR 39:1040 (April 2013).

Vincent P. Borrello, Jr.
Chair

1304#057

Comment Summary Response & Concise Statement –
Regulatory Permit for Flaring of Materials Other than Natural Gas
LAC 33:III.319
Log Number AQ322

COMMENT 1: [O]n behalf of our membership we would like to commend the state for taking this proactive step in setting up a permit process for the flaring of this type of material. LOGA believes it will increase efficiency for companies while insuring the state has an organized-effective [*sic*] regulatory system in place.

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

RESPONSE 1: The department appreciates the support.

COMMENT 2: It is unclear how the proposed rule would affect venting in certain purging events. We expect the state does not intend to affect a company's ability to vent certain minimal gaseous material with this rule. To avoid uncertainty, we request that the allowance for minimal gaseous venting be made clear in the rule. If it is the intention of the state to affect or prohibit the use of venting as a method of purging, LOGA strongly requests the state consider allowing exemptions for minimal releases. Flaring small volumes of materials with no flow or pressure, as opposed to venting, is not viable. This action would require the use of natural gas as a supplement to vacate material, which becomes an additional step that is both burdensome and unnecessary.

FOR: LDEQ should establish de minimus thresholds; volumes of gaseous materials below such thresholds should be allowed to be vented without controls.

AGAINST: LAC 33:III.319 does not mandate that any release of gaseous materials be flared.

RESPONSE 2: A regulatory permit is a permit that is incorporated into the regulations in the form of a rule. It streamlines the permitting process for owners or operators seeking to authorize emissions of air contaminants from a covered source or activity.

In the instant case, LAC 33:III.319 may be used to authorize

* indicates a fast-track regulation

emissions resulting from the flaring of gaseous materials other than natural gas (e.g., propane, ethylene, propylene, ammonia) associated with metering, purging, and maintenance operations.

LAC 33:III.319 does not, in and of itself, mandate that any release of gaseous materials be flared, nor does it establish de minimus volumes below which no controls are required. It simply provides a mechanism to permit emissions resulting from flaring activities.

COMMENT 3: As an alternative, if the state does not intend to affect a company's ability to vent, LOGA strongly recommends the state allow venting if the gaseous release falls below the following minimums:

- Minimum volume – 0.25 MMSCF;
- Minimum residue pressure – 10 psig;
- On the ozone action day – maybe a threshold of 10% for ethylene and propylene. Currently it would be restricted to between the hours of 4 pm – 10 am.

FOR: LDEQ should establish de minimus thresholds; volumes of gaseous materials below such thresholds should be allowed to be vented without controls.

AGAINST: LAC 33:III.319 does not mandate that any release of gaseous materials be flared.

RESPONSE 3: See Response to Comment 2.

COMMENT 4: Additionally, the proposal [*sic*] rule's opacity reading requirements include an increase in the training level of the reader. Maintaining an employee trained to this level will create a significant increase in costs. We request the rule provide a three day notice by the department to the companies for Method 9 readings to allow the company to retain a contract reader with the proper qualifications.

FOR: The rule should provide an owner or operator at least three days to retain a certified opacity reader.

AGAINST: An opacity reading is required only "upon request of the department." If such a reading is requested, LDEQ will provide the owner or operator with a reasonable amount of time to retain a certified opacity reader.

* indicates a fast-track regulation

RESPONSE 4: R.S. 30:2054(B)(9)(b)(v) and LAC 33:III.303.F mandate that regulatory permits require compliance with all applicable provisions of the Louisiana air quality regulations. LAC 33:III.319.C.1 and 2 reflect the smoke and particulate opacity standards of LAC 33:III.1101.B and 1311.C, respectively.

LAC 33:III.319 does not require an "increase in the training level of the reader." LAC 33:III.1106.A specifies that opacity shall be determined using Method 9 of 40 CFR Part 60, Appendix A. Method 22 requires only the determination of whether visible emissions occur and does not require the determination of opacity levels.

LDEQ acknowledges that having a certified opacity reader available in all circumstances is not practical, particularly when the release is located at a valve site along a pipeline corridor and not at a permitted facility. Therefore, an opacity reading in accordance with Method 9 is required only "upon request of the department" (LAC 33:III.319.C.4). If such a reading is requested, LDEQ will provide the owner or operator with a reasonable amount of time to retain a certified opacity reader.

COMMENT 5: Another issue arises when one looks at the broad coverage of the proposed rule. Some of the requirements, while applicable in facilities, are not appropriate when applied to pipelines. We believe the different circumstances surrounding facilities and pipelines require different regulations for events where Method 9 readings are not requested by DEQ. LOGA suggests the following:

- For facilities flaring events, opacity readings should be conducted in accordance to current permit requirements; and
- For pipeline flaring events, opacity readings should be conducted in accordance with Method 22 of 40 CFR, Appendix A.

FOR: Where Method 9 readings are not requested by LDEQ, opacity should be determined in accordance with the facility's permit, or where no permit exists, Method 22.

AGAINST: Where Method 9 readings are not required by LDEQ, a determination of opacity (or visible emissions) is not required.

* indicates a fast-track regulation

RESPONSE 5: Where Method 9 readings are not required by LDEQ, a determination of opacity (or visible emissions) is not required. If an owner or operator wishes to demonstrate that there are no visible emissions from the flaring activity, Method 22 may be employed.

COMMENT 6: Lastly, the proposed rule currently requires that the actual volumes of materials flared be submitted no later than 30 calendar days after completion of the flaring event. But metering the volume of materials flared during a field pipeline blow down event is not a viable option due to
(1) varying sizes of pipe and
(2) meter interference from multiphase materials
During pipeline flaring events, LOGA believes that engineering calculations based on pipeline size, pressure and length provide extremely accurate estimates and should be acceptable in the proposed rule.

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

RESPONSE 6: LDEQ will revise the rule to allow the volume of material flared to be determined using engineering calculations.

* indicates a fast-track regulation

Comment Summary Response & Concise Statement –
Regulatory Permit for Flaring of Materials Other than Natural Gas
LAC 33:III.319
Log Number AQ322

COMMENT #	SUGGESTED BY
1 - 6	Don G. Briggs – President, Louisiana Oil & Gas Association (LOGA)
1, 2, 3, 4, 6	Lauren Estopinal – LOGA (testimony at public hearing)

Total Commenters: 2
Total Comments: 6

* indicates a fast-track regulation

LOGA
LOUISIANA OIL & GAS ASSOCIATION

DON G. BRIGGS, *President*

October 29, 2012

Via mail

Deidra Johnson
Office of the Secretary
Legal Division
P.O. Box 4302,
Baton Rouge, LA 70821-4302

Subject: AQ322 - Regulatory Permit for Flaring of Materials other than Natural Gas

Re: DEQ September 2012 edition of the Louisiana Register

Ms. Johnson:

Louisiana Oil and Gas Association (LOGA) appreciates the opportunity to comment on the DEQ's proposed rule AQ322 - Regulatory Permit for Flaring of Materials other than Natural Gas.

LOGA (known before 2006 as LIOGA) was organized in 1992 to represent the independent and service sectors of the oil and gas industry in Louisiana; this representation includes exploration, production and oilfield services. With over 1,000 independent producers and service companies as members, we represent every branch of Louisiana's oil and gas industry. LOGA is an advocate for Louisiana's oil and gas industry.

LOGA supports responsible environmental stewardship, and our member companies follow best practices in their respective branches within the industry. We seek rational environmental regulations that achieve real benefits for the environment while using minimal government and industry resources efficiently. That is why on behalf of our membership we would like to commend the state for taking this proactive step in setting up a permit process for the flaring of this type of material. LOGA believes it will increase efficiency for companies while insuring the state has an organized-effective regulatory system in place. However, as with any permitting process there can be many unintended consequences; our comments are meant only to aid in the prevention of such consequences and to ensure the permit is a tool that will help both industry and the state.

It is unclear how the proposed rule would affect venting in certain purging events. We expect the state does not intend to affect a company's ability to vent certain minimal gaseous materials with this rule. To avoid uncertainty, we request that the allowance for minimal gaseous venting be made clear in the rule. If it is the intention of the state to affect or prohibit the use of venting as a method of purging, LOGA strongly requests the state consider allowing exemptions for minimal releases. Flaring small volumes of materials with no flow or pressure, as opposed to venting, is not viable. This action would require the use of natural gas as a supplement to vacate material, which becomes an additional step that is both burdensome and unnecessary.

PENGAD 800-631-6989
EXHIBIT
1

As an alternative, if the state does intend to affect a company's ability to vent, LOGA strongly recommends the state allow venting if the gaseous release falls below the following minimums:

- Minimum volume – 0.25 MMSCF;
- Minimum residue pressure - 10psig;
- On the ozone action day - maybe a threshold of 10% for ethylene and propylene. Currently it would be restricted to between the hours of 4pm – 10am

Additionally, the proposal rule's opacity reading requirements include an increase in the training level of the reader. Maintaining an employee trained to this level will create a significant increase in costs. We request the rule provide a three day notice by the department to the companies for Method 9 readings to allow the company to retain a contract reader with the proper qualifications.

Another issue arises when one looks at the broad coverage of the proposed rule. Some of the requirements, while applicable in facilities, are not appropriate when applied to pipelines. We believe the different circumstances surrounding facilities and pipelines require different regulations for events where Method 9 readings are not requested by DEQ. LOGA suggests the following:

- For facilities flaring events, opacity readings should be conducted in accordance to current permit requirements; and
- For pipeline flaring events, opacity readings should be conducted in accordance with Method 22 of 40 CFR, Appendix A.

Lastly, the proposed rule currently requires that the actual volumes of materials flared be submitted no later than 30 calendar days after completion of the flaring event. But metering the volume of materials flared during a field pipeline blow down event is not a viable option due to
(1) Varying sizes of pipe
and (2) meter interference from multiphase materials
During pipeline flaring events, LOGA believes that engineering calculations based on pipeline size, pressure and length provide extremely accurate estimates and should be acceptable in the proposed rule.

Sincerely,

Don G. Briggs

LOGA is Louisiana's Oil & Gas Industry
POST OFFICE BOX 4069 BATON ROUGE, LOUISIANA 70821 225.388.9525 FAX: 225.388.9561

ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

REGULATORY PERMIT FOR FLARING OF MATERIALS OTHER THAN NATURAL GAS LAC 33:III.319

LOG #: AQ322

PUBLIC HEARING

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, 602 N. Fifth Street, Room 1051, Baton Rouge, Louisiana, beginning at 1:36 p.m., on October 31, 2012.

BEFORE:

Lori B. Overland
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:

Susan Ham
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:	
Exhibit 1 letter dated 10/29/12 LOGA	9
REPORTER'S PAGE	10
REPORTER'S CERTIFICATE	11

* * * * *

1 * * * * *

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Ham, 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 Substantive Changes to Rule
9 AQ328ft and amendments to the air
10 regulations with proposed Rule AQ322.
11 This public hearing provides a forum
12 for all interested parties to present
13 comments on the proposed changes. This
14 hearing is not being conducted in a
15 question and answer format. Please
16 remember that the purpose of this public
17 hearing is to allow you, the public, an
18 opportunity to express your thoughts
19 concerning today's proposed amendments.
20 I'll ask that each person commenting
21 come up and sit in the front row and
22 begin by stating his or her name and
23 affiliation for the record.
24 The next hearing is on the proposed
25 amendments to the air regulations, AQ322.

1 The comment period for these
2 amendments began on September 20, 2012,
3 when the notice of intent was published
4 in the Louisiana Register. The comment
5 period will close at 4:30 p.m., November
6 7, 2012. It would be helpful to us if
7 all oral comments received today were
8 followed up in writing.
9 The air amendment is designated by
10 the Log Number AQ322.
11 This rule will provide for a
12 regulatory permit which will authorize
13 air emissions from the flaring of
14 materials other than natural gas (e.g.,
15 propane, ethylene, propylene, ammonia).
16 The authorization will become effective
17 only upon notification by the department
18 that the application required by the
19 regulatory permit has been determined
20 complete. R.S. 30:2054(B)(9)(a) allows
21 LDEQ to develop regulatory permits for
22 certain sources of air emissions provided
23 the conditions in R.S. 30:2054(B)(9)(b)
24 are satisfied. Pursuant to R.S.
25 30:2054(B)(9)(b)(viii), all regulatory

1 permits shall be promulgated in
2 accordance with the procedures provided
3 in R.S. 30:2019 Promulgation of rules and
4 regulations (i.e., the Administrative
5 Procedure Act, R.S. 49:950 et seq).
6 Does anyone care to comment on this
7 regulation?
8 **MS. ESTOPINAL:**
9 Yes.
10 **MS. HAM:**
11 Okay. Lauren.
12 **MS. ESTOPINAL:**
13 Lauren Estopinal with Louisiana Oil
14 and Gas Association.
15 First, we'd like to commend the
16 state for taking this proactive step in
17 bringing about this permit for flaring
18 materials other than natural gas. And
19 our comments are only to prevent any
20 unintended consequences coming from this
21 permit and meant to aid the state in it's
22 process.
23 First, it's unclear how the proposed
24 rule will affect the venting or if it was
25 intended to affect venting in certain

1 purging events. We expect the state did
2 not intend to affect a company's ability
3 to vent certain minimal gas materials
4 with this rule. But to avoid
5 uncertainty, we request that the state
6 allow for a minimum gaseous venting be
7 made clear in the rule.
8 Also, the proposed rule's opacity
9 reading requirements include an increase
10 in the training level of the reader.
11 Maintaining an employee trained to this
12 level will create a significant increase
13 in costs. We request that the rule
14 provide a three day notice by the
15 department to the companies for Method 9
16 readings to allow the companies to retain
17 a contract reader with the proper
18 qualifications.
19 And last, the proposed rule
20 currently require the actual volume of
21 materials flared be submitted no later
22 than 30 days after completion of the
23 flaring event. But metering the volume
24 of the materials flared during a field
25 pipeline blow down event is not a viable

1 option due to the varying size of the
2 pipe and the meter interference with
3 multiphase materials. During pipeline
4 flaring events, LOGA believes that
5 engineering calculations based on
6 pipeline size, pressure and length
7 provide extreme accurate estimations and
8 should be acceptable in the proposed
9 rule.
10 Further explanation is given in my
11 written comments.
12 **MS. HAM:**
13 Okay. Thank you. Thank you,
14 Lauren.
15 Does anyone else care to comment on
16 this regulation?
17 (No response)
18 **MS. HAM:**
19 If not, the hearing on AQ322 is
20 closed.
21 I'd like to thank you for your
22 attention and participation.
23 This hearing is closed.
24 (The LOGA document was marked for
25 identification as "Exhibit 1" and

1 attached to the hearing transcript.)

2 **THE HEARING CONCLUDED AT 1:39 P.M.**

3 * * * * *

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 OFFICIAL SEAL # 97083
LORI B. OVERLAND
Certified Court Reporter
in and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-12

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

OFFICIAL SEAL
LORI B. OVERLAND
Certified Court Reporter
in and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-12

In The Matter Of:

IN RE: REGULATORY PERMIT FOR FLARING OF MATERIALS OTHER THAN NATURAL GAS LAC 33:III.319 LOG #: AQ322

DEPARTMENT OF ENVIRONMENTAL QUALITY

October 31, 2012

Associated Reporters Incorporated

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NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Regulatory Permit for Flaring of Materials Other than Natural Gas (LAC 33:III.319)(AQ322)

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.319 (AQ322).

This Rule will provide for a regulatory permit which will authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019—Promulgation of Rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rational for this Rule are to establish a regulatory permit to authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). 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
§319. Regulatory Permit for Flaring of Materials Other than Natural Gas

A. Applicability

1. This regulatory permit authorizes the flaring of gaseous materials other than natural gas (e.g., propane, ethylene, propylene, ammonia) resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification that the department has determined the application (i.e., notification form) submitted in accordance with Subsection G of this Section to be complete. The material to be flared may be supplemented with natural gas.

2. The material to be flared must have a higher heating value greater than or equal to 300 Btu per standard cubic foot.

B. The flare must be capable of accommodating the maximum amount of material to be combusted at any point during the flaring event.

C. Opacity

1. 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.

2. 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.

3. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by impairment of visibility, as defined in LAC 33:III.111, or intensify an existing traffic hazard condition are prohibited.

4. The owner or operator of the flare 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.

D. The authorization for the flaring event associated with the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection G of this Section shall remain effective for 60 days following the date on which the department determines that the application is complete.

E. Flaring events with a duration of more than 10 calendar days shall not be authorized by this regulatory permit and must be approved separately by the department.

F. When an ozone action day has been declared by the department, flaring of ethylene or propylene shall be restricted to between the hours of 4 p.m. and 10 a.m.

G. Notification Requirements

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

a. name of the owner or operator;

b. material to be flared;

c. estimated volume of the material to be flared;

d. reason for the flaring event;

e. physical location;

f. date(s) and expected duration of the flaring event; and

g. estimated emissions of criteria pollutants and toxic air pollutants (TAPs) associated with the flaring event. TAPs are listed in LAC 33:III.5112, Tables 51.1 and 51.3.

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

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

H. Monitoring, Recordkeeping, and Reporting

1. The volume of material combusted during the flaring event shall be monitored using a flow meter.

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

a. date(s) and duration of the flaring event;

b. actual volume of material flared; and

c. actual criteria pollutant and TAP emissions associated with the flaring event.

I. In accordance with LAC 33:III.223, Table 1, 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 38:

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 AQ322. Such comments must be received no later than November 7, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ322. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on October 31, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulatory Permit for Flaring of Materials Other than Natural Gas

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed Rule. The proposed Rule creates a new regulatory permit which authorizes the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The regulatory permit requires applicants to submit a notification form in lieu of a generic permit application. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the Department of Environmental Quality that the application (i.e., notification form) required by the regulatory permit has been determined complete.

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

No increase or decrease in revenues to state or local governmental units 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 of $300 is equivalent to, and in place of, that which would have been required had a permit been applied for and processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

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

Owners or operators of pipelines or industrial facilities seeking approval to flare a material other than natural gas will be affected by the proposed Rule. 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." However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., flaring of material other than natural gas) and used in place of the traditional, more generic permit application documents. The fee for this regulatory permit is $300, which is equivalent to the permit application fee normally associated with requests to flare a material other than natural gas. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department's review of such documents. A final decision on proposed projects should be reached more expeditiously, possibly resulting in 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, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1209#033	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Real Estate Commission

Real Estate Schools, Vendors, Post-Licensing and Continuing Education (LAC 46:LXVII.5319, 5513, 5515, 5523, 5527, 5529 and 5531)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII, Real Estate, Chapters 53 and 55.

A pre-license instructor certification will no longer serve to automatically qualify pre-license instructors to instruct post-license and continuing education courses. Post-license and continuing education instructors will no longer be certified by the LREC, and will forego the cost of the certification exam. All instructors, including certified pre-

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NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Regulatory Permit for Flaring of Materials Other than Natural Gas (LAC 33:III.319) (AQ322)

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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 October 31, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ322. Such comments must be received no later than November 7, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ322. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

Monroe, LA
September 17, 2012
0001611590

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:

September 17, 2012
Elaine Patrick

LEGAL AD DEPT.

Sworn and subscribed before me by
The person whose signature appears above in Monroe, LA on this
18th day of September 20 12 AD

SARAH M. WALKER
OUACHITA PARISH
MY COMMISSION IS FOR LIFE
ID# 6402
NOTARY PUBLIC
LOUISIANA

Sarah M Walker
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The Times

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STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Connie Vinson-Carey, 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 published entitled:

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Regulatory Permit for Flaring of Materials Other than Natural Gas (LAC 33:III.319) (AQ322)

Notice published in The Times on September 12, 2012

September 12, 2012

(Signed) Connie Vinson-Carey

Sworn to and subscribed before me this 12th day of September, 2012

Diana W. Barber

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

(Notary)

GANNETT

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Regulatory Permit for Flaring of Materials Other than Natural Gas (LAC 33:III.319) (AQ322)

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.319 (AQ322).

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Herman Robinson, CPM
Executive Counsel

The Times
September 12, 2012

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LEGAL AFFAIRS DIVISION

Acadiana's Daily Newspaper

THE ADVERTISER

1100 Bertrand Drive
LAFAYETTE, LA 70506

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

AFFIDAVIT OF PUBLICATION

Susan Ham, Paralegal
LA Department of Environmental Quality
OSEC/Legal Affairs Division
Remediation & Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302

Account No.: 8DEQRD
Ad Number: 1611858
Ad Total: $64.28
No. of Lines: 176
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 Division
Regulatory Permit for Flaring of Materials Other than Natural Gas
(LAC 33:III.319) (AQ322)

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

***Sunday, September 9, 2012**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 12th day of September, 2012.

Notary Public - Christie Veazey ID# 058555

1611858

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Office of the Secretary
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Herman Robinson, CPM
Executive Counsel

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Affidavit of Publication

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Herman Robinson, CPM
Executive Counsel

Sept 12 1t
00771536

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:

00771536 - $50.00
September 12, 2012

Karen Dahlem
Duly Authorized Agent

Subscribed and sworn to before me on this 12th day of September, 2012 at Lake Charles, LA

Vickie S. Cooley 8354
Notary Public

00053262

LDEQ-OSEC-LAD

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LEGAL AFFAIRS DIVISION

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70125-1429 TELEPHONE (504) 826-3201

Exhibit A
Attached

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Heather Grant 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 NOTICES

Re: Regulatory Permit for Flaring of Materials Other than Natural Gas

Advertisement of LA Department Environmental

Quality, OSEC/Legal Affairs
PO Box 4303
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, LA 70125

On the following dates September 13, 2012

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

Sworn to and subscribed before me this 13th Day of September, 2012

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

Notary identification number 23492

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CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

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SEP 21 2012
LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

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:

09/12/12

Shelley Calloni, Public Notice Clerk

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

September 12, 2012

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

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

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Herman Robinson, CPM
Executive Counsel

4707288-sep 12-1t

DEQ - OSEC/LAD REG ***4707288***
SUSAN HAM
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

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LEGAL AFFAIRS DIVISION

State of Louisiana
Parish of Rapides
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(A Correct Copy of Publication)

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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 AQ322. Such comments must be received no later than November 7, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ322. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

I, Bill Heirtzler, Director of Advertising,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Legal Notice

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated September 20, 2012 and ending with the

issue dated September 20, 2012.

Bill Heirtzler

Subscribed and sworn to before me
this 20th day of September, 2012 at
Alexandria, Louisiana.

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

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§319. Regulatory Permit for Flaring of Materials Other than Natural Gas

A. Applicability

1. This regulatory permit authorizes the flaring of gaseous materials other than natural gas (e.g., propane, ethylene, propylene, ammonia) resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification that the department has determined the application (i.e., notification form) submitted in accordance with Subsection G of this Section to be complete. The material to be flared may be supplemented with natural gas.

2. The material to be flared must have a higher heating value greater than or equal to 300 Btu per standard cubic foot.

B. The flare must be capable of accommodating the maximum amount of material to be combusted at any point during the flaring event.

C. Opacity

1. 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.

2. 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.

3. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensify an existing traffic hazard condition are prohibited.

4. The owner or operator of the flare 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.

D. The authorization for the flaring event associated with the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection G of this Section shall remain effective for 60 days following the date on which the department determines that the application is complete.

E. Flaring events with a duration of more than 10 calendar days shall not be authorized by this regulatory permit and must be approved separately by the department.

F. When an Ozone Action Day has been declared by the department, flaring of ethylene or propylene shall be restricted to between the hours of 4:00 p.m. and 10:00 a.m.

G. Notification Requirements

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

a. name of the owner or operator;

b. material to be flared;

c. estimated volume of the material to be flared;

d. reason for the flaring event;

e. physical location;

f. date(s) and expected duration of the flaring event; and

g. estimated emissions of criteria pollutants and toxic air pollutants (TAPs) associated with the flaring event. TAPs are listed in LAC 33:III.5112, Tables 51.1 and 51.3.

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

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

H. Monitoring, Recordkeeping, and Reporting

1. The volume of material combusted during the flaring event shall be monitored using a flow meter. Alternatively, the volume may be determined using engineering calculations.

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

a. date(s) and duration of the flaring event;

b. actual volume of material flared, including calculations if the volume was not monitored using a flow meter; and

c. actual criteria pollutant and TAP emissions associated with the flaring event.

I. In accordance with LAC 33:III.223, Table 1, 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 Division, LR 39:**.

RULE

Department of Environmental Quality
Office of the Secretary

Permit Term or Condition Referencing
40 CFR Part 63, Subpart DDDDD
(LAC 33:III.501)(AQ323)

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.B.8 (AQ323).

On September 13, 2004, EPA promulgated 40 CFR 63, Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (69 FR 55253). subpart DDDDD was subsequently vacated and remanded to EPA by the U.S. Court of Appeals for the District of Columbia Circuit on June 8, 2007. The court made its ruling effective on July 30, 2007.

Prior to the court's ruling, LDEQ had incorporated the provisions of subpart DDDDD into numerous Part 70 Operating Permits. Therefore, LDEQ promulgated LAC 33:III.501.B.8 to specify that "any term or condition in a permit that references 40 CFR part 63, subpart DDDDD shall be null and unenforceable."

In response to the court's vacatur and remand, EPA re-promulgated subpart DDDDD on March 21, 2011 (76 FR 15608). Because provisions of the final Rule must be incorporated into certain part 70 permits as "applicable requirements" per 40 CFR 70.6(a), LAC 33:III.501.B.8 must be repealed. The basis and rational for this Rule are to repeal and reserve LAC 33:III.501.B.8. 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.7. …

8. Repealed.

C. - C.14. …

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), LR 37:3233 (November 2011).

Herman Robinson, CPM
Executive Counsel

1111#078

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Solid Waste
(LAC 33:VII.Chapters 1, 3, 4, 5,
7, 13, 15, 30, and 103)(SW053)

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 solid waste regulations, LAC 33:VII.Subpart 1 and 2 (SW053).

The solid waste regulations are being updated. The new Rule will change the way solid waste permits are issued along with the application process for solid waste permits. Other changes will include definition changes, additional exemptions, and the establishment of a new annual compliance certification requirement.

The current solid waste permit system is not as efficient or productive as it could be. The current system has resulted in a backlog of pending solid waste permits that is unacceptable to the agency, the regulated community and the public. The regulation changes will allow for a more direct permit approach that will limit the need for notices of deficiencies to be issued to permit applicants and will also enable DEQ surveillance personnel to inspect these facilities more appropriately by having a permit that is written with clearer conditions. The Rule will also provide additional clarification in definitions and exemptions. The basis of this Rule is to make necessary changes and clarifications in the solid waste regulations and to allow for a better permit process. 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 VII. Solid Waste
Subpart 1. Solid Waste Regulations

Chapter 1. General Provisions and Definitions

§115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Closure Permit—written authorization issued by the administrative authority to a person for the closure of a facility used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

* * *

Comment Summary Response & Concise Statement –
Nonattainment New Source Review Procedures
LAC 33:III.504
Log Number AQ326

COMMENT 1: Mid-Continent supports the proposed amendment. Future economic development in the Baton Rouge area will be hindered if this rule is not adopted since currently-banked credits would not be available for use for New Source Review permitting after the effective date of the designations under the 2008 ozone standard. Loss of these credits would result in a loss of a potential future revenue source for those holding the credits and an added cost for projects that could have purchased these credits.

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

RESPONSE 1: The department appreciates the support.

* indicates a fast-track regulation

Comment Summary Response & Concise Statement
Nonattainment New Source Review Procedures
LAC 33:III.504
Log Number AQ326

COMMENT #	SUGGESTED BY
1	Richard T. Metcalf – Louisiana Mid-Continent Oil and Gas Association (LMOGA)

Total Commenters: 1
Total Comments: 1

* indicates a fast-track regulation

AGENDA FOR PUBLIC HEARING

Being Conducted by:

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

September 27, 2011

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

SUSAN HAM - HEARING OFFICER

LOG #	RULE TITLE
AQ323	Repeal of LAC 33:III.501.B.8 LAC 33:III.501.B.8

COMMENT PERIOD ENDS **October 04, 2011** **AT 4:30 PM**

* *

DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.
September 27, 2011

AQ323 -- Repeal of LAC 33:III.501.B.8

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
Jon Ouland	ARI			216-2036	N
NB Mills	LDEQ	602 N. 5th St BR LA		X-2109	N
Brenda Hayden					
Richard Metcalf	WMOGA	730 North Blvd	Baton Rouge LA 70802	2253873265	N
Henry Graham	LCA				N

207

ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

REPEAL OF LAC 33:III.501.B.8

LOG #: AQ323

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 1:32 p.m., on September 27, 2011.

BEFORE:

Lori B. Overland
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:

Susan Rice
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	7
REPORTER'S CERTIFICATE	8

* * * * *

1 * * * * *

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Rice, 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 Air
9 regulations.

10 The comment period for these
11 amendments began on August 20, 2011, when
12 the notice of intent was published in the
13 Louisiana Register. The comment period
14 will close at 4:30 p.m., October 4, 2011.
15 It would be helpful to us if all oral
16 comments received today were followed up
17 in writing.

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

1 concerning today's proposed amendments.
2 I'll ask that each person commenting
3 come up and sit at the front table and
4 begin by stating his or her name and
5 affiliation for the record.
6 The Air amendment is designated by
7 the Log Number AQ323.
8 On September 13, 2004, EPA
9 promulgated 40 CFR 63, Subpart DDDDD -
10 National Emission Standards for Hazardous
11 Air Pollutants for Industrial,
12 Commercial, and Institutional Boilers and
13 Process Heaters (69 FR 55253). Subpart
14 DDDDD was subsequently vacated and
15 remanded to EPA by the U.S. Court of
16 Appeals for the District of Columbia
17 Circuit on June 8, 2007. The Court made
18 its ruling effective on July 30, 2007.
19 Prior to the Court's ruling, LDEQ
20 had incorporated the provisions of
21 Subpart DDDDD into numerous Part 70
22 Operating Permits. Therefore, LDEQ
23 promulgated LAC 33:III.501.B.8 to specify
24 that "any term or condition in a permit
25 that references 40 CFR Part 63, Subpart

1 DDDDD shall be null and unenforceable."
2 In response to the Court's vacatur
3 and remand, EPA re-promulgated Subpart
4 DDDDD on March 21, 2011 (76 FR 15608).
5 Because provisions of the final rule must
6 be incorporated into certain Part 70
7 permits as "applicable requirements" per
8 40 CFR 70.6(a), LAC 33:III.501.B.8 must
9 be repealed.
10 Does anyone care to comment on this
11 regulation?
12 If not, the hearing on AQ323 is
13 closed.
14 Thank you for your attention and
15 participation.
16 This hearing is close.
17 **THE HEARING CONCLUDED AT 1:35 P.M.**
18 * * * * *

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 L. 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 12-31-11

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 12-31-11

In The Matter Of:

IN RE: REPEAL OF LAC 33:III.501.B.8

LOG #: AQ323

PUBLIC HEARING

September 27, 2011

Associated Reporters Inc.

2431 South Acadian Thruway

Suite 550

Baton Rouge, LA 70808

(225) 216-2036 Fax (225) 216-2220

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

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

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 19, 2011, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Catherine R. Pozniak
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulatory Documents—Rulemaking

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

Louisiana Administrative Code, Title 28, Part I, Section 1303 contains the Rulemaking procedure for the Board of Elementary and Secondary Education (BESE). Changes are being made to reflect that rules may be submitted to the Louisiana Register for advertisement in the month in which the 90-day required advertisement expires. This action will have no fiscal effect other than an estimated cost of $165 in the *Louisiana Register*.

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

This action will have no effect on revenue collections of state and local government units.

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

This action will have no effect on cost and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

Catherine Pozniak
Executive Director
1108#038

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Permit Term or Condition Referencing
40 CFR Part 63, Subpart DDDD
(LAC 33:III.501)(AQ323)

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.B.8 (AQ323).

On September 13, 2004, EPA promulgated 40 CFR 63, Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (69 FR 55253). Subpart DDDDD was subsequently vacated and remanded to EPA by the U.S. Court of Appeals for the District of Columbia Circuit on June 8, 2007. The Court made its ruling effective on July 30, 2007.

Prior to the Court's ruling, LDEQ had incorporated the provisions of Subpart DDDDD into numerous Part 70 Operating Permits. Therefore, LDEQ promulgated LAC 33:III.501.B.8 to specify that "any term or condition in a permit that references 40 CFR Part 63, Subpart DDDDD shall be null and unenforceable."

In response to the Court's vacatur and remand, EPA re-promulgated Subpart DDDDD on March 21, 2011 (76 FR 15608). Because provisions of the final Rule must be incorporated into certain Part 70 permits as "applicable requirements" per 40 CFR 70.6(a), LAC 33:III.501.B.8 must be repealed. The basis and rational for this Rule are to repeal and reserve LAC 33:III.501.B.8. 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.7.…

8. Repealed.

C. - C.14.…

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), LR 37:

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 AQ323. Such comments must be received no later than October 4, 2011, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ323. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on September 27, 2011, 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 Perry Theriot at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Permit Term or Condition Referencing 40 CFR Part 63, Subpart DDDD

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

The proposed rule change will have no impact on state or local government expenditures. The proposed rule change is a technical amendment that eliminates the current regulation pertaining to permit terms or conditions impacting boilers and process heaters at major sources of hazardous air pollutants. The rule was promulgated in response to the U.S. Court of Appeals for the District of Columbia Circuit ruling that declared 40 CFR 6, subpart DDDDD null and void. In response to the ruling, the Environmental Protection Agency re-promulgated federal standards for these sources. The Department of Environmental Quality still monitors major sources with boilers and process heaters, as each is required to conform to the new Federal rule.

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

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

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

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. The boilers located at major sources of hazardous air pollutants will still have to comply with the new Federal rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM
Executive Counsel
1108#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Motor Vehicle Commission

Automotive Industry
(LAC 46:V.Chapters 1, 13, 15 and 18)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:950 et seq., and in accordance with Revised Statutes Title 32, Chapter 6, the Office of the Governor, Louisiana Motor Vehicle Commission, notice is hereby given that the Louisiana Motor Vehicle Commission finds it necessary to adopt paragraph B of §107 to further implement the provisions of R.S. 32:1268.2. In the country's current economic condition, manufacturers of motor vehicles and recreational products are filing for bankruptcy, discontinuing lines, and ceasing to do business at an alarming rate making it unlawful under state law for dealers to sell their new inventory. R. S. 32: 1268.2 was enacted by the legislature to allow previously franchised motor vehicle and recreational product dealers to continue to be licensed under circumstances where the manufacturer is in bankruptcy, is no longer in business, or has terminated a line. This Rule will allow the commission to license the terminated dealer to perform warranty work under an agreement with the manufacturer when a line has been terminated. This will assure the consuming public the availability of a dealer to perform warranty on a terminated vehicle.

The commission proposes to adopt §1307 to place in its Rules its previously adopted policy regarding offsite displays by manufacturers, distributors, factory and distributor branches and new motor vehicle dealer licensees. This regulation has been in effect since 2004 and makes no change that will affect those persons covered by the Rule.

The commission proposes to repeal provisions of its rules relating to recreational product shows and replace them with existing and new regulations and language to clarify the Rule.

Rules will be adopted to implement the provisions of R.S. 32:1256 with regard to recreational product shows. Chapter 18. Recreational Products Trade Show; Definitions, License Fees and Applications; Violations and Regulations will be repealed. Chapter 15. Recreational Product Shows is being adopted with language to clarify the rules and put into the rule customary procedures of the commission which will assist licensees in dealing with the regulatory scheme assigned the commission. This Rule will eliminate provisions for local and regional shows and provides for a recreational product show. The fee for the show, $500, is the fee that has been charged for a regional show under repealed Chapter 18. The provisions for a non-resident exhibitor have not been included as the reference to non-resident exhibitors has been deleted from Title 32, Chapter 6. In addition only a licensee of the commission may offer for sale recreational products in this state. The provisions of former §1806 regarding offsite displays of marine products have been expanded to include all recreational products. A fee of $200 is established to cover the cost to approve and inspect the offsite displays. The Rule clarifies the requirement for invitations and priority of those invitations to participate in the recreational product show. The amendment clarifies the

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.7. …

8. ~~Any term or condition in a permit that references 40 CFR Part 63, Subpart DDDDD shall be null and unenforceable, unless the condition was included in the permit in lieu of an alternative applicable, enforceable condition. Such terms or conditions shall be removed or modified, as appropriate, in the next modification or renewal of the permit.~~

C. - C.14. …

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), LR 37:3233 (November 2011).

by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), amended by the Office of the Secretary, LR 38:1230 (May 2012).

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2011, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, www.gpoaccess.gov/cfr/index.html.

C. - C.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), amended by the Office of the Secretary, LR 38:1231 (May 2012).

Chapter 53. Area Sources of Toxic Air Pollutants

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

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

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2011, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, www.gpoaccess.gov/cfr/index.html.

C. …

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

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

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2011.

B. - C.6. …

* * *

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

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

Herman Robinson, CPM
Executive Counsel

1205#009

RULE

Department of Environmental Quality
Office of the Secretary

Nonattainment New Source Review Procedures
(LAC 33:III.504)(AQ326)

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.504 (AQ326).

The Baton Rouge area (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) is currently designated as nonattainment with respect to the 1997 8-hour ozone NAAQS of 0.08 parts per million (ppm). Consequently, increases of NOX and VOC emissions are governed by Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504. Under NNSR, owners or operators of new major stationary sources or major modifications must offset the emissions increase that would result from the proposed construction or modification by obtaining Emission Reduction Credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On August 30, 2011, EPA proposed to redesignate the Baton Rouge area to attainment of the 1997 ozone NAAQS (76 FR 53853). When this re-designation becomes effective, NNSR provisions, including those requiring offsets for significant NOX and VOC increases, will no longer be mandated by the Clean Air Act. However, another ozone standard will soon be implemented, and Baton Rouge will once again be designated as a nonattainment area.

On March 27, 2008, EPA lowered the ozone NAAQS from 0.08 ppm to 0.075 ppm (73 FR 16436); this standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced that it would reconsider the ozone NAAQS. In concert with this decision, EPA stayed the 2008 standard with respect to designations. On January 19, 2010, EPA proposed that the level of the primary standard should instead be set within the range of 0.060 to 0.070 ppm (75 FR 2938). However, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Because the ozone standard will not be revisited for several years, EPA is moving ahead with certain required actions to implement the 2008 standard. Based on air quality data from 2008–2010, Baton Rouge will be designated as nonattainment. EPA expects to finalize area designations by "mid-2012."

Therefore, based on EPA's implementation schedule, Baton Rouge will be an attainment area for a short period of time. According to LAC 33:III.504.F.2, "all emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment." Consequently, if this provision is not repealed, there will be no ERC available once the Baton Rouge area is formally designated as nonattainment under the 2008 ozone standard. The basis and rational for this Rule are to preserve ERC applied for or approved in accordance with LAC 33:III.Chapter 6 after Baton Rouge is formally designated as nonattainment under the 2008 8-hour ozone NAAQS. 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

§504. Nonattainment New Source Review (NNSR) Procedures

A. - F.1. …

2. Repealed and Reserved.

F.3. - 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), LR 37:1568 (June 2011), amended by the Office of the Secretary, LR 38:1232 (May 2012).

Herman Robinson, CPM
Executive Counsel

1205#010

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Waste Expedited Permitting Process
(LAC 33:I.1801)(OS090)

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 Office of the Secretary regulations, LAC 33:I.1801.B.4 (OS090).

This Rule changes the application process and issuance of solid waste permits. This change will allow solid waste permitting actions to be issued under the expedited permitting program found in LAC 33:I.Chapter 18. It will also allow permits under the hazardous waste program to be expedited. The solid waste permit system has been lengthy and cumbersome. Applicants have had to wait for a period of many years for a permit decision. DEQ revised the solid waste regulations to allow for a more direct permit approach, providing clarification of the regulations. These improvements can be complimented by reducing the timeline needed to obtain a solid waste permit. This Rule provides an expedited process to obtain a solid waste permit. The basis and rationale for this Rule is to allow permit actions to be issued in a more timely fashion and enhance the DEQ's ability to more efficiently process pending waste permit applications. 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 18. Expedited Permit Processing Program

§1801. Scope

A. - B.3. ...

ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

NONATTAINMENT NEW SOURCE
REVIEW (NNSR) PROCEDURES
LOG # AQ326

* *

The Public Hearing held by the Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:31 p.m. on Tuesday, February 28, 2012.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:

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

* * * * * * * * * * *

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

2 MS. HAMM:

3 Good afternoon. My name is Susan Hamm and
4 I'm employed by the Louisiana Department of
5 Environmental Quality. I'll be serving as
6 hearing officer this afternoon to receive
7 comments regarding proposed amendments to the
8 Air and Office of the Secretary Regulations.
9 The comment period for these amendments
10 began on January 20, 2012, when the notices of
11 intent were published in the Louisiana Register.
12 The comment period will close at 4:30 p.m.,
13 March 6, 2012. It would be helpful to us if all
14 oral comments received today were followed up in
15 writing.
16 This public hearing provides a forum for all
17 interested parties to present comments on the
18 proposed changes. This hearing is not being
19 conducted in a question and answer format.
20 Please remember that the purpose of this public
21 hearing is to allow you, the public, an
22 opportunity to express your thoughts concerning
23 today's proposed amendments.
24 I'll ask that each person commenting come up
25 and sit at the front table and begin by stating

his or her name and affiliation for the record.

The first amendment is designated by the Log Number AQ326.

The Baton Rouge area (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) is currently designated as nonattainment with respect to the 1997 8-hour ozone NAAQS of 0.08 parts per million (ppm). Consequently, increases of NOX and VOC emissions are governed by Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504. Under NNSR, owners or operators of new major stationary sources or major modifications must offset the emissions increase that would result from the proposed construction or modification by obtaining Emission Reduction Credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On August 30, 2011, EPA proposed to re-designate the Baton Rouge area to attainment of the 1997 ozone NAAQS (76 FR 53853). When this re-designation become effective, NNSR provisions, including those requiring offsets for significant NOX and VOC increases, will no longer be mandated by the Clean Air Act. However, another ozone standard will soon be

implemented, and Baton Rouge will once again be designated as a nonattainment area.

On March 27, 2008, EPA lowered the ozone NAAQS from 0.08 ppm to 0.075 ppm (73 FR 16436); this standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced that it would reconsider the ozone NAAQS. In concert with this decision, EPA stayed the 2008 standard with respect to designations. On January 19, 2010, EPA proposed that the level of the primary standard should instead be set within the range of 0.060 to 0.070 ppm (75 FR 2938). However, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Because the ozone standard will not be revisited for several years, EPA is moving ahead with certain required actions to implement the 2008 standard.

Based on air quality data from 2008 to 2010, Baton Rouge will be designated as nonattainment. EPA expects to finalize area designations by "mid-2012." Therefore, based on EPA's implementation schedule, Baton Rouge will be an attainment area for a short period of time.

According to LAC 33:III.504.F.2, "all emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment." Consequently, if this provision is not repealed, there will be no ERC available once the Baton Rouge area is formally designated as nonattainment under the 2008 ozone standard.

Does anyone care to make comments regarding this regulation?

(No response.)

If not, the hearing on AQ326 is closed.

Thank you for your attention and participation.

This hearing is now closed.

(THE HEARING ADJOURNED AT 1:33 P.M.)

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

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

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

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

18

19

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

21 Susan Erkel

22 SUSAN ERKEL

23 CERTIFIED COURT REPORTER

24 LICENSE NO. 24005

25

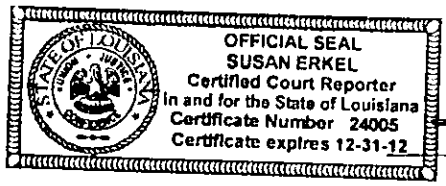
R E P O R T E R ' S P A G E

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: NONATTAINMENT NEW SOURCE REVIEW (NNSR) PROCEDURES LOG # AQ326

DEPARTMENT OF ENVIRONMENTAL QUALITY

February 28, 2012

Associated Reporters Inc.
2431 South Acadian Thruway
Suite 550
Baton Rouge, LA 70808
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DEPARTMENT OF ENVIRONMENTAL QUALITY
ATTENDANT SIGN-IN SHEET
Rulemaking Hearing, 1:30 p.m.

February 28, 2012

AQ326 — Nonattainment New Source Review Procedures
OS083 — Stay of Permit Conditions Pending Administrative/Judicial Review
OS090 — Waste Expedited Permitting Process

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Evita Lagard	DEQ				N

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux	H. Gordon Monk
Deputy Superintendent	Legislative Fiscal Officer
1201#039	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.1415)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, and R.S. 17:3048.1).

This rulemaking will amend LASFAC's Scholarship/Grants rules for the Early Start Program to provide that the Board of Regents will approve courses taught by LAICU institutions and which are approved for use in the Early Start Program on a semester by semester basis and clarifies that the Statewide General Education Course Articulation Matrix is for participating public postsecondary institutions. (SG12135NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education
Scholarship and Grant Programs
Chapter 14. Early Start Program
§1415. General Provisions

A. …

B. The Board of Regents shall maintain a Statewide General Education Course Articulation Matrix for participating public postsecondary institutions.

C. The Board of Regents shall approve on a semester by semester basis the courses offered by LAICU postsecondary institutions that are approved for use in the Early Start Program.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:2611 (December 2007), amended LR 34:242 (February 2008), LR 35:234 (February 2009), LR 38:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972. The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Public Comments

Interested persons may submit written comments on the proposed changes (SG12135NI) until 4:30 p.m., February 9, 2012, 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: Scholarship/Grant Programs

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

The proposed changes to the Early Start program rules specify that the college courses in which students can enroll in public colleges are listed on the Statewide General Education Articulation Matrix and that courses for students enrolled in Louisiana Association of Independent Colleges and Universities (LAICU) schools are approved on a semester basis. The changes should not have a significant impact on types and number of college courses offered and there should be no implementation costs or savings due to this change.

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 changes will not have a significant impact on the number or types of courses available for enrollment to Early Start students, so these students should not be affected by the change. The change from an annual to a semester basis approval for Early Start courses at LAICU schools will ensure that courses taught in only one semester per academic year will be available to students and could result in additional classes being offered for program participants at these schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

George Badge	Evan Brasseaux
General Counsel	Staff Director
1201#023	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Nonattainment New Source Review Procedures
(LAC 33:III.504)(AQ326)

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.504 (AQ326).

The Baton Rouge area (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) is currently designated as nonattainment with respect to the

1997 8-hour ozone NAAQS of 0.08 parts per million (ppm). Consequently, increases of NOX and VOC emissions are governed by Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504. Under NNSR, owners or operators of new major stationary sources or major modifications must offset the emissions increase that would result from the proposed construction or modification by obtaining Emission Reduction Credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On August 30, 2011, EPA proposed to redesignate the Baton Rouge area to attainment of the 1997 ozone NAAQS (76 FR 53853). When this re-designation becomes effective, NNSR provisions, including those requiring offsets for significant NOX and VOC increases, will no longer be mandated by the Clean Air Act. However, another ozone standard will soon be implemented, and Baton Rouge will once again be designated as a nonattainment area.

On March 27, 2008, EPA lowered the ozone NAAQS from 0.08 ppm to 0.075 ppm (73 FR 16436); this standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced that it would reconsider the ozone NAAQS. In concert with this decision, EPA stayed the 2008 standard with respect to designations. On January 19, 2010, EPA proposed that the level of the primary standard should instead be set within the range of 0.060 to 0.070 ppm (75 FR 2938). However, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Because the ozone standard will not be revisited for several years, EPA is moving ahead with certain required actions to implement the 2008 standard. Based on air quality data from 2008–2010, Baton Rouge will be designated as nonattainment. EPA expects to finalize area designations by "mid-2012."

Therefore, based on EPA's implementation schedule, Baton Rouge will be an attainment area for a short period of time. According to LAC 33:III.504.F.2, "all emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment." Consequently, if this provision is not repealed, there will be no ERC available once the Baton Rouge area is formally designated as nonattainment under the 2008 ozone standard. The basis and rational for this Rule are to preserve ERC applied for or approved in accordance with LAC 33:III.Chapter 6 after Baton Rouge is formally designated as nonattainment under the 2008 8-hour ozone NAAQS. 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

§504. Nonattainment New Source Review (NNSR) Procedures

A. - F.1. …

2. Repealed and Reserved.

F.3. - 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), LR 37:1568 (June 2011), LR 38:

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 AQ326. Such comments must be received no later than March 6, 2012, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to perry.theriot@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ326. These proposed regulations are available on the internet at: www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Public Hearing

A public hearing will be held on February 28, 2012, 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 Perry Theriot 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.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nonattainment New Source Review Procedures

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed Rule.

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

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

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

There will be no costs to directly affected persons or non-governmental groups as a result of the proposed Rule. This Rule will benefit owners or operators that currently possess or have applied for Emission Reduction Credits (ERC), because such ERC would remain creditable (subject to validation by LDEQ as being surplus, enforceable, permanent, and quantifiable prior to use as offsets) once the Baton Rouge area is formally designated as nonattainment under the 2008 ozone National Ambient Air Quality Standard (NAAQS). The magnitude of the benefit will be directly proportional to the amount of ozone season NO_X ERC, non-ozone season NO_X ERC, and VOC ERC each owner or operator holds, or has applied for.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1112#019	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Stay of Permit Conditions Pending Administrative/Judicial Review (LAC 33:I.401, 403, 405, 407, III.537, V.705 and IX.309)(OS083)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.401, 403, 405, 407, III.537, V.705 and IX.309 (OS083).

This Rule identifies permit conditions, or "classes" of permit conditions, that: will automatically be suspended upon request for review; may be suspended at the discretion of the secretary (which may be delegated to the Assistant Secretary for the Office of Environmental Services); and will not be suspended. It also provides guidance and standards for the exercise of discretion by the secretary. R.S. 30:2024(A) provides that a permit is "effective upon issuance unless a later date is specified therein." In some instances, the permit applicant requests review of conditions and limitations in the permit. It may be impractical or unduly expensive for the permit applicant to comply with the permit conditions pending the appeal. The basis and rationale for this rule are to provide environmentally safe and economically beneficial options for the department to manage "suspensions" of permit conditions pending the review process. 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 4. Suspension of Contested Permit Conditions

§401. Purpose

A. This Chapter applies to the effectiveness of permit conditions contested pursuant to R.S. 30:2024.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:

§403. Suspension of Contested Conditions

A. Except as noted in Subsection B of this Section, during the course of an adjudicatory hearing or de novo judicial proceeding regarding a contested permit condition, all permit conditions contested by the applicant shall be suspended. All other provisions of the permit shall be effective unless the *administrative authority* as defined in LAC 33:I.107.A elects to suspend uncontested permit provisions that are not severable from those contested by the applicant.

B. Unless otherwise approved by the administrative authority, in writing, a contested permit condition shall not be suspended when:

1. the suspension may result in the withdrawal of delegation to the state of any authorized federal environmental program;

2. the suspension of the contested condition would violate general or numeric criteria found in LAC 33:IX.1113;

3. the contested condition is based on guidelines adopted by reference in LAC 33:IX.4901;

4. the contested condition prevents degradation in an outstanding natural resources water body; or

5. the suspension of the contested condition results in a violation of any memorandum of understanding between the department and the United States Fish and Wildlife Service.

C. Existing Permitted Facilities. To the extent that conditions in a newly-issued permit are suspended under this Section, the applicant must comply with the corresponding conditions of the existing permit that was replaced by the newly-issued permit, unless compliance with those conditions would be technologically incompatible with compliance with other conditions in the new permit which have not been suspended.

D. Newly Permitted Facilities. When a permit condition for a new facility, new source, new discharger, or a recommencing discharger is suspended, the applicant shall be prohibited from commencing any activities that may result in a release or discharge to the environment that are regulated by the suspended permit condition or related permit conditions that are not severable from the contested condition.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:

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:

01/20/12

Shelley Calloni, Public Notice Clerk

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

January 20, 2012

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 Division

Nonattainment New Source Review Procedures (LAC 33:III.504) (AQ326)

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.504 (AQ326).

The Baton Rouge area (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) is currently designated as nonattainment with respect to the 1997 8-hour ozone NAAQS of 0.08 parts per million (ppm). Consequently, increases of NOX and VOC emissions are governed by Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504. Under NNSR, owners or operators of new major stationary sources or major modifications must offset the emissions increase that would result from the proposed construction or modification by obtaining Emission Reduction Credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

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Herman Robinson, CPM
Executive Counsel

4588559-Jan 20-1t

DEQ - OSEC/LAD REG ***4588559***
SUSAN HAM
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

I, Harold Constance, Classified Sales Manager, of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Notice of Intent (AQ326) 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 January 19, 2012 and ending with the issue dated January 19, 2012.

Harold Constance

Subscribed and sworn to before me
this 19th day of January, 2012 at
Alexandria, Louisiana.

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

OTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Division

Nonattainment New
Source Review
Procedures
(LAC 33:III.504)
(AQ326)

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Herman Robinson,
CPM
Executive Counsel

(1) 19

The Times

PROOF OF PUBLICATION

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 published entitled:

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Division Nonattainment New Source Review Procedures (LAC 33:III.504) (AQ326)

January 12, 2012

(Signed) Altheas Critton

Sworn to and subscribed before me this 12th day of January, 2012

Diana W. Barber

(Notary)

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

GANNETT

NOTICE OF INTENT

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Office of the Secretary
Legal Division

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Public Notices

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Herman Robinson, CPM
Executive Counsel

The Times:
January 12, 2012

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70125-1429 TELEPHONE (504) 826-3201

Exhibit A
Attached

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Heather Grant 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: Nonattainment New Source Review Procedures
Department of Environmental Quality Office of Secretary

Advertisement of Louisiana Dept of Environmental

Quality
PO Box 4301
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave
New Orleans, LA 70125

On the following dates January 20, 2012

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.

20th Sworn to and subscribed before me this Day of January, 2012

Notary Public
Charles A. Ferguson, III
My commission expires at my death.

Notary identification number 23492

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Executive Counsel

Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Dobbins

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:

00728938 - $61.00
January 18, 2012

Karen Dobbins
Duly Authorized Agent

Subscribed and sworn to before me on this 18th day of January, 2012 at Lake Charles, LA

R. K. 6782
Melba Higginbotham Notary Public

00053262
LDEQ-OSEC-LAD

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures

A. - F.1. …

2. ~~All emission reductions claimed as offset credit must have occurred later than the date upon which the area was designated nonattainment.~~Reserved.

F.3. - 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), LR 37:1568 (June 2011), LR 38:**.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012).

§1309. Approval of Continuing Training Courses

A. No course in continuing education submitted to the Office of Environmental Compliance will be considered for approval unless the course:

1. - 2. ...

B. Applications for approval of specific training programs shall be submitted to the Office of Environmental Compliance in writing. Such submissions shall contain a complete course outline; training material; sample certificates; methodology for verifying attendance; date, time, and location of the course; the name of the offering organization; the credentials of the instructors; and a certification that the technology or methods that will be presented in the training program will satisfy department rules, and state and federal laws governing UST system installation, repair, or closure.

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

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Herman Robinson, CPM
Executive Counsel

1211#019

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Offset Requirements and Emission Reduction Credits Banking (LAC 33:III.504, 601, 603, 605, 607, 615 and 619)(AQ327)

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.504, 601, 603, 605, 607, 615 and 619 (AQ327).

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) of 0.08 parts per million (ppm). As such, increases of nitrogen oxides (NO_X) and volatile organic compounds (VOC) emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NO_X and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On November 30, 2011, the U.S. Environmental Protection Agency (EPA) redesignated the Baton Rouge area to attainment of the 1997 ozone NAAQS, effective December 30, 2011. At the same time, EPA approved LDEQ's ozone maintenance plan, which projected no net growth in point source NO_X and VOC emissions in the five parish area through 2022. However, another ozone standard, with which the Baton Rouge area is not in compliance, will soon be implemented.

On March 27, 2008, EPA lowered the primary ozone NAAQS from 0.08 ppm to 0.075 ppm. This standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced it would reconsider the NAAQS and therefore delayed implementation of the new standard. On January 19, 2010, EPA proposed that the NAAQS should be set within the range of 0.060 to 0.070 ppm. Then, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Since the ongoing review of the ozone NAAQS will not be completed for several years, the EPA is now moving ahead with certain required actions to implement the 2008 standard. One such action is to designate areas as either attainment, nonattainment, or unclassifiable.

Based on air quality data from 2008-2010, LDEQ recommended to EPA that East Baton Rouge Parish be designated as nonattainment. By letter dated December 9, 2011, EPA informed LDEQ that, in addition to East Baton Rouge, the agency intends "to designate as nonattainment the parishes of Ascension, Iberville, Livingston, and West Baton Rouge" and "plans to promulgate final ozone designations in spring of 2012." On April 30, 2012, EPA issued a final rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes." This Rule formally designated the five parishes as nonattainment, effective July 20, 2012.

This Rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NO_X and VOC emissions consistent with the area's approved ozone maintenance plan.

This Rule removes references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine

baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

Finally, this Rule allows for creditable reductions of criteria pollutants other than NO_X and VOC to be banked. EPA promulgated a 1-hour NAAQS for SO_2 on June 22, 2010. Based on 2008-2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as nonattainment. Major stationary sources located in these parishes will be subject to the provisions of Chapter 6 for the purpose of utilizing SO_2 emission reductions as offsets in accordance with LAC 33:III.504.

The basis and rationale for this Rule is to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NO_X and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other then NO_X and VOC to be banked.

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

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. - A.1. …

2. The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L, Table 1 of this Section to determine whether the source is major.

3. The emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L, Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. …

4. The net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L, Table 1 of this Section to determine whether a nonattainment new source review must be performed.

A.5. - D.4. …

5. Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L, Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. …

1. Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that direct $PM_{2.5}$ emissions or emissions of $PM_{2.5}$ precursors may be offset by reductions in direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area.

F.2. - L. …

* * *

M. Offset Requirements in Specified Parishes. Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge if the parish's designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, marginal nonattainment, or moderate nonattainment.

1. New Stationary Sources. The owner or operator of a new stationary source shall provide offsets for potential VOC and NO_X emissions in excess of 50 tons per year.

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NO_X by 25 tons per year or more, without regard to any project decreases.

b. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of VOC shall provide VOC offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of VOC.

c. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of NO_X shall provide NO_X offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of NO_X.

3. Offsets shall be required at a ratio of 1.1 to 1.

4. The provisions of this Subsection shall not apply to any new major stationary source or major modification as defined in Subsection K of this Section.

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), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012).

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§601. Purpose

A. This Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for new source review (NSR) offsets.

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), amended by the Office of Environmental Assessment, Planning Division, LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

B. Notwithstanding Subsection A of this Section, sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge may participate in the emissions banking program for purposes of securing offsets where required by LAC 33:III.504.M.

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), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

§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.

* * *

Bankable Emission Reductions—reductions of a criteria pollutant that meet the provisions of this Chapter at the time of review and approval.

* * *

Base Case Inventory—Repealed.

Base Line Inventory—Repealed.

* * *

Current Total Point-Source Emissions Inventory—Repealed.

* * *

Modeled Parishes—Repealed.

Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions from a new or modified stationary source in accordance with the requirements of LAC 33:III.504. To be valid, an offset must meet the definition of ERC.

* * *

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), LR 37:3221 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

§607. Determination of Creditable Emission Reductions

A. - B.2. …

C. Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus air emission reductions.

1. Reserved.

2. - 3. …

4. Quantify Baseline Emissions. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.

C.5. - D. …

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1601 (September 2006), LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

§615. Schedule for Submitting Applications

A. …

B. If a parish is designated as nonattainment by the EPA after January 1, 2012, applications for banking ERCs in such parish must be submitted by March 31 of the year following the effective date of the EPA designation.

C. - D. …

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 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

§619. Emission Reduction Credit Bank

A. The department shall maintain a banking database that shall consist of a record of all information concerning applications, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking database shall be available to the public upon request.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:305 (February 2002), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012).

Herman Robinson, CPM
Executive Counsel

1211#015

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Stay of Permit Conditions Pending Administrative/Judicial Review (LAC 33:I.401, 403, 405, and 407; III.537; V.705; and IX.309)(OS083)

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 Office of the Secretary regulations, LAC 33:I.401, 403, 405, and 407; III.537; V.705; and IX.309 (OS083).

This Rule identifies permit conditions, or "classes" of permit conditions, that: will automatically be suspended upon request for review; may be suspended at the discretion of the secretary (which may be delegated to the Assistant Secretary for the Office of Environmental Services); and will not be suspended. It also provides guidance and standards for the exercise of discretion by the secretary. R.S. 30:2024(A) provides that a permit is "effective upon issuance unless a later date is specified therein." In some instances, the permit applicant requests review of conditions and limitations in the permit. It may be impractical or unduly expensive for the permit applicant to comply with the permit conditions pending the appeal.

The basis and rationale for this Rule is to provide environmentally safe and economically beneficial options for the department to manage "suspensions" of permit conditions pending the review process.

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 4. Suspension of Contested Permit Conditions

§401. Purpose

A. This Chapter applies to the effectiveness of permit conditions contested pursuant to R.S. 30:2024.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 38:2768 (November 2012).

§403. Suspension of Contested Conditions

A. Except as noted in Subsection B of this Section, during the course of an adjudicatory hearing or de novo judicial proceeding regarding a contested permit condition, all permit conditions contested by the applicant shall be suspended. All other provisions of the permit shall be effective unless the *administrative authority* as defined in LAC 33:I.107.A elects to suspend uncontested permit provisions that are not severable from those contested by the applicant.

B. Unless otherwise approved by the administrative authority, in writing, a contested permit condition shall not be suspended when:

1. the suspension may result in the withdrawal of delegation to the state of any authorized federal environmental program;

2. the suspension of the contested condition would violate general or numeric criteria found in LAC 33:IX.1113;

3. the contested condition is based on guidelines adopted by reference in LAC 33:IX.4901;

4. the contested condition prevents degradation in an outstanding natural resources water body; or

5. the suspension of the contested condition results in a violation of any memorandum of understanding between the department and the United States Fish and Wildlife Service.

C. Existing Permitted Facilities. To the extent that conditions in a newly-issued permit are suspended under this Section, the applicant must comply with the corresponding conditions of the existing permit that was replaced by the newly-issued permit, unless compliance with those conditions would be technologically incompatible with compliance with other conditions in the new permit which have not been suspended.

D. Newly Permitted Facilities. When a permit condition for a new facility, new source, new discharger, or a recommencing discharger is suspended, the applicant shall be prohibited from commencing any activities that may result in a release or discharge to the environment that are regulated by the suspended permit condition or related permit conditions that are not severable from the contested condition.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 38:2768 (November 2012).

§405. Procedure for Suspension of Contested Conditions

A. For a contested permit condition to be suspended, the applicant must submit a hearing request pursuant to R.S. 30:2024(A).

B. In the hearing request, the applicant must specifically identify the permit condition being contested and explain the basis for challenging the contested condition.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 38:2768 (November 2012).

AGENDA FOR PUBLIC HEARING

Being Conducted by:

DEPARTMENT OF ENVIRONMENTAL QUALITY
REGULATION DEVELOPMENT SECTION

September 26, 2012

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

SUSAN HAM - HEARING OFFICER

LOG #	RULE TITLE
AQ327	Offset Requirements and Emission Reduction Credits Banking LAC 33:III.504, 601, 603, 605, 607, 615 and 619
AQ333	Toxic Emissions Reporting Requirements LAC 33:III.5301, 5303 and 5307
AQ335ft	Addition to List of Exempted Compounds LAC 33:III.2117.A
RP054ft	Medical Use of Byproduct Material - Authorized User Clarification LAC 33:XV.763 and 1599
WQ086ft	Chapter 49 Incorporation by Reference Update LAC 33:IX.4901 and 4903

COMMENT PERIOD ENDS October 3, 2012 AT 4:30 PM

ft Rule: COMMENT PERIOD ENDS September 26, 2012 AT 4:30 PM

* * * * * * * * * * * * * * * * * * * *

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

September 26, 2012

AQ327 — Offset Requirements and Emission Reduction Credits Banking
AQ333 — Toxic Emissions Reporting Requirements
AQ335ft — Addition to List of Exempted Compounds
RP054ft — Medical Use of Byproduct Material - Authorized User Clarification
WQ086ft — Chapter 49 Incorporation by Reference Update

NAME	AFFILIATION	ADDRESS	CITY, STATE ZIP	PHONE	COMMENT (Y/N)
Henry Graham Jr.	LCA	One American Place #2040	B.R. La.	3762642	
Judith A. Schuerman	LDEQ		BR LA	219-3634	
N B Mills	LDEQ	—	—	—	N
Deidra Johnson	LDEQ		B.R., LA	219-3985	
Amber Grenillion	LDEQ				
Laurie Jewell	LDEQ	—	—	—	N

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ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

OFFSET REQUIREMENTS AND EMISSION REDUCTION CREDITS BANKING

LOG #: AQ327

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 1:32 p.m., on September 26, 2012.

BEFORE:

Lori B. Overland
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:

Susan Ham
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	11
REPORTER'S CERTIFICATE	12

* * * * *

1 * * * * *

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Ham, 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 air quality,
9 radiation protection and water quality
10 regulations.
11 The commend period for the
12 amendments AQ327 and AQ333 began on
13 August 20, 2012, when the notices of
14 intent were published in the Louisiana
15 Register. The comment period will close
16 at 4:30 p.m., October 3, 2012. It would
17 be helpful to us if all oral comments
18 received today were followed up in
19 writing.
20 This public hearing provides a forum
21 for all interested parties to present
22 comments on the proposed changes. This
23 hearing is not being conducted in a
24 question and answer format. Please
25 remember that the purpose of this public

1 hearing is to allow you, the public, an
2 opportunity to express your thoughts
3 concerning today's proposed amendments.
4 I'll ask that each person commenting
5 come up and sit at the front table and
6 begin by stating his or her name and
7 affiliation for the record.
8 The first amendment is designated by
9 the Log Number AQ327.
10 The Baton Rouge area (i.e., the
11 parishes of Ascension, East Baton Rouge,
12 Iberville, Livingston, and West Baton
13 Rouge) was formerly designated as
14 nonattainment with respect to the 1997
15 eight-hour ozone National Ambient Air
16 Quality Standards (NAAQS) of 0.08 parts
17 per million (ppm). As such, increases of
18 nitrogen oxides (NOX) and volatile
19 organic compounds (VOC) emissions were
20 governed by nonattainment new source
21 review (NNSR) procedures provided by LAC
22 33:III.504. Under NNSR, prior to the
23 construction of a new major stationary
24 source or a major modification of an
25 existing major stationary source, an

1 owner or operator must obtain offsets for
2 significant increases in emissions of NOX
3 and VOC in the form of emission reduction
4 credits (ERC) banked in accordance with
5 LAC 33:III.Chapter 6.
6 On November 30, 2011, the U.S.
7 Environmental Protection Agency (EPA)
8 redesignated the Baton Rouge area to
9 attainment of the 1997 ozone NAAQS,
10 effective December 30, 2011. At the same
11 time, EPA approved LDEQ's ozone
12 maintenance plan, which projected no net
13 growth in point source NOX and VOC
14 emissions in the five parish area through
15 2022. However, another ozone standard,
16 with which the Baton Rouge area is not in
17 compliance, will soon be implemented.
18 On March 27, 2008, EPA lowered the
19 primary ozone NAAQS from 0.08 ppm to
20 0.075 ppm. This standard became
21 effective on May 27, 2008. However, on
22 September 16, 2009, the agency announced
23 it would reconsider the NAAQS and
24 therefore delayed implementation of the
25 new standard. On January 19, 2010, EPA

1 proposed that the NAAQS should be set
2 within the range of 0.060 to 0.070 ppm.
3 Then, on September 2, 2011, President
4 Obama "requested that Administrator
5 Jackson withdraw the draft Ozone National
6 Ambient Air Quality Standards." Since
7 the ongoing review of the ozone NAAQS
8 will not be completed for several years,
9 the EPA is now moving ahead with certain
10 required actions to implement the 2008
11 standard. One such action is to
12 designate areas as either attainment,
13 nonattainment, or unclassifiable.
14 Based on air quality data from 2008
15 - 2010, LDEQ recommended to EPA that East
16 Baton Rouge Parish be designated as
17 nonattainment. By letter dated December
18 9, 2011, EPA informed LDEQ that, in
19 addition to East Baton Rouge, the agency
20 intends "to designate as nonattainment
21 the parishes of Ascension, Iberville,
22 Livingston, and West Baton Rouge" and
23 "plans to promulgate final ozone
24 designations in spring of 2012." On
25 April 30, 2012, EPA issued a final rule

1 entitled, "Implementation of the 2008
2 National Ambient Air Quality Standards
3 for Ozone: Nonattainment Area
4 Classifications Approach, Attainment
5 Deadlines and Revocation of the 1997
6 Ozone Standards for Transportation
7 Conformity Purposes." This rule formally
8 designated the five parishes as
9 nonattainment, effective July 20, 2012.
10 This rule is necessary to ensure
11 that the Baton Rouge area continues to
12 make progress toward attainment of the
13 2008 ozone NAAQS and to mitigate
14 increases of NOX and VOC emissions
15 consistent with the area's approved ozone
16 maintenance plan.
17 This rule will also remove
18 references to the 2005 Attainment Plan
19 and Transport Demonstration SIP and the
20 associated inventory comparisons from
21 Chapter 6. Currently, if the ozone
22 design value for the Baton Rouge area is
23 above the NAAQS for ozone, Chapter 6
24 requires LDEQ to compare the current
25 total point-source emissions inventory,

as defined in LAC 33:III.605.A, to the baseline inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 eight-hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the baseline inventory is no longer meaningful.

Finally, this rule will allow for creditable reductions of criteria pollutants other than NOX and VOC to be banked. EPA promulgated a one-hour NAAQS for SO2 on June 22, 2010. Based on 2008 - 2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as

1 nonattainment. Major stationary sources
2 located in these parishes will be subject
3 to the provisions of Chapter 6 for the
4 purpose of utilizing SO2 emission
5 reductions as offsets in accordance with
6 LAC 33:III.504.
7 Does anyone care to comment on this
8 regulation?
9 (No response.)
10 **MS. HAM:**
11 If not, the hearing on AQ327 is
12 closed.
13 Thank you for your attention and
14 participation.
15 This hearing is closed.
16 **THE HEARING CONCLUDED AT 1:39 P.M.**
17 * * * * *

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 OFFICIAL SEAL
24 LORI B. OVERLAND
Certified Court Reporter
In and for the State of Louisiana
Certificate Number 97083
Certificate expires 12-31-12
C.C.R.
25 # 97083

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
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Certified Court Reporter
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Certificate Number 97083
Certificate expires 12-31-12

In The Matter Of:

IN RE: OFFSET REQUIREMENTS AND EMISSION REDUCTION CREDITS BANKING LOG #: AQ327

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in a program under Title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:

Family Impact Statement

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

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Poverty Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

Public Comments

Interested persons may submit written comments on the proposed changes (SG13141NI) until 4:30 p.m., September 10, 2012, 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: START Saving Program Applicable Definitions

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

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

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

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

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

School choices for parents and students will be increased thus giving them additional flexibility in selecting the educational option that best fits their future career needs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

George Eldridge
General Counsel
1208#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Offset Requirements and Emission Reduction Credits Banking (LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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.504, 601, 603, 605, 607, 615 and 619 (AQ327).

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) of 0.08 parts per million (ppm). As such, increases of nitrogen oxides (NOX) and volatile organic compounds (VOC) emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NOX and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On November 30, 2011, the U.S. Environmental Protection Agency (EPA) redesignated the Baton Rouge area to attainment of the 1997 ozone NAAQS, effective December 30, 2011. At the same time, EPA approved LDEQ's ozone maintenance plan, which projected no net growth in point source NOX and VOC emissions in the five parish area through 2022. However, another ozone standard, with which the Baton Rouge area is not in compliance, will soon be implemented.

On March 27, 2008, EPA lowered the primary ozone NAAQS from 0.08 ppm to 0.075 ppm. This standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced it would reconsider the NAAQS and therefore delayed implementation of the new standard. On January 19, 2010, EPA proposed that the NAAQS should be set within the range of 0.060 to 0.070 ppm. Then, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Since the ongoing review of the ozone NAAQS will not be completed for several years, the EPA is now moving ahead with certain required actions to implement the 2008 standard. One such action is to designate areas as either attainment, nonattainment, or unclassifiable.

Based on air quality data from 2008-2010, LDEQ recommended to EPA that East Baton Rouge Parish be designated as nonattainment. By letter dated December 9, 2011, EPA informed LDEQ that, in addition to East Baton Rouge, the agency intends "to designate as nonattainment the parishes of Ascension, Iberville, Livingston, and West Baton Rouge" and "plans to promulgate final ozone

designations in spring of 2012." On April 30, 2012, EPA issued a final rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes." This Rule formally designated the five parishes as nonattainment, effective July 20, 2012.

This Rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan.

This Rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

Finally, this Rule will allow for creditable reductions of criteria pollutants other than NOX and VOC to be banked. EPA promulgated a 1-hour NAAQS for SO2 on June 22, 2010. Based on 2008-2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as nonattainment. Major stationary sources located in these parishes will be subject to the provisions of Chapter 6 for the purpose of utilizing SO2 emission reductions as offsets in accordance with LAC 33:III.504. The basis and rationale for this Rule are to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other then NOX aned VOC to be banked. 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

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. - A.1. …

2. The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L, Table 1 of this Section to determine whether the source is major.

3. The emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L, Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. …

4. The net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L, Table 1 of this Section to determine whether a nonattainment new source review must be performed.

A.5. - D.4. …

5. Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L, Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. …

1. Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that direct PM2.5 emissions or emissions of PM2.5 precursors may be offset by reductions in direct PM2.5 emissions or emissions of any PM2.5 precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area.

F.2. - L. …

* * *

M. Offset Requirements in Specified Parishes. Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge if the parish’s designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, marginal nonattainment, or moderate nonattainment.

1. New Stationary Sources. The owner or operator of a new stationary source shall provide offsets for potential VOC and NOX emissions in excess of 50 tons per year.

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NOX by 25 tons per year or more, without regard to any project decreases.

b. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of VOC shall provide VOC offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of VOC.

c. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of NOX shall provide NOX offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of NOX.

3. Offsets shall be required at a ratio of 1.1 to 1.

4. The provisions of this Subsection shall not apply to any new major stationary source or major modification as defined in Subsection K of this Section.

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), LR 37:1568 (June 2011), LR 38:1232 (May 2012), LR 38:

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§601. Purpose

A. This Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets.

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), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

B. Notwithstanding Subsection A of this Section, sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge may participate in the emissions banking program for purposes of securing offsets where required by LAC 33:III.504.M.

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), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:

§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.

* * *

Bankable Emission Reductions—reductions of a criteria pollutant that meet the provisions of this Chapter at the time of review and approval.

* * *

Base Case Inventory—Repealed.

Base Line Inventory—Repealed.

* * *

Current Total Point-Source Emissions Inventory—Repealed.

* * *

Modeled Parishes—Repealed.

Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions from a new or modified stationary source in accordance with the requirements of LAC 33:III.504. To be valid, an offset must meet the definition of ERC.

* * *

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), LR 37:3221 (November 2011), LR 38:

§607. Determination of Creditable Emission Reductions

A. - B.2. …

C. Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus air emission reductions.

1. Reserved.

2. - 3. …

4. Quantify Baseline Emissions. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.

C.5. - D. …

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1601 (September 2006), LR 33:2068 (October 2007), LR 38:

§615. Schedule for Submitting Applications

A. …

B. If a parish is designated as nonattainment by the EPA after January 1, 2012, applications for banking ERCs in such parish must be submitted by March 31 of the year following the effective date of the EPA designation.

C. - D. …

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 20:878 (August 1994),

amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:

§619. Emission Reduction Credit Bank

A. The department shall maintain a banking database that shall consist of a record of all information concerning applications, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. All data in the banking database shall be available to the public upon request.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:305 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:

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 AQ327. Such comments must be received no later than October 3, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ327. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on September 26, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Offset Requirements and Emission Reduction Credits Banking

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

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed Rule.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	Gregory V. Albrecht
Executive Counsel	Chief Economist
1208#068	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Addition to List of Exempted Compounds
(LAC 33:III.2117)(AQ335ft)

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.2117.A (Log #AQ335ft).

This Rule is identical to federal regulations found in 40 CFR 51.100, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adds trans-1,3,3,3-tetrafluoropropene (HFO-1234ze) to the list of compounds exempt from the control requirements of LAC 33:III.Chapter 21.

On June 22, 2012, EPA amended its definition of volatile organic compound (VOC) at 40 CFR 51.100(s) to exclude trans-1,3,3,3-tetrafluoropropene (HFO-1234ze). EPA has found that this compound "makes a negligible contribution to tropospheric ozone formation." The basis and rationale for this rule are to exempt trans-1,3,3,3-tetrafluoropropene

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LEGAL AFFAIRS DIVISION

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:

08/20/12

Shelley Calloni, Public Notice Clerk

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

August 20, 2012

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 Division

Offset Requirements and Emission Reduction Credits Banking
(LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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.504, 601, 603, 605, 607, 615 and 619 (AQ327).

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) of 0.08 parts per million (ppm). As such, increases of nitrogen oxides (NOX) and volatile organic compounds (VOC) emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NOX and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

On November 30, 2011, the U.S. Environmental Protection Agency (EPA) redesignated the Baton Rouge area to attainment of the 1997 ozone NAAQS, effective December 30, 2011. *At the same time, EPA* approved LDEQ's ozone maintenance plan, which projected no net growth in point source NOX and VOC emissions in the five parish area through 2022. However, another ozone standard, with which the Baton Rouge area is not in compliance, will soon be implemented.

On March 27, 2008, EPA lowered the primary ozone NAAQS from 0.08 ppm to 0.075 ppm. This standard became effective on May 27, 2008. However, on September 16, 2009, the agency announced it would reconsider the NAAQS and therefore delayed implementation of the new standard. On January 19, 2010, EPA proposed that the NAAQS should be set within the range of 0.060 to 0.070 ppm. Then, on September 2, 2011, President Obama "requested that Administrator Jackson withdraw the draft Ozone National Ambient Air Quality Standards." Since the ongoing review of the ozone NAAQS will not be completed for several years, the EPA is now moving ahead with certain required actions to implement the 2008 standard. One such action is to designate areas as either attainment, nonattainment, or unclassifiable.

Based on air quality data *from 2008 - 2010, LDEQ* recommended to EPA that East Baton Rouge Parish be designated as nonattainment. By letter dated December 9, 2011, EPA informed LDEQ that, in addition to East Baton Rouge, the agency intends "to designate as nonattainment the parishes of Ascension, Iberville, Livingston, and West Baton Rouge" and "plans to promulgate final ozone designations in spring of 2012." On April 30, 2012, EPA issued a final rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes." This Rule formally designated the five parishes as nonattainment, effective July 20, 2012.

This Rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan.

This Rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 *Attainment Plan and* Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

Finally, this Rule will allow for creditable reductions of criteria pollutants other than NOX and VOC to be banked. EPA promulgated a 1-hour NAAQS for SO2 on June 22, 2010. Based on 2008 - 2010 monitoring data, LDEQ recommended that the parishes of St. Bernard and West Baton Rouge be designated as nonattainment. Major stationary sources located in these parishes will be subject to the provisions of Chapter 6 for the purpose of utilizing SO2 emission reductions as offsets in accordance with LAC 33:III.504. The basis and rationale for this Rule are to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS, mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan, remove references to the 2005 Attainment Plan and

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SUSAN HAM
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BATON ROUGE LA 70821-4314

Transport Demonstration SIP and the associated inventory comparisons from Chapter 6, and allow for creditable reductions of criteria pollutants other then NOX aned VOC to be banked. 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 September 26, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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Herman Robinson, CPM
Executive Counsel

4694495-aug 20-1t

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Offset Requirements and Emission Reduction Credits Banking (LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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.504, 601, 603, 605, 607, 615 and 619 (AQ327).

The Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge) was formerly designated as nonattainment with respect to the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) of 0.08 parts per million (ppm). As such, increases of nitrogen oxides (NOX) and volatile organic compounds (VOC) emissions were governed by nonattainment new source review (NNSR) procedures provided by LAC 33:III.504. Under NNSR, prior to the construction of a new major stationary source or a major modification of an existing major stationary source, an owner or operator must obtain offsets for significant increases in emissions of NOX and VOC in the form of emission reduction credits (ERC) banked in accordance with LAC 33:III.Chapter 6.

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This Rule is necessary to ensure that the Baton Rouge area continues to make progress toward attainment of the 2008 ozone NAAQS and to mitigate increases of NOX and VOC emissions consistent with the area's approved ozone maintenance plan.

This Rule will also remove references to the 2005 Attainment Plan and Transport Demonstration SIP and the associated inventory comparisons from Chapter 6. Currently, if the ozone design value for the Baton Rouge area is above the NAAQS for ozone, Chapter 6 requires LDEQ to compare the current total point-source emissions inventory, as defined in LAC 33:III.605.A, to the base line inventory associated with the 2005 Attainment Plan and Transport Demonstration SIP. The outcome of this comparison is used to determine baseline emissions for calculating the surplus emission reduction. However, the 2005 Attainment Plan and Transport Demonstration SIP has since been superseded by the 1997 8-Hour Moderate SIP Revision (Redesignation Package), which was approved by EPA on November 30, 2011 (76 FR 74000). As such, the relationship between the current total point-source emissions inventory and the base line inventory is no longer meaningful.

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Herman Robinson, CPM
Executive Counsel

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LEGAL AFFAIRS DIVISION

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

I, Bill Heirtzler, Director of Advertising, of THE TOWN TALK, published at Alexandria, Louisiana do solemnly swear that the Legal Notice advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof for one insertion(s) commencing with the issue dated August 15, 2012 and ending with the issue dated August 15, 2012.

Bill Heirtzler

Subscribed and sworn to before me this 20th day of August, 2012 at Alexandria, Louisiana.

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Offset Requirements and Emission Reduction Credits Banking (LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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Herman Robinson, CPM
Executive Counsel

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AFFIDAVIT OF PUBLICATION

Susan Ham, Paralegal
LA Department of Environmental Quality
OSEC/Legal Affairs Division
Remediation & 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 Division
Offset Requirements and Emission Reduction Credits Banking
(LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

was published in THE ADVERTISER on the following dates:

***Sunday, August 12, 2012**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 27th day of August, 2012.

Inca J. Cormier

Notary Public – Inca J. Cormier ID# 054201

1598796

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

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(LAC 33:III.504, 601, 603, 605, 607, 615 and 619) (AQ327)

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Herman Robinson, CPM
Executive Counsel

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Exhibit A
Attached

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Heather Grant 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: Offset Requirements and Emission Reduction Credits Banking

Advertisement of LA Department Environmental

Quality OSEC/Legal Affairs Division
PO Box 4302
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, LA 70125

On the following dates August 13, 2012

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

Sworn to and subscribed before me this
14th Day of August, 2012

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

Notary identification number 23492

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Department of
Environmental Quality
Office of the Secretary
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Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. - A.1. …

2. ~~Except as specified in Subsection M of this Section, t~~The potential to emit of a stationary source shall be compared to the major stationary source threshold values listed in Subsection L, Table 1 of this Section to determine whether the source is major.

3. ~~Except as specified in Subsection M of this Section, t~~The emissions increase that would result from a proposed modification, without regard to project decreases, shall be compared to the trigger values listed in Subsection L, Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

a. - d. …

4. ~~Except as specified in Subsection M of this Section, t~~The net emissions increase shall be compared to the significant net emissions increase values listed in Subsection L, Table 1 of this Section to determine whether a nonattainment new source review must be performed.

A.5. - D.4. …

5. ~~Except as specified in Subsection M of this Section, e~~Emission offsets shall provide net air quality benefit, in accordance with offset ratios listed in Subsection L, Table 1 of this Section, in the area where the NAAQS for that pollutant is violated.

D.6. - F. …

1. ~~Except as specified in Subsection M of this Section, o~~Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section. All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that direct $PM_{2.5}$ emissions or emissions of $PM_{2.5}$ precursors may be offset by reductions in direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area.

F.2. - L. …

* * *

M. Offset Requirements in Specified Parishes. ~~Notwithstanding the major stationary source and major modification significant net increase threshold values and minimum offset ratios established by Subsection L, Table 1 of this Section,~~Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge ~~as long as each~~if the parish's ~~nonattainment~~designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, ~~"~~marginal~~"~~ nonattainment, or ~~"~~moderate nonattainment.~~"~~

~~1. For an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_X, consideration of the net emissions increase will be triggered for any project that would:~~

~~a. increase emissions of VOC or NO_X by 25 tons per year or more, without regard to any project decreases;~~

~~b. increase emissions of the highly reactive VOC (HRVOC) listed below by 10 tons per year or more, without regard to any project decreases:~~

~~i. 1,3-butadiene;~~

~~ii. butenes (all isomers);~~

~~iii. ethylene;~~

~~iv. propylene.~~

~~2. The following sources shall provide offsets for any net emissions increase:~~

~~a. a new stationary source with a potential to emit of 50 tons per year or more of VOC or NO_X;~~

~~b. an existing stationary source with a potential to emit of 50 tons per year or more of VOC or NO_X with a significant net emissions increase of VOC, including HRVOC, or NO_X of 25 tons per year or more.~~

~~3. The minimum offset ratio for an offset required by Paragraph M.2 of this Section shall be 1.2 to 1.~~

1. New Stationary Sources. The owner or operator of a new stationary source shall provide offsets for potential VOC and NO_X emissions in excess of 50 tons per year.

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NO_X by 25 tons per year or more, without regard to any project decreases.

b. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of VOC shall provide VOC offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of VOC.

c. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of NO_X shall provide NO_X offsets for each physical change or change in the method of operation that would result in a net emissions increase of 25 tons per year or more of NO_X.

3. Offsets shall be required at a ratio of 1.1 to 1.

4. The provisions of this Subsection shall not apply to any new *major stationary source* or *major modification* as defined in Subsection K of this Section.

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), LR 37:1568 (June 2011), LR 38:0000 (April 2012), LR 38:**.

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§601. Purpose

A. This Chapter establishes the means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) offsets. ~~The pollutants to which this Rule applies are nitrogen oxides (NO_x) and volatile organic compounds (VOC).~~

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),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in ~~ozone~~ nonattainment areas may submit ERC applications for purposes of banking. Sources located in EPA-designated ~~ozone~~ attainment areas may not participate in the emissions banking program. Any stationary point source at an affected facility is eligible to participate.

B. Notwithstanding Subsection A of this Section, sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge may participate in the emissions banking program for purposes of securing offsets where required by LAC 33:III.504.M.

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), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:**.

§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.

* * *

Bankable Emission Reductions—reductions of ~~NO_x or VOC~~a criteria pollutant that meet the provisions of this Chapter at the time of review and approval.

* * *

Base Case Inventory—~~the aggregate point-source emissions inventory for either NO_x or VOC from the nine modeled parishes, as modeled for the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which includes 1997 actual emissions from point sources, banked ERC and pending ERC applications where the emission reduction occurred between January 1, 1990 and December 31, 1997, and adjustments for growth. Separate inventories have been established for NO_x and VOC.~~ Repealed.

Base Line Inventory—~~the aggregate point-source emissions inventory for either NO_x or VOC from the nine modeled parishes associated with the 2005 Attainment Plan and Transport Demonstration SIP dated December 2001, which accounts for emission reductions modeled to demonstrate attainment of the 1-hour national ambient air quality standard (NAAQS) for ozone. Separate inventories have been established for NO_x and VOC.~~ Repealed.

* * *

Current Total Point-Source Emissions Inventory—~~the aggregate point-source emissions inventory for either NO_x or VOC from the nine modeled parishes compiled from the emissions inventory records and updated annually in accordance with LAC 33:III.919 plus any banked ERC and pending ERC applications originally included in the base case inventory that have not expired.~~ Repealed.

* * *

Modeled Parishes—~~the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.~~ Repealed.

Offset—a legally enforceable reduction, approved by the department, in the rate of actual emissions from an existing stationary point source, which is used to compensate for a significant net increase in emissions ~~of NO_x or VOC~~ from a new or modified stationary source in accordance with the requirements of LAC 33:III.504. To be valid, an offset must meet the definition of ERC.

* * *

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), LR 37:3221 (November 2011), LR 38:**.

§607. Determination of Creditable Emission Reductions

A. - B.2. …

C. Procedures for Calculating the Surplus Emission Reduction. The following procedures shall be used in calculating the quantity of surplus air emission reductions.~~When considering NO_x reductions, only the NO_x inventory and ERC and pending ERC applications for NO_x will be considered. Conversely, when considering VOC reductions, only the VOC inventory and ERC and pending ERC applications for VOC will be considered.~~

1. ~~If the design value for the nonattainment area is above the national ambient air quality standard (NAAQS) for ozone, the department shall compare the current total point-source emissions inventory for the modeled parishes to the base case inventory, except that, beginning with the 2005 emissions inventory, this comparison shall be made to the base line inventory.~~Reserved.

2. - 3. …

4. Quantify ~~b~~Baseline ~~e~~Emissions~~ as follows:~~. Baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.

~~a. for stationary sources located in ozone nonattainment areas:~~

~~i. if the design value for the nonattainment area is above the NAAQS for ozone and the current total point-source inventory for the modeled parishes exceeds the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions, adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section, or emissions attributed to the stationary point source(s) in question in the base case or base line inventory, as appropriate; or~~

~~ii. if the design value for the nonattainment area is not above the NAAQS for ozone or the current total point-source inventory for the modeled parishes does not exceed the base case inventory or base line inventory, as appropriate per Paragraph C.1 of this Section, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section; and~~

~~b. for stationary sources located in ozone attainment areas, baseline emissions shall be the lower of actual emissions or adjusted allowable emissions determined in accordance with Paragraph C.3 of this Section.~~

C.5. - D. …

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 20:877 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:302 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1601 (September 2006), LR 33:2068 (October 2007), LR 38:**.

§615. Schedule for Submitting Applications

A. …

B. If a parish is ~~re~~designated as ~~ozone~~ nonattainment by the EPA after January 1, 2012, applications for banking ERCs in such parish must be submitted by March 31 of the year following the effective date of the EPA designation.

C. - D. …

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 20:878 (August 1994), amended LR 21:681 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1623 (September 1999), LR 26:486 (March 2000), LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), LR 38:**.

§619. Emission Reduction Credit Bank

A. The department shall maintain a banking database that shall consist of a record of all information concerning applications, deposits, withdrawals, and transactions, as well as pertinent date(s) concerning such information. ~~The current total point-source emissions inventory for both NO_x and VOC shall also be included.~~ All data in the banking database shall be available to the public upon request.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:879 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2449 (November 2000), LR 28:305 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.

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

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. - F.1.d.ii. …

e. Owners or operators of demolition and renovation operations are exempt from the requirements of LAC 33:III.5105.A, 5111.A, and 5113.A.

F.1.f. - 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), amended by the Office of the Secretary, Legal Division, LR 38:2745 (November 2012).

Herman Robinson, CPM
Executive Counsel

1211#016

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice (LAC 33:III.533)(AQ334)

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.533 (AQ334).

This Rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA §505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA §505(a)(2) and 40 CFR 70.8(b)(2).

The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed.

The basis and rational for this Rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70.

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

§533. EPA Notice, Review, and Objection

A. - B.2. …

3. A copy of each final permit issued to a major Part 70 source shall be provided to EPA by the permitting authority.

4. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA and 40 CFR Part 70.

C. EPA Review

1. No permit pertaining to a major Part 70 source which is an initial permit under LAC 33:III.507 or a permit revision, renewal, or reopening affecting the federal conditions of the existing permit shall be issued if the administrator objects to its issuance within 45 days of receipt of the notice and information provided pursuant to Paragraph B.2 of this Section and LAC 33:III.531.B.1.c.

C.2. - E.5. …

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 LR 20:1376 (December 1994), amended by the Office of the Secretary, Legal Division, LR 38:2745 (November 2012).

Herman Robinson, CPM
Executive Counsel

1211#018

ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

EPA NOTICE

LOG #: AQ334

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 1:41 p.m., on September 10, 2012.

BEFORE:

Lori B. Overland
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:

Laurie Jewel
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 8

REPORTER'S CERTIFICATE 9

* * * * *

1 * * * * *

2 **MS. JEWEL:**

3 Good afternoon. My name is Laurie
4 Jewel. 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 air,
9 multimedia, radiation protection, and
10 water quality regulations.
11 This public hearing provides a forum
12 for all interested parties to present
13 comments on the proposed changes. This
14 hearing is not being conducted in a
15 question and answer format. Please
16 remember that the purpose of this public
17 hearing is to allow you, the public, an
18 opportunity to express your thoughts
19 concerning today's proposed amendments.
20 I'll ask that each person commenting
21 come up and sit at the front table and
22 begin by stating his or her name and
23 affiliation for the record.
24 For the next four amendments, the
25 comment period for these amendments began

1 on July 20, 2012, when the notices of
2 intent were published in the Louisiana
3 Register. The comment period will close
4 at 4:30 p.m., September 17, 2012. It
5 would be helpful to us if all oral
6 comments received today were followed up
7 in writing.
8 The next amendment is designated by
9 the Log Number AQ334.
10 This rule will revise LDEQ's "EPA
11 Notice" provisions in LAC 33:III.533 to
12 make them consistent with the Clean Air
13 Act and 40 CFR Part 70.
14 Both the Clean Air Act (CAA) and 40
15 CFR Part 70 require a permitting
16 authority to notify the Environmental
17 Protection Agency (EPA) and an affected
18 state of any refusal to accept all
19 recommendations for a proposed permit
20 that the affected state submits. These
21 provisions are addressed by LAC
22 33:III.531.B.1.c, which reads as follows:
23 The permitting authority shall
24 provide prompt notice in writing to the
25 administrator and to any affected state

1 of refusal by the permitting authority to
2 accept any recommendations for the permit
3 that the affected state submitted. The
4 notice shall include the permitting
5 authority's reasons for refusing any such
6 recommendation. The permitting authority
7 may refuse to accept any recommendations
8 that are not based on federally
9 applicable requirements.
10 A second provision, LAC
11 33:III.533.B.2, also addresses CAA
12 subsection 505(a)(2) and 40 CFR
13 70.8(b)(2).
14 The permitting authority shall
15 promptly provide to EPA notice of any
16 intended changes to a proposed permit
17 resulting from consideration of public
18 comment or affected state comment.
19 Prompt notice shall also be provided of
20 any refusal by the permitting authority
21 to accept all recommendations for the
22 proposed permit that any affected state
23 submitted during the affected state
24 review period, together with reason for
25 such refusal.

1 Because the second portion of LAC
2 33:III.533.B.2 is addressed by LAC
3 33:III.531.B.1.c, and because neither the
4 CAA nor Part 70 requires a permitting
5 authority to "promptly provide to EPA
6 notice of any intended changes to a
7 proposed permit resulting from
8 consideration of public comment or
9 affected state comment," LAC
10 33:III.533.B.2 will be repealed.
11 Does anyone care to comment on this
12 regulation?
13 (No response.)
14 **MS. JEWEL:**
15 If not, the hearing on AQ334 is
16 closed.
17 Thank you for your attention and
18 participation.
19 This hearing is closed.
20 **THE HEARING CONCLUDED AT 1:44 P.M.**
21 * * * * *

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 OFFICIAL SEAL LORI B. OVERLAND Certified Court Reporter # 97083 In and for the State of Louisiana Certificate Number 97083 Certificate expires 12-31-12

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 OFFICIAL SEAL # LORI B. OVERLAND Certified Court Reporter in and for the State of Louisiana Certificate Number 97083 Certificate expires 12-31-12

In The Matter Of:

IN RE: EPA NOTICE

LOG #: AQ334

DEPARTMENT OF ENVIRONMENTAL QUALITY

September 10, 2012

Associated Reporters Incorporated

(225) 216-2036

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that the administrative authority has required to install a continuous monitoring system shall submit to the Office of Environmental Services for approval a plan describing the affected emission units and the methods for ensuring compliance with the continuous monitoring system. The plan for the continuous monitoring system must be submitted to the department within 90 days after the administrative authority requests either the initial plan or an updated plan.

5.a. - 7.…

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), LR 38:

Subchapter M. Asbestos

§5151. Emission Standard for Asbestos

A. - F.1.d.ii. …

e. Owners or operators of demolition and renovation operations are exempt from the requirements of LAC 33:III.5105.A, 5111.A, and 5113.A.

F.1.f. - 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), LR 38:

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 AQ332. Such comments must be received no later than September 5, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ332. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on August 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Comprehensive Toxic Air Pollutant Emission Control Program

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

The proposed Rule change will have no impact on state or local governmental expenditures and implements the provisions of Act 103 of the 2010 Regular Legislative Session. Act 103 states compliance with federal Maximum Achievable Control Technology (MACT) standards promulgated by the EPA will constitute compliance with similar standards established by the Department of Environmental Quality. The Act also states that affected sources are subject to ambient air standards outside the source's property boundaries, except on roads, railroads, or water bodies. The Act codified current practice into law.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM
Executive Counsel
1207#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

EPA Notice (LAC 33:III.533)(AQ334)

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.533 (AQ334).

This Rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA § 505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA § 505(a)(2) and 40 CFR 70.8(b)(2).

The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this Rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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

§533. EPA Notice, Review, and Objection

A. - B.2. …

3. A copy of each final permit issued to a major Part 70 source shall be provided to EPA by the permitting authority.

4. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA and 40 CFR Part 70.

C. EPA Review

1. No permit pertaining to a major Part 70 source which is an initial permit under LAC 33:III.507 or a permit revision, renewal, or reopening affecting the federal conditions of the existing permit shall be issued if the administrator objects to its issuance within 45 days of receipt of the notice and information provided pursuant to Paragraph B.2 of this Section and LAC 33:III.531.B.1.c.

C.2. - E.5. …

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 LR 20:1376 (December 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 38:

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 AQ334. Such comments must be received no later than September 5, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ334. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on August 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: EPA Notice

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

The proposed Rule change will have no impact on state or local governmental expenditures. The Rule change deletes the provision regarding "EPA Notice" in LAC 33:III.533.B.3 to make the rule consistent with the Clean Air Act and 40 CFR Part 70.

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1207#075	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Exemptions from Licensing, General Licenses and Distribution of Byproduct Material: Licensing and Reporting Requirements (LAC 33:XV.304 and 328)(RP052ft)

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.304 and 328 (RP052ft).

This Rule is identical to federal regulations found in 10 CFR 30, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state regulations to be compatible with the changes in the federal regulations. This Rule addressess exemptions from licensing, general licenses and licensing and reporting for the distribution of byproduct material. The changes in the state regulations are federal category B and C requirements for the state of Louisiana to remain an NRC Agreement State. The basis and rationale for this Rule is to mirror the federal regulations and maintain an adequate Agreement State program. 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 XV. Radiation Protection
Chapter 3. Licensing of Radioactive Material
Subchapter A. Exemptions
§304. Radioactive Material Other Than Source Material

A. - C.1.b. …

c. Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part manufactured before December 17, 2007.

d. …

e. Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas manufactured before December 17, 2007.

1.f. - 3.c. …

4. Capsules Containing Carbon-14 Urea for "In Vivo" Diagnostic Use for Humans

a. Except as provided in Subparagraphs C.4.b and c of this Section, any person is exempt from the requirements for a license set forth in these regulations provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1μCi) carbon-14 urea each (allowing for nominal variation that may occur during the manufacturing process), for "in vivo" diagnostic use for humans.

b. Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license in accordance with LAC 33:XV.Chapters 3 and 7.

c. Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules shall apply for and receive a specific license in accordance with LAC 33:XV.328.K.

d. Nothing in this Section relieves persons from complying with applicable FDA, other federal, and state requirements governing receipt, administration, and use of drugs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

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 18:34 (January 1992), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 38:

State of Louisiana
Parish of Rapides
AFFIDAVIT OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533)
(AQ334)

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.533 (AQ334).

This rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA § 505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA § 505(a)(2) and 40 CFR 70.8(b)(2).

The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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.

(Correct Copy of Publication)

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 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ334. Such comments must be received no later than September 5, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ334. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson,
CPM
Executive Counsel

(7) 15

I, Bill Heirtzler, Director of Advertising,

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Legal Notice

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated July 15, 2012 and ending with the

issue dated July 15, 2012.

Bill Heirtzler

Subscribed and sworn to before me
this 16th day of July, 2012 at
Alexandria, Louisiana.

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

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533)
(AQ334)

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.533 (AQ334).

This rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

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Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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.

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Herman Robinson, CPM
Executive Counsel

July 13 1t
00761497

Affidavit of Publication

STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Wohlers

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:

00761497 - $60.00
July 13, 2012

Karen Wohlers
Duly Authorized Agent

Subscribed and sworn to before me on this 13th day of July, 2012 at Lake Charles, LA

Vickie S. Cooley 8354
Notary Public

00053262

LDEQ-OSEC-LAD

The Times

PROOF OF PUBLICATION

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Connie Vinson-Carey, 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 published entitled:

NOTICE OF INTENT

(LAC 33: III.533) (AQ334)

Published in "The Times" on July 15, 2012

(Signed) Connie Vinson-Carey

Sworn to and subscribed before me this 16th day of July

Diana W. Barber

(Notary)

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

NOTARY PUBLIC

GANNETT

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

EPA Notice (LAC 33:III.533) (AQ334)

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.533 (AQ334).

This rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

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Public Notices

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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Herman Robinson, CPM

Executive Counsel

The Times
July 15, 2012

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 18, 2012

LEGAL AD DEPT.

Sworn and subscribed before me by

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

25th day of July 2012 AD

SARAH M. WALKER
OUACHITA PARISH
MY COMMISSION IS FOR LIFE
ID# 6202
NOTARY PUBLIC
LOUISIANA

Sarah M Walker

NOTARY PUBLIC

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Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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.

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

Monroe, LA
July 18, 2012
0001583538

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533)
(AQ334)

A public hearing will be held on August 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ334. Such comments must be received no later than September 5, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ334. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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LA. DEPT. OF ENV. QUALITY
LEGAL AFFAIRS DIVISION

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70125-1429 TELEPHONE (504) 826-3201

Exhibit A
Attached

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Heather Grant 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: EPA Notice, (LAC 33:III.533) (AQ334)

Advertisement of LA Department Environmental

Quality OSEC/Legal Affairs Division
PO Box 4302
Baton Rouge, LA 70821

Was published in The Times Picayune

3800 Howard Ave.
New Orleans, LA 70125

On the following dates July 13, 2012

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

Sworn to and subscribed before me this
13th Day of July, 2012

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

Notary identification number 23492

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533) (AQ334)

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.533 (AQ334).

This rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA § 505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA § 505(a)(2) and 40 CFR 70.8(b)(2).

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Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rational for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR Pat 70. 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 29, 2012, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral

comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

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Herman Robinson, CPM
Executive Counsel

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:

07/17/12

Shelley Calloni, Public Notice Clerk

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

July 17, 2012

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

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

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Herman Robinson, CPM
Executive Counsel

4679141-jul 17-1t

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533) (AQ334)

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DEQ - OSEC/LAD REG ***4679141***
SUSAN HAM
PO BOX 4302 RM 821-74
BATON ROUGE LA 70821-4314

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THE ADVERTISER

1100 Bertrand Drive
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AFFIDAVIT OF PUBLICATION

Susan Ham, Paralegal
LA Department of Environmental Quality
OSEC/Legal Affairs Division
Remediation & 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 Division
EPA Notice
(LAC 33:III.533) (AQ334)

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

***Sunday, July 15, 2012**

Rose Penfold

ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 8th day of August, 2012.

Inca J. Cormier

Notary Public – Inca J. Cormier ID# 054201

1583119

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Office of the Secretary
Legal Division

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Herman Robinson, CPM
Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§533. EPA Notice, Review, and Objection

A. - B.2. …

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~~4~~3. A copy of each final permit issued to a major Part 70 source shall be provided to EPA by the permitting authority.

~~5~~4. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA and 40 CFR Part 70.

C. EPA Review

1. No permit pertaining to a major Part 70 source which is an initial permit under LAC 33:III.507 or a permit revision, renewal, or reopening affecting the federal conditions of the existing permit shall be issued if the administrator objects to its issuance within 45 days of receipt of the notice and information provided pursuant to Paragraph~~s~~ B.2 ~~and 3~~ of this Section and LAC 33:III.531.B.1.c.

C.2. - E.5. …

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 LR 20:1376 (December 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.