

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

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.3905 and 3931 (Log #OS038).

The proposed rule provides clarification that "brine," not just "produced water" is a reportable substance when released in the event of an unauthorized discharge. Brine is to be included in the Reportable Quantity List with a reportable quantity of one barrel (same as produced water). Further, brine is to be defined in LAC 33:I.3905 as indicated. The threshold of 500 mg/l chloride content is based upon the limitation of chlorides in storm water runoff from oil and gas facilities in LAC 33:IX.708.C.4. Brine, when released to the environment, can be injurious to flora and fauna due to the high osmotic potential of salt water. Produced water (listed in the Reportable Quantity List) is usually high in chloride content, but brine is frequently used by some chemical industries in the manufacture of chlorine and is not necessarily included in the "produced water" definition. This action seeks to clarify that brine is indeed a reportable pollutant. The basis and rationale for this proposed rule are to clarify whether or not high salt-content waters not associated with oil and gas production are within the scope of LAC 33:I.Chapter 39. Proper notification of unauthorized releases to the department are necessary to ensure the department is provided the opportunity to respond and provide environmentally-protective actions.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 25, 2000, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS038. Such comments must be received no later than October 2, 2000, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-5095. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of OS038.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard,

West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification Regulations

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

* * *

[See Prior Text]

Brine—includes liquid solutions comprised of water as the solvent and chloride salts, not specifically incorporated in LAC 33:I.3931, as the solute where the solute content of the solution exceeds 500 mg/l chloride content.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:****.

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

* * *

[See Prior Text in A – A.2]

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
[See Prior Text in Allyl Chloride – Biphenyl]			
<u>Brine</u>			<u>1 barrel</u>
[See Prior Text in 1-Butanol – F005. Methyl ethyl ketone]			

* * *

[See Prior Text in Notes * - @]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), R.S. 30:2060(H), R.S. 30:2076(D), R.S. 30:2183(I), R.S. 30:2194(C), R.S. 30:2204(A), and R.S. 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality

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Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:****.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Person Preparing Statement: Chris M. Piehler
Phone: 225-765-2528

Dept.: Environmental Quality
Office: Environmental Compliance

Return Address: 5222 Summa Court
Baton Rouge, LA 70809

Rule Title: Reportable Quantity for Pollutants
(LAC 33:I.3905 & 3931)

Date Rule Takes Effect: Upon promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed revision should require no implementation costs as notifications systems are already in place to address facility self-reporting in the event of an unauthorized discharge.

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

The proposed revision will have no effect on state or local revenue collections. Self-reporting of unauthorized releases is not fee related.

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

Affected organizations include primarily industrial facilities that use high chloride-content waters in the production of chlorine. No significant effect is anticipated as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment are anticipated as this proposal is merely a clarification of existing regulations.

Signature of Agency Head or Designee

LEGISLATIVE FISCAL OFFICER OR DESIGNEE

PROPOSED RULE/AUGUST 20, 2000

OS038

James H. Brent, Ph.D., Assistant Secretary
Typed Name and Title of Agency Head
or Designee

Date of Signature
LFO 7/1/94

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed amendment will clarify that waters high in chloride-salt content are subject to notification regulations even though the substance may not be associated with oil and gas exploration and production.

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

The current language in the subject regulation allows an unauthorized discharge of high chloride-content water that is not derived from oil and gas activities to be exempt from notification requirements. This amendment would "close the loophole" and require that all saltwater discharges that are unauthorized and are above the reportable quantity of one barrel be reported, not just "Produced Water."

- C. Compliance with Act II of the 1986 First Extraordinary Session
 - (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

There will be no increase in expenditure of funds due to this rule.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
- (b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There will be no increase (decrease) in costs to implement this rule, as notifications systems designed to address self-reporting of unauthorized releases are already established.

COSTS	FY 00-01	FY 01-02	FY 02-03
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS(#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This is not applicable.

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

This is not applicable.

SOURCE	FY 00-01	FY 01-02	FY 02-03
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

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

This is not applicable.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no impact on local governmental units, as notifications systems designed to address self-reporting of unauthorized releases are already established.

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

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

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

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

There are no increases (decreases) in revenues anticipated by this rule.

REVENUE INCREASE/DECREASE	FY 00-01	FY 01-02	FY 02-03

STATE GENERAL FUND
AGENCY SELF-GENERATED
RESTRICTED FUNDS*
FEDERAL FUNDS
LOCAL FUNDS

TOTAL 0 0 0

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This is not applicable.

III. **COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Affected organizations include primarily industrial facilities that use high chloride-content waters in the production of chlorine. No significant effect is anticipated as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

This is not applicable.

IV. **EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No significant effect on competition or employment is anticipated as affected organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.