

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Exemption for Drums Storing Pyrophoric Catalyst
(LAC 33:III.2103) (AQ272)

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.2103 (Log #AQ272).

This rule exempts drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company Baton Rouge Chemical Plant from the submerged fill pipe provisions of LAC 33:III.2103.A. Existing drums are currently operating under Permit No. 2376-VO, issued April 4, 2006, and are identified as follows: EQT583, T-3304A - Catalyst Drum (VCD-107A), 9400 gallons; EQT584, T-3304B - Catalyst Drum (VCD-107B), 9400 gallons; EQT585, T-3304C - Catalyst Drum (VCD-107C), 4700 gallons; EQT586, T-3304D - Catalyst Drum (VCD-107D), 4700 gallons. The drums in question are used to store an alkyl catalyst that is very pyrophoric in nature; the material can spontaneously ignite if exposed to even trace levels of oxygen and moisture. It has been decided that these tanks do not qualify as pressure vessels because of the frequency at which they vent to the atmosphere (every 1 to 1.5 days). As such, they would normally be subject to the submerged fill pipe provisions of LAC 33:III.2103.A, which seeks to prevent vapor or gas loss to the atmosphere during filling operations. Any overpressure in a closed storage system fed through a submerged fill pipe could lead to materials backing up into and possibly overflowing delivery equipment or other upstream facilities, causing a dangerous condition in the case of this kind of catalyst. Therefore, the manufacturer of the catalyst has recommended that the material be transferred using a free-fall method. No increase in actual emissions above current levels will be authorized by this rule. The basis and rationale for this rule are to provide drums storing pyrophoric catalyst with an exemption from regulations with which strict conformity would create an unreasonable risk to public health, welfare, and safety.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on January 24, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to

participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ272. Such comments must be received no later than January 31, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ272. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. – G.3. ...

4. JP-4 fuels stored in horizontal underground tanks; ~~and~~

5. with regard to the requirements of Paragraph C.1 of this Section,
any storage tank that is used for less than two weeks in the calendar year ~~is exempt from the requirements of Paragraph C.1 of this Section,~~ provided that the tank is empty and liquid-free when not in use.; and

6. with regard to the submerged fill pipe provisions of Subsection A of this Section, tanks, drums, or other containers storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant.

H. – J. ...

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 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

LOG #: AQ272

Person
Preparing
Statement: Bryan D. Johnston Dept.: Department of Environmental Quality

Phone: (225) 219-3118 Office: Office of Environmental Services

Return
Address: P.O. Box 4313 Rule Title: Exemption for Drums Storing
Baton Rouge, LA 70821-4313 Pyrophoric Catalyst (LAC
33:III.2103.G)

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)

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

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

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

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

This rule is limited in scope, affecting only drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant. No effect on costs, including workload adjustments or additional paperwork, is expected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**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).

This rule exempts drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant from the submerged fill pipe provisions of LAC 33:III.2103.A. Existing drums are currently operating under Permit No. 2376-V0, issued April 4, 2006, and are identified as follows:

EQT583	T-3304A – Catalyst Drum (VCD-107A)	9400 gallons
EQT584	T-3304B – Catalyst Drum (VCD-107B)	9400 gallons
EQT585	T-3304C – Catalyst Drum (VCD-107C)	4700 gallons
EQT586	T-3304D – Catalyst Drum (VCD-107D)	4700 gallons

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

The drums in question are used to store an alkyl catalyst that is very pyrophoric in nature; the material can spontaneously ignite if exposed to even trace levels of oxygen and moisture. It has been decided that these tanks do not qualify as pressure vessels because of the frequency at which they vent to the atmosphere (every 1 to 1.5 days). As such, they would normally be subject to the submerged fill pipe provisions of LAC 33:III.2103.A, which seeks to prevent vapor or gas loss to the atmosphere during filling operations.

Any overpressure in a closed storage system fed through a submerged fill pipe might lead to materials backing up into and possibly overflowing delivery equipment or other upstream facilities, causing a dangerous condition in the case of this kind of catalyst. Therefore, the manufacturer of the catalyst has recommended that the material be transferred using a free fall method. No increase in actual emissions above current levels will be authorized by this rule.

- 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.

This proposed rule will not result in any increase in the expenditure of funds.

(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 question 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?

No costs or savings to state agencies are anticipated as a result of this proposed rule.

COSTS	FY 06-07	FY 07-08	FY 08-09
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR. POSITIONS (#)	-0-	-0-	-0-

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.

There are no costs or savings associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

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

SOURCE	FY 06-07	FY 07-08	FY 08-09
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
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?

No funds are required to implement the proposed action.

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.

No impact on local governmental units is anticipated.

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

There are no costs or savings to local governmental units so no funding is needed.

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 will be no effect on revenue collections of state or local governmental units from the proposed action.

REVENUE INCREASE/DECREASE	FY 06-07	FY 07-08	FY 08-09
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
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.

No increase or decrease in revenues will be realized.

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.

This rule is limited in scope, affecting only drums storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant. No effect on costs, including workload adjustments or additional paperwork, is expected.

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.

No impacts on receipts or income will result.

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.

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