

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Murphy Exploration and Production Delisting
(LAC 33:V.4999.Appendix E) (HW096P)

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 Hazardous Waste regulations, LAC 33:V.4999.Appendix E (Log #HW096P).

Murphy Exploration and Production (Murphy) is petitioning to exclude from the hazardous waste regulations (delist) approximately 6,120 tons of incinerator ash generated and used as fill in 1986 and 1987. This is a one-time delisting that applies to the particular ash (and to any contaminated media associated therewith) used as fill in the Rim Tide barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media. The delisting program is regulated by LAC 33:V.105, which includes a formal rulemaking process. The applicants who wish to remove a waste from the list of hazardous wastes must submit a petition and satisfy all requirements of LAC 33:V.105. The department has reviewed Murphy's petition and found that it satisfies the delisting requirements in LAC 33:V.105.M. The department used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment. The department's proposed action to grant the petition is based on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Murphy, the results of the analytical data, and the results of the DRAS, the department has determined that the nature of this material does not warrant retaining the material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on an evaluation of waste-specific information submitted by Murphy Exploration and Production.

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 April 25, 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 HW096P. Such comments must be received no later than May 2, 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 HW096P. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

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

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality–Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

§4999. Appendices—Appendix A, B, C, D, and E

Appendix A. – Appendix D. ...

Appendix E. Wastes Excluded under LAC 33:V.105.M

A. – B.3.b. ...

Table 1 - Wastes Excluded
[see Prior Text in Dupont Dow Elastomers, LLC, LaPlace, LA – BFI Waste Systems of Louisiana, LLC, Colonial Landfill, Sorrento, LA, (4)]

Table 1 - Wastes Excluded
<u>Murphy Exploration and Production Company, Amelia, LA</u>
<p><u>Hazardous waste incinerator ash was generated by the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors in Amelia, Louisiana. In 1986 and 1987, this ash was used as fill material for the Rim Tide barge slip area at Murphy Exploration and Production Company (Murphy) in Amelia, Louisiana. For the purpose of this exclusion, ash used as fill material by Murphy includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for a maximum volume of 6,200 cubic yards of ash subsequent to its excavation from the Rim Tide barge slip area at Murphy for the purpose of transportation and disposal in a Subtitle D landfill after [INSERT DATE OF PROMULGATION].</u></p>

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:** (March 2007), LR 33:**, LR 33:**.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition are negligible. The delisting facilitates the remediation of materials that were placed on this location approximately 20 years ago. The remediation activities at the 1.83 acres will involve short-term environmental, laboratory, and construction related employment.

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

**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).

Murphy is requesting a one-time exclusion from the hazardous waste regulations (delisting) for approximately 6,200 cubic yards (6120 tons) of incinerator ash generated and used as fill in 1986 and 1987. This delisting applies only to that particular ash used as fill (and to any contaminated media associated therewith) in the "Rim Tide" barge slip located on a 1.83 acre tract of land near Amelia, Louisiana. The purpose of this delisting petition is to facilitate the excavation and offsite disposal of the ash and any associated contaminated media.

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

LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste.

- C. Compliance with Act 11 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.

No, the 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 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?

COSTS	FY 07-08	FY 08-09	FY09-10
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

No costs or savings to state agencies will result from this proposed action.

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 implementation of this rule.

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

SOURCE	FY 07-08	FY 08-09	FY09-10
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

No funds are needed to implement this rule.

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

The agency has sufficient funds 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.

There is no anticipated impact of the proposed action on local governmental units.

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?

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY09-10</u>
STATE GENERAL FUND	\$ 0	(\$220,300)	\$ 0
AGENCY SELF-GENERATED			
RESTRICTED FUNDS* <u> </u>			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	\$ 0	(\$220,300)	\$ 0

*Specify the particular fund being impacted.

The state will forego the collection of approximately \$220,300, which is the difference between the revenues on cost of disposal of the material as solid waste instead of hazardous waste. By delisting the Murphy incinerator ash, the material, when excavated and disposed of, will be regulated as a solid waste and, therefore, will not be subject to the hazardous waste disposal tax.

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.

The state will lose approximately \$220,300 by reclassifying this waste as nonhazardous solid waste. The estimated cost for disposing of 6120 tons of hazardous waste is \$1,287,800 and the cost for transporting it is \$643,900. At \$40/ton for 6120 tons, the state would collect approximately \$244,800 in hazardous waste disposal tax revenue. \$323,500 would be spent on reporting, air monitoring, lab equipment, analytical costs, and field oversight, for a total of \$2.5 million. However, when disposing of the same waste as a nonhazardous solid waste, the cost to Murphy will be approximately \$650,000. The estimated cost for disposing of 6120 tons of solid waste is \$183,600 (at \$30/ton for 6120 tons) and the cost for transporting it is \$120,000 (approximately 300 trucks will haul ~20 tons/truck for \$400/truck). The state will collect approximately \$24,500 in solid waste tax disposal revenue (at \$4/ton for 6120 tons). The difference between disposing of this waste as hazardous versus solid waste is \$244,800 - \$24,500 or \$220,300.

R.S. 30:2205(A)(1) provides that funds generated by the hazardous waste tax under the provisions of Chapter 7-A of Subtitle II of Title 47 are to be paid into the Hazardous Waste Site Cleanup Fund until the fund balance reaches \$6 million, and at such time the treasurer is to pay remaining sums into the Environmental Trust Fund.

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.

Murphy will save approximately \$1.85 million for the one-time remediation of the Rim Tide Slip area at its former Amelia facility. The delisting of this aggregate will not relieve the company from any liability for these wastes under federal or state law.

- 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.

Murphy will immediately realize a savings of about \$1.85 million when this delisting is implemented. The delisting will facilitate the remediation of 1.83 acres of industrial property in St. Mary Parish.

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.

The effects on competition are negligible. The remediation of the Amelia site will allow it to be used by companies that may wish to operate in the area. The remediation will employ approximately 10 to 15 workers on a short term basis.