

TITLE 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 1. Departmental Administrative Procedures
Chapter 1. Public Notification of Contamination

§101. Purpose

A. The purpose of this Chapter is to establish procedures for notifying those members of the public whom the department determines are likely to be adversely affected by a release that poses a significant risk of adverse health effects. This Chapter is in addition to any other requirements to provide notice, and nothing in this Chapter shall be construed to relieve the department or any other person from any other requirement set forth in *Louisiana Administrative Code*, Title 33. Furthermore, nothing in this Chapter shall prevent the responsible party, or the department, from providing additional means for public information and participation consistent with the provisions of this Chapter or any other chapter of the *Louisiana Administrative Code*, Title 33.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§103. Applicability

A. This Chapter applies to releases that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse human health effects.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§105. Effective Date

A. These regulations shall become effective on ~~upon promulgation—date to be inserted~~ **October 20, 2003**. These regulations are only applicable to releases that occur on or after ~~insert effective date of regulations~~ **October 20, 2003**.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§107. Definitions

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Applicable Federal or State Health and Safety Standard—those health and/or safety standards promulgated under federal or state health or safety laws or other universally

accepted health or safety standards that the department, based on its knowledge and expertise, reasonably determines are applicable to a particular release and release site.

Examples of applicable federal or state health and safety standards include, but are not limited to:

1. USEPA maximum contaminant level (MCL) in a drinking water well or aquifer. MCLs are not applicable for non-potable groundwater or surface water;

2. Louisiana primary ambient air quality standards (LAC 33:III.709); and

3. Agency for Toxic Substances and Disease Registry (ATSDR) minimal risk levels (MRLs) for air.

Corrective Action—activities conducted to protect human health and the environment.

Department—the Department of Environmental Quality.

Off-Site—areas beyond the property boundary of the release site.

Person—any individual, municipality, public or private corporation, partnership, firm, the State of Louisiana, political subdivisions of the State of Louisiana, the United States government, and any agent or subdivision thereof or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, commissions, and interstate bodies.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release or other release authorized by the department.

Release Site—area within the property boundary of the site where the release has occurred.

Responsible Party—any person required by law or regulation to undertake corrective action at a site.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29:

§109. Notification Requirements

A. The department shall provide notification to the public for sites within the department's regulatory jurisdiction, as reasonably determined by the department to be appropriate in accordance with the considerations identified in this Chapter.

B. The department shall issue notice of a release that poses a significant risk of adverse health effects to persons whom the department reasonably determines are likely to be adversely affected by the release.

C. The department may prioritize sites for provision of notice, as appropriate, according to the factors identified in this Section, although notice should in all events be given as soon as reasonably practicable.

D. The following chart provides the content and time frame for providing notification.

	Public Notice No. 1	Public Notice No. 2
Triggering Event	When the department becomes aware of information and determines that a release is likely to have off-site impacts that exceed the applicable federal or state health and safety standard and pose a significant risk of adverse health effects	When the department confirms off-site impact that exceeds the applicable federal or state health and safety standard and the department determines that the off-site impact poses a significant risk of adverse health effects
When to Provide Public Notice	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.	When an emergency or exigent circumstance exists, notice shall be given as soon as practicable under the circumstances by using any reasonable means or, otherwise, within 30 days of the triggering event.
Contents of Public Notice	<ol style="list-style-type: none"> 1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Name, phone number, and address of contact person for both the responsible party and the department. 5. Other information the department determines is necessary to protect human health and the environment. 	<ol style="list-style-type: none"> 1. Physical address of the release site. 2. Description of the contaminant. 3. Corrective action efforts. 4. Any potential adverse health effects. 5. Name, phone number, and address of contact person for both the responsible party and the department. 6. Other information the department determines is necessary to protect human health and the environment.

E. Procedure for Providing Notice to the Public

1. The public notice required by this Chapter must be:
 - a. communicated in plain language;
 - b. printed and formatted in a manner that promotes the purpose of the notice when the notice is printed or posted;
 - c. free of language that nullifies the purpose of the notice;
 - d. displayed in a conspicuous way when printed or posted; and
 - e. sized 3 inches x 5 inches, at a minimum, in newspapers, parish journals, etc., when published in such publications.
2. The public notice shall be provided by means reasonably calculated to reach those members of the public directly affected by the release, as determined by the department, and may include, but not be limited to:
 - a. public notice in local newspapers;
 - b. block advertisements;
 - c. public service announcements;
 - d. direct mailings;
 - e. personal contacts;
 - f. press releases;
 - g. press conferences; and
 - h. posting on the department's website.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 29: