

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 Environmental Quality regulations, LAC 33:I.3931; 33:III.507, 1432, 3003, 5116, 5122, and 5311; 33:V.Chapter 30.Appendices A-L; 33:IX.2301, 2531, and 2533; and 33:XV.1517 (Log #OS043*).

This proposed rule is identical to federal regulations found in 10 CFR 71, 7/1/2001; 40 CFR 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 266.Appendices A - M, 302.4, 401, and 405-471, 7/1/2001, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 765-0399 or Box 82178, Baton Rouge, LA 70884-2178. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953.F.(3) and (4).

This proposed rule incorporates by reference into LAC 33:I, III, V, IX, and XV the corresponding regulations in 10 CFR 71 and 40 CFR Parts 60, 61, 63, 70.6, 93, 117.3, 122.29, 136, 144.63, 266, 302.4, 401, and 405-471, July 1, 2001. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC.

On March 5, 2002, EPA adopted revisions to Sections 112(g) and 112(j) of the Clean Air Act Amendments of 1990. The rule is titled, "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)." In effect, the requirement to submit a Title V permit application on May 15, 2002, for any facility whose source category Part 63 (MACT) Rule has not been promulgated by May, 15, 2002, is revised to a requirement to submit a Part 1 Permit Application. A Fact Sheet that includes the web address for the newly promulgated rule may be found at the following web address: http://www.epa.gov/ttn/oarpg/t3/fact_sheets/gprctd_fs.pdf. This federal rule is being incorporated by reference in this proposed rule (OS043*). The publication date and citation of the *Federal Register* containing this EPA rule will be inserted when it becomes available.

This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this proposed rule are to mirror the federal regulations in order to maintain equivalency.

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 24, 2002, 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. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. 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. Persons commenting should reference this proposed regulation by OS043*. Such comments must be received no later than April 24, 2002, 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) 765-0389 or by e-mail to patsyd@deq.state.la.us. The comment period for this rule ends on the same date as the public hearing. 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 OS043*.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 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****Chapter 39. Notification Regulations and Procedures for
Unauthorized Discharges****Subchapter E. Reportable Quantities for Notification of Unauthorized
Discharges****§3931. Reportable Quantity List for Pollutants**

A. ...

1. 40 CFR 117.3 (7-1-~~0001~~ Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

2. 40 CFR 302.4 (7-1-~~0001~~ Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. – Note @. ...

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 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 27:2229 (December 2001), LR 28:**.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The Louisiana Department of Environmental Quality hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), as in effect on July 1, ~~2000~~2001. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

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 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), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:**.

Chapter 14. Conformity

**Subchapter B. Conformity to State or Federal Implementation Plans of
Transportation Plans, Programs, and Projects Developed, Funded, or Approved
Under Title 23 U.S.C. or the Federal Transit Act**

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, ~~2000~~2001, is hereby incorporated by reference with the exclusion of Section 105.

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 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:**.

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference (IBR)

§3003. IBR 40 Code of Federal Regulations (CFR) Part 60

A. Except as modified in this Section, regulations at 40 CFR Part 60, as revised July 1, ~~2000~~2001, and specified below in Tables 1 and 1.A are hereby incorporated by reference as they apply to the State of Louisiana.

Table 1 – Table 1.A ...

~~B. Reserved.~~

~~C.B.~~ Corrective modification and clarification are made as follows:

1. Whenever the referenced regulations (i.e., 40 CFR Part 60) provide authority to “the Administrator,” such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 60) to be provided to “the Administrator” shall be provided to the Office of Environmental Assessment, Environmental Technology Division where the state is designated authority by EPA as “the Administrator” or shall be provided to the Office of Environmental Assessment, Environmental Technology Division and EPA where EPA retains authority as “the Administrator.”

2. 40 CFR Part 60 Subpart A, Section 60.4 (b)(T) shall be modified to read as follows: State of Louisiana: Office of Environmental Assessment, Environmental Technology Division, Department of Environmental Quality.

3. The availability to the public of information provided to or otherwise obtained by the state under this Chapter shall be governed by LAC 33:I.501-509.

4. Clarification of MSW landfill milestones are as follows: design plans are due on or before January 28, 1999; awarding of contracts is due on or before June 28, 1999; initiation of on-site construction is due on or before September 28, 1999; initial performance test is to be completed on or before March 28, 2000; and final compliance is due on or before April 28, 2000; ~~and~~.

5. The department's Section 111(d) emission guideline plan for Hospital/Medical/Infectious Waste Incinerators includes the following CFR citations: 40 CFR 60.30, 60.30(e), 60.31(e), 60.32(e), 60.33(e), 60.35(e), 60.36(e), 60.37(e), 60.38(e), and 60.39(e). Until the department has a mechanism to approve training programs in compliance with 40 CFR 60.34(e), the department accepts accreditation approved by other states complying with 40 CFR 60.34(e).

DC. Copies of documents incorporated by reference in this Chapter may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242.

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), LR 25:1239 (July 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1607 (August 2000), LR 26:2460 (November 2000), LR 26:2608 (November 2000), LR 27:2229 (December 2001), LR 28:**.

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants published in the *Code of Federal Regulations* at 40 CFR Part 61, ~~revised as of~~ dated July 1, ~~2000~~2001, and specifically listed in the following table are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR 61	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix C]	

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 23:61 (January 1997), LR 23:1658 (December 1997), amended LR 24:1278 (July 1998), LR 25:1464 (August 1999), LR 25:1797 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:**.

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National 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, ~~revised as of~~ dated July 1, 2000~~2001~~, and specifically listed in the following table are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference is EPA rule entitled “National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j),” promulgated on March 5, 2002, and as published in the *Federal Register* at [publication date and citation to be inserted].

40 CFR 63	Subpart/Appendix Heading
* * *	
[See Prior Text in Subpart A – Appendix 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 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), LR 25:1464 (August 1999) LR 25:1798 (October 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:**.

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, ~~revised as of~~ dated July 1, 2000~~2001~~, and specifically listed in the following table are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

40 CFR 63	Subpart/Appendix Heading
* * * [See Prior Text in Subpart A – Subpart X]	

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), LR 25:1464 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2230 (December 2001), LR 28:**.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

Appendices

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

A. 40 CFR 266, Appendix II, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, ~~2000~~2001, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105. Table 1 and Appendix E of this Chapter, respectively.

Appendix E. Risk Specific Doses (10^{-5})

A. 40 CFR 266, Appendix V, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

A. 40 CFR 266, Appendix VI, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, ~~2000~~2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105. Table 1, 3025.B.1 and B.2.a, and Chapter 22. Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, ~~2000~~2001, is hereby incorporated by reference, except as follows:

A.1. – B. ...

~~Appendix J. Reserved~~**Appendix KJ. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters**

A. 40 CFR 266, Appendix XI, July 1, ~~2000~~2001, is hereby incorporated by reference.

Appendix LK. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, ~~2000~~2001, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix ML. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, ~~2000~~2001, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105. Table 1.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Chapter 23. The LPDES Program

Subchapter A. Definitions and General Program Requirements

§2301. General Conditions

A. – E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter (e.g., 40 CFR 122.29) shall refer to those regulations published in the July 1, ~~2000~~2001 *Code of Federal Regulations*, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:**.

§2531. 40 CFR Part 136

A. Title 40 (Protection of the Environment) *Code of Federal Regulations* (CFR) Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, revised July 1, ~~2000~~2001, in its entirety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:**.

§2533. 40 CFR Chapter I, Subchapter N

A. Title 40 (Protection of the Environment) CFR, Chapter I, Subchapter N (Effluent Guidelines and Standards), revised July 1, ~~2000~~2001, Parts 401 and Parts 405 - 471 in their entirety. (Note: General Pretreatment Regulations for Existing and New Sources of Pollution found in Part 403 of Subchapter N have been included in these regulations as Subchapter T.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074.B.3 and B.4.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August

1997), LR 25:1467 (August 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:**.

TITLE 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection
Chapter 15. Transportation of Radioactive Material

§1517. Incorporation by Reference

A. The department incorporates by reference 10 CFR Part 71, Appendix A (July 1, ~~2000~~2001).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), LR 27:2233 (December 2001), LR 28:**.