

DEQ ACTIONS

Updated: February 4, 2020

The following is a summary of actions taken by the Department of Environmental Quality with respect to adoption, amendment, or repeal of proposed rules and of actions taken by the agency with respect to adoptions, increases, or decreases. Included are actions taken January 1, 2019, to February 28, 2020.

Proposed dates are those on which the notice of intended action was published in the Louisiana Register pursuant to La. R.S. 49:953. Public hearing dates are those on which the agency held public hearings pursuant to La. R.S. 49:953. Oversight hearing dates are those on which oversight hearings were conducted pursuant to La. R.S. 49:968. Final dates are those on which the actions were published in the Louisiana Register pursuant to La. R.S. 49:954.

OS092 - Revisions to the Risk Evaluation/Corrective Action Program (RECAP) (LAC 33:I.1307)

This Rule will adopt by reference the revised Risk Evaluation/Corrective Action Program (RECAP) regulation which serve as the minimum remediation standards for soil and groundwater. The revisions to the RECAP regulation amend and update the program to be consistent with the most current scientific methods and recommendations to ensure that response actions to chemical releases in the environment are protective of human health and the environment. Text revisions include clarifications reorganization, and streamlining to facilitate the interpretation and application of the program.

Proposed Date: January 20, 2019

Public Hearing: March 1, 2019

Final Date:

Oversight Hearing:

Withdrawn: March 20, 2019

Substantive
Changes:

UT019 - UST New and Used Motor Oil Storage Fee Correction (LAC 33:XI.307)

This Rule will correct the fee for storing new or used motor oil in underground storage tanks. R.S 30:2195.3 specifies a fee of \$275 for this storage. Act 451 of the 2016 Regular Legislative Session authorized certain fee increases, new fees and other changes to the regulations pertaining to fees. A change to the fee for storing new or used motor oil in an underground storage tank found in R.S. 30:2195.3 was not included in Act 451. This correction will make the fee in the regulation match the fee in the statute.

Proposed Date: January 20, 2019

Public Hearing: March 1, 2019

Final Date: May 20, 2019

Oversight Hearing:

Withdrawn:

Substantive
Changes:

WQ099S - Water Quality Trading (LAC 33:IX.2601, 2603, 2605, 2607, 2609, 2611, 2613, 2615, 2617, and 2619)

In accordance with R.S. 30:2074(B)(9)(a), the LDEQ, through this Rule will establish and administer a water quality trading(WQT) program as an inducement to reduce discharges of pollutants into waters of the state. The WQT program is a strategy to help achieve the goals of the Clean Water Act (CWA). The WQT program is voluntary and relies on a market-based approach to offer economic incentives for pollutant reduction from point and nonpoint sources. Trading allows a source to meet its regulatory obligations by using pollutant reduction "credits" generated by another source that has lower pollution control costs. The Rule will address appropriate standards for accountability and enforceability and provisions to ensure transparency. This Rule will apply to many various trading scenarios. This Rule enacts the revisions made by Act No. 371 of the 2017 Regular Session of the Louisiana Legislature.

Proposed Date: January 20, 2019	Oversight Hearing:
Public Hearings: March 1, 2019 August 28, 2019	Withdrawn:
Final Date: October 20, 2019	Substantive Changes: Yes

WQ100ft - Water Transfer Rule (LAC 33:IX.2315)

This Rule adds water transfer discharges to the list of exclusions for a Louisiana Pollutant Discharge Elimination System (LPDES) permit. Federal regulations, which became effective on August 12, 2008, clarified that water transfers are not subject to regulation under the National Pollutant Discharge Elimination System (NPDES) permitting program.

Proposed Date: January 20, 2019	Oversight Hearing:
Public Hearing: March 1, 2019	Withdrawn:
Final Date: May 20, 2019	Substantive Changes:

SW065 - Recycling Tax Credit Reduction (LAC 33:VII.10415)

This Rule reduces the amount of the credit, related to purchase of qualified new recycling manufacturing, process equipment, and/or a qualified service contract pertaining to equipment, from 20 to 14 percent. Louisiana Revised Statute 47:6055 authorizes an income tax credit for purchase of new recycling manufacturing, process equipment, and/or a service contract pertaining to the equipment. Act 400 of the 2017 Regular Legislative Session made the reduction credit permanent for equipment or service contracts. The Rule implements the change in R.S. 47:6055.

Proposed Date: February 20, 2019	Oversight Hearing:
Public Hearing: April 1, 2019	Withdrawn:
Final Date: May 20, 2019	Substantive Changes:

SW066 - Revisions to Update Waste Tire Fees (LAC 33:VII.10519, 10521, and 10535)

This Rule provides for the fee changes to the waste tire fees which were authorized in Act 451 of the 2016 Regular Legislative Session and Act 541 of the 2018 Regular Legislative Session.

Proposed Date: February 20, 2019	Oversight Hearing:
Public Hearing: April 1, 2019	Withdrawn:
Final Date: May 20, 2019	Substantive Changes:

RP064 - Medical Event Reporting Clarification (LAC 33:XV.613)

This Rule makes changes to the medical event reporting regulations. Dose limits are being added to the reporting requirements in the regulations to lessen the burden on both the regulated community and the department. The changes in the state regulations were prompted by the large number of reports of wrong patients or wrong body parts being X-Rayed, but resulting in minimal patient doses.

Proposed Date: March 20, 2019	Oversight Hearing:
Public Hearing: April 25, 2019	Withdrawn:
Final Date: June 20, 2019	Substantive Changes:

AQ383S - Regulatory Permit for Boilers and Process Heaters (LAC 33:III.323)

This Rule will establish a regulatory permit which can be used to authorize the construction and operation of certain boilers and process heaters. Authorization to construct and operate a boiler or process heater eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a rule. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019. Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.).

Proposed Date: May 20, 2019	Oversight Hearing:
Public Hearings: June 27, 2019 October 30, 2019	Withdrawn:
Final Date: December 20, 2019	Substantive Changes: Yes

AQ382 - Incorporating Test Results (LAC 33:III.523.A and LAC 33:III.537.A)

This Rule amends Louisiana General Condition I to 1.) specify that if testing reveals emissions are greater than those allowed by a permit, an application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results; 2.) clarify that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations; and 3.) reaffirm that noncompliance with any term or condition of a permit constitutes a violation and is grounds for enforcement action.

This Rule also aligns the deadline to submit an application to modify a permit where required by LAC 33:III.523.A with that proposed for Louisiana General Condition I (i.e., 90 days after the permittee receives the final test results.) Louisiana General Condition I of LAC 33:III.537.A requires a permittee to submit an application to modify its permit if “emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency.” However, General Condition I is silent with respect to when any such application must be submitted. This Rule will specify that the application to modify the permit must be submitted no later than 90 days after the permittee receives the final test results.

In addition, this Rule clarifies that discovery of excess emissions does not necessarily compel the permittee to suspend operations of the subject emissions unit(s), provided the excess emissions do not cause an emergency condition and the permittee reports the excess emissions in accordance with applicable regulations. However, neither the submittal of an application to modify the permit nor the reporting of excess emissions precludes the department from taking appropriate enforcement action, as noncompliance with any term or condition of a permit constitutes a violation of LAC 33:III.Chapter 5, the Louisiana Environmental Quality Act, and, if the term or condition is federally enforceable, the Clean Air Act. See, for example, LAC 33:III.501.C.4, LAC 33:III.507.B.2, and Louisiana General Condition II of LAC 33:III.537.A. A similar provision, LAC 33:III.523.A, also addresses the incorporation of test results into a permit where such results indicate that the terms and conditions of the permit are inappropriate or inaccurate, but only where the testing is “required or approved by the permitting authority.” In order to maintain consistency with General Condition I, LAC 33:III.523.A will be amended to require the requisite permit amendment or modification to be submitted within 90 days of obtaining the relevant test results.

Proposed Date: May 20, 2019

Public Hearing: June 27, 2019

Final Date: August 20, 2019

Oversight Hearing:

Withdrawn:

Substantive
Changes:

AQ384S - Regulatory Permit for Cooling Towers (LAC 33:III.325)

This Rule will establish a regulatory permit which can be used to authorize the construction and operation of certain cooling towers. Authorization to construct and operate a cooling tower eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a rule. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.).

Proposed Date: May 20, 2019

Oversight Hearing:

Public Hearings: June 27, 2019

Withdrawn:

October 30, 2019

Final Date: December 20, 2019

Substantive
Changes: Yes**RP065ft - Revisions to Transportation Safety Requirements (LAC 33:XV.763,1501, 1502, 1503, 1504, 1505, 1506, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1519, 1520, and 1599)**

This Rule makes changes to the transportation safety requirement for licensed material. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2015-3. This Rule will update the state regulations to be compatible with changes in the federal regulations. Outline formatting and cross-referencing corrections are made in Section 763. The changes in the state regulations are category B, C, and H & S requirement for the state of Louisiana to remain an NRC agreement state.

Proposed Date: June 20, 2019

Oversight Hearing:

Public Hearing: July 25, 2019

Withdrawn:

Final Date: September 20, 2019

Substantive
Changes:

WQ101 - Bayou Chene DO Criterion Revision (LAC 33:IX.1123, Table 3)

This Rule will classify subsegment 050603 (Bayou Chene-From headwaters to Lacassine Bayou; includes Bayou Grand Marais) as naturally dystrophic waters with a seasonal dissolved oxygen criteria of 5 mg/L December-February and 3 mg/L March-November. A Use Attainability Analysis (UAA) was conducted in the Mermentau River Basin in 1998, on six named streams which provided the basis for a revision to the dissolved oxygen (DO) criteria and classification as naturally dystrophic waters for those streams. An addendum to the UAA for four additional streams followed in 1999. This rule results from a second addendum to the 1998 Mermentau River Basin UAA. The Bayou Chene subsegment will be classified as naturally dystrophic with a seasonal DO criteria of 5 mg/L December-February and 3 mg/L March-November. The basis and rationale for this rule are to classify this subsegment as naturally dystrophic and establish seasonal dissolved oxygen criteria as a result of the second addendum to the USE Attainability Analysis.

Proposed Date: June 20, 2019
Public Hearing: July 25, 2019
Final Date: September 20, 2019

Oversight Hearing:
Withdrawn:
Substantive
Changes:

WQ103 - Wilson Slough and Bradley Slough Turbidity Criteria Revisions (LAC 33:IX.1113.B.9.b.iii)

This Rule will revise the turbidity criteria for two subsegments in the Pearl River Basin (PRB). The turbidity criteria for subsegment 090205, Wilson Slough, and subsegment 090206, Bradley Slough, will be revised from 25 nephelometric turbidity units (NTU) to a more appropriate turbidity criteria of 50 NTU. A report was submitted by the department to Region 6 of the U.S. Environmental Protection Agency that defined the turbidity issues in subsegments 090205 and 090206 and justified the revisions to the turbidity criteria as appropriate and protective.

Proposed Date: June 20, 2019
Public Hearing: July 25, 2019
Final Date: September 20, 2019

Oversight Hearing:
Withdrawn:
Substantive
Changes:

**AQ373 - Louisiana MACT Determinations for NON-HON Sources (Equipment Leaks)
(LAC 33:III.5130 and 5132)**

This Rule will codify the following leak detection and repair (LDAR) programs in Louisiana's Air Quality regulations (LAC 33:III):

- Louisiana MACT Determination for Non-HON Sources, and
- Louisiana MACT Determination for Non-HON Sources with Consent Decree Enhancements.

These LDAR programs represent the department's maximum achievable control technology (MACT) determinations under LAC 33:III.5109.A for fugitive emissions from components such as pumps, compressors, valves, and connectors at certain process units within chemical manufacturing facilities. Appendix B of LAC 33:III.2199 addresses the Louisiana Consolidated Fugitive Emissions Program. Table 9 therein (Stringency Table) lists potentially applicable LDAR programs in order of decreasing stringency, including the two identified above. However, unlike most of the other LDAR programs identified in the table, the subject Louisiana MACT Determinations have not been codified. Codification of these LDAR programs is needed to ensure that their provision remain uniform and to facilitate the department's assessment of how any future revisions to leak definitions, monitoring methods, or monitoring frequencies might impact their position in Table 9. Further, codification would require any future revisions to be effected through the rulemaking process in accordance with the Administrative Procedure Act 9R.S. 49:950 et seq.), thus ensuring transparency and providing an opportunity for affected sources and the public to submit comments.

Proposed Date: September 20, 2019

Oversight Hearing:

Public Hearing: October 30, 2019

Withdrawn:

Final Date:

Substantive
Changes:

RP063 - Industrial Radiography Corrections and Revisions (LAC 33:XV.102. 503, 542, 547, 550, 551, 573, 575, 576, 579, 587, 588, 590, and 599)

This Rule makes revisions to the industrial radiographer regulations. Presently, the department lists industrial radiographer instructors on each radioactive materials license issued. The revisions will allow the department to issue industrial radiographer cards, which indicate instructor status on the card. This revision will negate the requirement to amend a licenses every time a radiographer attains instructor status. These revisions will be made to more closely align Louisiana with the Nuclear Regulatory Commission regulations. These changes were prompted by informal requests received from the industrial radiography industry.

Proposed Date: September 20, 2019

Oversight Hearing:

Public Hearing: October 30, 2019

Withdrawn:

Final Date: December 20, 2019

Substantive
Changes:

RP066 - Medical Event Reporting Clarification Correction (LAC 33:XV.613.A.2)

This Rule makes corrections to the medical event reporting regulations. Dose limits are being corrected in the regulations to lessen the burden on both the regulated community and the department. The changes in the state regulations were prompted by mistakes made by the department when promulgating the original Rule, RP064. Immediate action is being taken to rectify these errors.

Proposed Date: September 20, 2019	Oversight Hearing:
Public Hearing: October 30, 2019	Withdrawn:
Final Date: December 20, 2019	Substantive Changes:

AQ385 - Regulatory Permit for Stationary Combustion Turbines (LAC 33:III.327)

This Rule will establish a regulatory permit which can be used to authorize the construction and operation of certain stationary combustion turbines. Authorization to construct and operate a stationary combustion turbine eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows the Louisiana Department of Environmental Quality to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a rule. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019, Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.)

Proposed Date: December 20, 2019	Oversight Hearing:
Public Hearing: January 28, 2020	Withdrawn:
Final Date:	Substantive Changes:

WQ105ft - 2019 Annual Incorporation by Reference of Certain Water Quality Regulations (LAC 33:IX.4901 and 4903)

This Rule will incorporate the recently updated federal regulations into Louisiana's water quality regulations. This revision increases the enforceability of Louisiana Pollutant Discharge Elimination System (LPDES) permits that include EPA approved analytical methods and effluent limitation guidelines. The published edition of the 40 Code of Federal Regulations is updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2019.

Proposed Date: December 20, 2019	Oversight Hearing:
Public Hearing: January 28, 2020	Withdrawn:
Final Date:	Substantive Changes:

WQ097 - Water Quality Standards Triennial Revision (LAC 33:IX.1101, 1105, 1107, 1109, 1113, 1115, 1119, 1121, and 1123)

This proposed Rule corrects typographical errors, incorrect spelling and incorrect references throughout Chapter 11 in the water quality regulations. Where needed for clarification, language in the chapter has been revised. There have been additions and deletions made to the definitions in Section 1105. In Section 1109, language has been revised to be in agreement with the federal Water Quality Standards Regulatory Revisions final rule (80 FR 51019). In Section 1113, the ambient water quality criteria toxic substances for the protection of human health in Table 1 has been updated based primarily on EPA's final updated recommendations (80 FR 36986). An ammonia criterion for freshwater has been added in Section 1113. Language revisions have been made in Sections 1115, 1119 and 1121. In Section 1123, Table 3, subsegment descriptions and boundaries have been revised using up-to-date technology.

Proposed Date: December 20, 2019

Oversight Hearing:

Public Hearing: January 28, 2020

Withdrawn:

Final Date:

Substantive
Changes:

WQ104 - LPDES Application and Program Updates (LAC 33:IX.2501, 2707, 3113, 3705)

The purpose of this Rule is to provide revisions to the Louisiana Pollutant Elimination System (LPDES) permitting regulations. Federal Regulations, which became effective June 12, 2019, were updated to promote submission of complete permit applications and clarify regulatory requirements.

Proposed Date: February 20, 2020

Oversight Hearing:

Public Hearing: March 27, 2020

Withdrawn:

Final Date:

Substantive
Changes:

Report on Act No. 454 of the 2018 Regular Session of the Louisiana Legislature (R.S. 49:953(C)(2)) Published as Potpourri Notice 1909Pot1 on September 20, 2019

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Environmental Quality is submitting a report regarding the above referenced act, which was published as potpourri notice 1909Pot1 in the *Louisiana Register* on September 20, 2019, on R.S. 49:953(C)(2). The hearing on 1909Pot1 was held on October 30, 2019, and **no oral or written comments were received.**