

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**  
**Subpart 1. Departmental Administrative Procedures**  
**Chapter 4. Suspension of Contested Permit Conditions**

**§401. Purpose**

A. This Chapter applies to the effectiveness of permit conditions contested pursuant to R.S. 30:2024.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.  
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:\*\*.

**§403. Suspension of Contested Conditions**

A. Except as noted in Subsection B of this Section, during the course of an adjudicatory hearing or de novo judicial proceeding regarding a contested permit condition, all permit conditions contested by the applicant shall be suspended. All other provisions of the permit shall be effective unless the *administrative authority* as defined in LAC 33:I.107.A elects to suspend uncontested permit provisions that are not severable from those contested by the applicant.

B. Unless otherwise approved by the administrative authority, in writing, a contested permit condition shall not be suspended when:

1. the suspension may result in the withdrawal of delegation to the state of any authorized federal environmental program;

2. the suspension of the contested condition would violate general or numeric criteria found in LAC 33:IX.1113;

3. the contested condition is based on guidelines adopted by reference in LAC 33:IX.4901;

4. the contested condition prevents degradation in an outstanding natural resources water body; or

5. the suspension of the contested condition results in a violation of any memorandum of understanding between the department and the United States Fish and Wildlife Service.

C. Existing Permitted Facilities. To the extent that conditions in a newly-issued permit are suspended under this Section, the applicant must comply with the corresponding conditions of the existing permit that was replaced by the newly-issued permit, unless compliance with those conditions would be technologically incompatible with compliance with other conditions in the new permit which have not been suspended.

D. Newly Permitted Facilities. When a permit condition for a new facility, new source, new discharger, or a recommencing discharger is suspended, the applicant shall be prohibited from commencing any activities that may result in a release or discharge to the environment that are regulated by the suspended permit condition or related permit conditions that are not severable from the contested condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:\*\*.

**§405. Procedure for Suspension of Contested Conditions**

A. For a contested permit condition to be suspended, the applicant must submit a hearing request pursuant to R.S. 30:2024(A).

B. In the hearing request, the applicant must specifically identify the permit condition being contested and explain the basis for challenging the contested condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:\*\*

**§407. Effect of Suspension Following Action on Denial of a Hearing Request**

A. Upon notice of the denial of a hearing request submitted pursuant to R.S. 30:2024(A), suspended permit conditions shall become effective unless the applicant timely files a petition for de novo review pursuant to R.S. 30:2024(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:\*\*.

**Part III. Air**

**Chapter 5. Permit Procedures**

**§537. Louisiana General Conditions**

A. ...

<b>Table 1. Louisiana Air Emission Permit General Conditions</b>
I. – XVII. ...
XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) <b>and</b>

<b>Table 1. Louisiana Air Emission Permit General Conditions</b>
<p><b>LAC33:1 Chapter 4</b> within 30 days from notice of the permit action. <del>Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well.</del> Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.</p>
XIX. – XX. ...

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 the Secretary, Legal Affairs Division, LR 35:660 (April 2009), amended LR 37:1146 (April 2011), LR 38:\*\*.

## **Part V. Hazardous Waste and Hazardous Materials**

### **Subpart 1. Department of Environmental Quality—Hazardous Waste**

#### **Chapter 7. Administrative Procedures for Treatment, Storage, and Disposal Facility**

##### **Permits**

##### **Subchapter A. Permits**

#### **§705. Issuance and Effective Date of Permit**

A. – B.1. ...

2. review is requested under R.S. 30:2024, in which case effectiveness of permit conditions shall be governed by LAC 33:I.Chapter 4;

3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:614 (July 1990), LR 38:\*\*.

## Part IX. Water Quality

### Subpart 1. Water Pollution Control

#### Chapter 3. Permits

##### Subchapter A. General Requirements

#### §309. Renewal and Termination

A. – B.3. ...

C. If the applicant submits a timely and complete application pursuant to LAC 33:IX.309.A, and the department, through no fault of the applicant, fails to act on the application on or before the expiration date of the existing permit, the permittee shall continue to operate the facility under the terms and conditions of the expired permit which shall remain in effect until final action on the application is taken by the department. ~~If the application is denied or the terms of the new permit contested,~~ the expired permit shall remain in effect until the appeal process has been completed and a final decision rendered unless the secretary finds that an emergency exists which requires that immediate action be taken and in such case any appeal or request for review shall not suspend the implementation of the action ordered. Permits continued under this Section remain fully effective and enforceable. If the conditions of any ~~new or~~ renewed permit are contested by the permittee pursuant to R.S. 30:2024, the effectiveness of permit conditions shall be governed by LAC 33:I.Chapter 4.

D. – H. ...

**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 11:1066 (November 1985), amended by the Office of the Secretary, LR

22:344 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2541 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2505 (October 2005), LR 33:2161 (October 2007), LR 38:\*\*.