NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Division

Electronic Notice of Air Permit Actions

(LAC 33:III.504.E, 509.Q and W, and 531.A) (AQ368)

 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 Air regulations, LAC 33:III.504.E, 509.Q and W, and 531.A (AQ368).

 The Rule will allow LDEQ to provide public notice of all air permit actions, including Title V and Prevention of Significant Deterioration (PSD) permits, by posting notices on the department’s website (www.deq.louisiana.gov) instead of by publishing advertisements in The Advocate and in local newspapers. The Rule will also allow LDEQ to make certain documents available via the department’s Electronic Document Management System (EDMS) rather than at a physical location in the area of a proposed source or modification. On October 18, 2016, the Environmental Protection Agency (EPA) promulgated a rule entitled “Revisions to Public Notice Provisions in Clean Air Act Permitting Programs” (81 FR 71613). The federal rule removes the mandatory requirement to provide public notice of proposed air permits (and certain other related actions) via publication of an advertisement in a newspaper. Permitting authorities may now satisfy the public participation requirements of the Act by providing electronic notice (“e-notice”) of proposed air permits. When e-notice is provided, the federal rule also requires permitting authorities to provide electronic access to proposed permits.

The federal rule also clarifies that the provisions under 40 CFR 51 requiring permitting authorities to make certain elements of the administrative record available in the area of a proposed source or modification may be satisfied by making such materials available at either a physical location or on a public website identified by the permitting authority. The basis and rationale for this Rule are to allow for “e-notice” of air permit actions. The Rule is anticipated to save LDEQ $61,382.75 annually (based on 2015 expenditures). This 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.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

 All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ368. Such comments must be received no later than April 5, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations 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 AQ368. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

**Public Hearing**

A public hearing will be held on March 29, 2017, 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 Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

 These proposed regulations are 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; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

 Herman Robinson

 General Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

 A. - E.3.b. …

4. The department shall consider any analysis with respect to visibility impacts provided by the federal land manager if it is received within 30 days from the date a complete application is given to the federal land manager. In any case where the department disagrees with the federal land manager’s analysis, the department shall either explain its decision to the federal land manager or give notice as to where the explanation can be obtained. In the case where the department disagrees with the federal land manager’s analysis, the department will also explain its decision or give notice to the public by means of ~~an advertisement in a newspaper of general circulation in the area in which the proposed source would be constructed~~a notice published on the department’s website as to where the decision can be obtained.

 E.5. - M.5.b. …

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 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2135 (October 2015), LR 42:403 (March 2016), LR 43:\*\*.

§509. Prevention of Significant Deterioration

 A. - Q.2.a. …

b. make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination. This requirement may be met by making these materials available at a physical location or on the department’s Electronic Document Management System;

c. notify the public, by ~~advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed~~notice posted on the department’s website, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as through written public comment;

 i. the notice shall be available for the duration of the public comment period and shall include:

 (a). the notice of public comment;

 (b). the proposed permit;

 (c). information on how to access the administrative record for the proposed permit; and

 (d). information on how to request and/or attend a public hearing on the proposed permit;

 d. - e. …

f. consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the approvability of the application. The administrative authority shall make all comments available for public inspection in the same physical locations or on the same website where the administrative authority made available preconstruction information relating to the proposed source or modification;

 g. …

h. notify the applicant in writing of the final determination and make such notification available for public inspection at the same location or on the same website where the administrative authority made available preconstruction information and public comments relating to the source.

3. The department’s website shall be used to provide notice of all permits subject to notice under this Section. Web publication may be supplemented by other noticing methods at the discretion of the department.

 R. - W.3. …

4. If the administrative authority rescinds a permit under this Subsection, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission ~~in a newspaper of general circulation in the affected region within 60 days of the rescission~~on the department’s website shall be considered adequate notice.

 X. - AA.15.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

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 LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:402 (March 2016), LR 42:564 (April 2016), LR 43:\*\*.

§531. Public Notice and Affected State Notice

 A. - A.2.c. …

3. Each public notice provided under Paragraph A.2 of this Section shall meet the following requirements.

a. Methods of Notice

i. The notice shall be given by ~~advertisement in a newspaper in the local area where the source is located, in the official state journal, and by mail to persons included on the appropriate mailing list developed and maintained by the permitting authority~~posting the notice and the proposed permit on the department’s website for the duration of the public comment period.

ii. The notice shall be given by mail to persons included on the appropriate mailing list developed and maintained by the permitting authority. The permitting authority may update the mailing list from time to time by requesting written indication of continued interest from those listed. The permitting authority may delete from the list the name of any person who fails to respond to such a request within a reasonable timeframe.

b. Such ~~advertisement~~notice shall identify the title and address of the permitting authority; the name and address of the permittee; the name and physical location of the affected facility; the activities involved in the permit action; the emissions change involved; the name or title, address, and telephone number of an LDEQ employee from whom additional information may be obtained, including copies of the proposed permit, the application, and all supporting materials; a brief description of the appropriate comment procedures; and the time and place of any hearing that may be held with a statement of procedures to request a hearing.

 c. …

 d. The department’s website shall be used to provide notice of all permits subject to notice under this Section. Web publication may be supplemented by other noticing methods at the discretion of the department.

 A.4. - B.3. …

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 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1841 (October 2006), amended by the Office of the Secretary, Legal Division, LR 43:\*\*.