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Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Notice of Public Hearing

Substantive Changes to Proposed Rule RP067

Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

(LAC 33:XV.1403, 1410, 1411, 1412 and 1420)

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 the department is seeking to incorporate substantive changes to proposed regulation (LAC 33:XV.1403, 1410, 1411, 1412) (Log # RP067S), which was originally noticed as RP067 in the August 20, 2021, issue of the *Louisiana Register*. (2204Pot1)

 The department has proposed substantive changes to address comments received during the public comment period of proposed rule RP067. The changes clarify the proposed rule language. In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulation in question. The department is also providing an interim response to comments received on the initial regulation proposal.

 A strikeout/underline/shaded version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available on the department’s website under Rules and Regulations at http://deq.louisiana.gov/page/rules-regulations.

 The following changes are to be incorporated into the Notice of Intent:

Title 33

ENVIRONMENTAL QUALITY

**Part XV. Radiation Protection**

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

§1403. Definitions

 A. …

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 *NORM Waste*―any solid, liquid, or gaseous material or combination of materials, excluding source material, special nuclear material and by-product material, that:

 a. in its natural physical state emits radiation;

 b. is discarded or unwanted;

 c. prior to treatment or processing that reduces the radioactivity concentration, exceeds exemption criteria specified in LAC 33:XV.1404.

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 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:604 (June 1992), LR 21:24 (January 1995), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

§1410. Specific Licenses

 A. Unless otherwise exempted in accordance with LAC 33:XV.1404, persons receiving NORM waste from other persons for storage, disposal, or processing, or persons who process NORM for other persons at temporary job sites shall be specifically licensed in accordance with the requirements of this Section. Persons who are authorized to treat or dispose of NORM waste and/or waste containing NORM in accordance with Section 1412.B.2 shall submit an application for a specific license pursuant to Section 1410.C within 365 days of the effective date of this rule.

 B. — C.4. …

 5. Applications and documents submitted to the department may be made available for public inspection. The department may, however, withhold any document or part thereof from public inspection in accordance with LAC 33:I.Chapter 5.

 C.6. — D.1. …

 a. the applicant is qualified by reason of training and experience to handle the material or waste in question for the purpose requested, according to this Section, and in a manner that minimizes danger to public health and safety, property, and the environment;

 b. the applicant’s proposed buildings, structures, equipment, and procedures are adequate to minimize danger to public health and safety, property, and the environment;

 D.1.c. — D.3.c.i …

 ii. procedures for groundwater and stormwater analytical testing;

 iii. procedures for addressing results of groundwater and stormwater analytical testing that exceed LAC 33:XV.499 Table II;

 iv. procedures for safely receiving the waste and on-site storage of the waste.

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

§1411. Protection of Workers during Operations

 A. Each person subject to the general license requirements in LAC 33:XV.1408 or 1409 or a specific license shall conduct operations in compliance with the radiation protection standards set forth in LAC 33:XV.Chapter 4 and LAC 33:XV.1499.Appendix B.

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:737 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), LR 21:27 (January 1995), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

§1412. Treatment, Transfer, and Disposal

 A. Each person subject to the general license requirements in LAC 33:XV.1408 or 1409 or subject to a specific license shall manage, treat or dispose of wastes containing NORM in accordance with:

 A. — E. …

 1. The disposal facility shall notify the department if a shipment is rejected, based on rejection procedures approved by the department during application process, after its occurrence becomes known to the licensee. Notification shall be made by telephone at (225) 765-0160 in accordance with LAC 33:I.3923. Within 30 days after making the telephone report, make a written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925.B.

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 21:27 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2600 (November 2000), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

§1420. Financial Security Requirements for NORM Treatment, Storage, or Disposal

 A. Each general or specific licensee that stores NORM or NORM waste for greater than 90 days, and each specific licensee that leases or owns a physical location and that physically or chemically treats or stores NORM or NORM waste shall post with the department financial security to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of the Act and these rules. Financial security shall:

 A.1. — E. …

 AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

 HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 21:30 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2601 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2537 (October 2005), LR 33:2189 (October 2007)., amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 48:

A public hearing on the substantive changes will be held via Zoom on May 26, 2022, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at https://deqlouisiana.zoom.us/j/9373792954 or by telephone by dialing 636-651-3182 using the conference code 725573. Interested persons are invited to attend and submit oral comments on the substantive changes. 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.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as RP067S. Such comments must be received no later than May 26, 2022, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or emailed to DEQ.Reg.Dev.Comments@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes 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 RP067S. These proposed regulations are available on the internet at http://deq.louisiana.gov/page/rules-regulations.

These substantive changes to RP067 are available for inspection at the following LDEQ office locations from 8:00 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

 Courtney J. Burdette

 General Counsel