

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF
PUBLIC HEALTH EMERGENCY
EVENT NAME: COVID-19**

AGENCY INTEREST NO. 221899

**TWENTY-EIGHTH (28th) AMENDED DECLARATION OF EMERGENCY
AND ADMINISTRATIVE ORDER**

Pursuant to the authority granted to me by Louisiana Revised Statutes 30:2001 *et seq.*, and particularly La. R.S. 30:2033 and 2011(D)(6), I hereby make the following findings, declaration and order, which supersede the previous declarations and orders issued in this matter.

FINDINGS AND DECLARATION

1. Beginning on the 11th day of March, a **Public Health Emergency, COVID-19** (hereinafter "**COVID-19**") began to adversely impact the citizens of the State of Louisiana, causing a widespread public health emergency within the State of Louisiana.
2. By State of Louisiana Proclamation No. **25 JBE 2020**, Louisiana Governor John Bel Edwards, pursuant to the Louisiana Emergency Powers Act, La. R.S. 29:760, *et seq.*, declared on March 11, 2020, that a statewide public health emergency existed in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by **COVID-19**, which created emergency conditions that threaten the lives and health of the citizens of the State. Through ensuing Proclamations, the Governor has extended the statewide public health emergency for **COVID-19**. The Governor's most recent proclamation keeps in place or extends certain COVID-19 health and safety restrictions.

The Louisiana Department of Environmental Quality (LDEQ) issued its own Declaration of Emergency and Administrative Order (hereinafter "Order") to address the ongoing COVID-19 public health emergency in the State of Louisiana. This Order was extended multiple times. I find it necessary to once again extend LDEQ's COVID-19 Order because **COVID-19** has created or will create conditions that require immediate action to prevent serious threats to life or safety throughout the State of Louisiana.

3. This Declaration of Emergency and Administrative Order (hereinafter “Order”) shall apply statewide (“Emergency Area”). This Order supersedes all prior Declarations of Emergency and Administrative Orders that I have issued to address the **COVID-19** emergency.

WHEREFORE, I hereby declare that an emergency exists, and that the following measures are necessary to prevent serious threats to life or safety throughout the Emergency Area.

ORDER

Within the Emergency Area:

§ 1. Records Management

Copies of LDEQ documents are usually available online in LDEQ’s Electronic Document Management System (EDMS). The EDMS is available at <http://edms.deq.louisiana.gov>.

Additional documents may be available by placing a Public Records Request using the online form at <http://edms.deq.louisiana.gov/prr> or the printable paper form available at <http://deq.louisiana.gov/assets/docs/General/PublicRecordsRequestForm.pdf>. Please contact Records Management with any questions at (225) 219-3171 or publicrecords@la.gov.

§ 2. General Conditions

a. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

b. This Order only serves as relief for the duration of this Order from the regulatory and proprietary requirements of the Department, and does not provide relief from the requirements of other federal, state, and local agencies. This Order therefore does not negate the need for the property owner or facility operator to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies.

§ 3. General Limitations

The Department issues this Order solely to address the emergency created by **COVID-19**. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order.

§ 4. Electronic Submittals to the Department for Permitting

The use of LDEQ's physical drop box remains the preferred method for submitting permit applications or other permit application related materials. However, the Department will accept electronic submittals for the duration of this Order. Hard copies shall be submitted to the Department within thirty (30) days of the expiration of this Order. Failure to submit hard copies may result in a suspension or revocation of the permit action. Email submittals are the preferred method of electronic submittals. If the file size exceeds 10 MB, please utilize LDEQ's Drop-off Application process. **Appendix A** provides guidance as to how electronic submittals should proceed for the duration of this order.

The Department will also accept DocuSign® and other e-signatures from responsible officials during this time until the expiration of this Order.

Finally, the Department will accept online payments via the Department's Business Website <https://business.deq.louisiana.gov/Payments> in lieu of checks.

§ 5. Motor Fuel Trust Fund Eligibility and Reimbursement

Motor Fuel Trust Fund Eligibility and Reimbursement applications can be mailed to Trust Fund Section, Financial Services Division, Trust Fund Section, P. O. Box 4303, Baton Rouge, LA 70821-4303. However, the Department will accept electronic submittals of the applications and supporting documentation for the duration of this Order. Hard copies of the applications and signed affidavits shall be submitted to the Department within thirty (30) days of the expiration of this Order. Failure to submit hard copies may result in the Department seeking recovery of any reimbursements made based upon the electronic submittal. Email is the preferred method of electronic submittals to MFTF@la.gov. If the file size exceeds 10 MB, please utilize LDEQ's Drop-off Application process. **Appendix B** provides guidance as to how electronic submittals should proceed for the duration of this Order.

§ 6. Radiation Regulation

For the duration of this Order, licensees, registrants, and holders of industrial radiography certifications shall follow the guidelines provided in **Appendix C**, incorporated herein by reference.

§ 7. Other Authorizations Required

Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, or local permits or other authorizations that may be required.

§ 8. Extension of Time to Comply with Specified Deadlines

For facilities regulated by the Department in the Emergency Area, this Order extends the time for a period of thirty (30) days to comply with the following specified deadlines that occur between August 3, 2021, and the expiration of this Order:

a. The time deadlines to report periodic monitoring or to submit other reports required by permits, regulations, other authorizations, enforcement actions, or settlement agreements, **except** for monitoring required by air permits issued under Title IV or V of the Clean Air Act, under the PSD program, or any other federal Clean Air Act requirement, only insofar as a facility does not have appropriate personnel available due to **COVID-19**. Documentation must be maintained and made available to the Department upon request;

b. The time deadlines to conduct periodic inspection(s) and/or monitoring required by permits, regulations, other authorizations, enforcement actions, or settlement agreements, **except** for monitoring required by air permits issued under Title IV or V of the Clean Air Act, under the PSD program, or any other federal Clean Air Act requirement, only insofar as a facility does not have appropriate personnel available due to **COVID-19**. Documentation must be maintained and made available to the Department upon request;

c. This order does not apply to any reporting required under LAC 33:1, Chapter 39.

§ 9. Completion of Authorized Activities

All activities authorized under this Order must be commenced before the expiration of this Order unless otherwise provided in an authorization or permit. The deadline for commencement under any authorization or permit issued under this Order may be extended on a showing that contractors or supplies are not available to commence the work, or if

additional time is needed to obtain any required authorization from the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, or other local, state, or federal agencies.

§ 10. Amendments

This Order may be amended as required to abate the emergency.

§ 11. Expiration Date

This Declaration of Emergency and Administrative Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire at 11:59 P.M. on February 4, 2022, unless modified or extended by further order.

DONE AND ORDERED this 4th day of January 2022, in Baton Rouge, Louisiana.



Dr. Chuck Carr Brown
Secretary

APPENDIX A

GUIDANCE PROTOCOL FOR ELECTRONIC SUBMITTALS TO THE DEPARTMENT AND ONLINE PAYMENTS RELATED TO PERMITTING

The following protocol is intended to assist the regulated community in electronic submittals to the Department related to permitting for the duration of this Order.

To the extent possible and to assist the Department during this time, please submit files as one PDF file (i.e. please try to convert any Word or Excel files to PDF). This will assist the Department with processing any documentation submitted and alleviate any potential loss of documentation.

The preferred method of electronic submittals is via electronic mail. Below are the appropriate contacts for submitting documentation below 10 MB file size via email.

To submit large file size documents (over 10 MB), please follow these instructions to utilize LDEQ's Dropoff Application. Should you need to submit a large file to the Department, please begin by sending an email to one of the designated contacts to request that a Dropoff Link be sent to your email or a specified email account. The appropriate contact will generate a link to LDEQ's Dropoff Application for upload of documents. This link will be active for three (3) days, so prompt upload of documents is necessary. The assigned contact below will then download the documents, confirm receipt of the documents via email (although an automatic email should be generated by the system), and route them to the appropriate party for processing at the Department.

Due to the increased use of LDEQ's server, large file size documents should preferably be submitted before 8am or after 6pm.

Moreover, LDEQ will be accepting electronic payments for permit fees at this time in lieu of checks. Please consult <https://business.deq.louisiana.gov/Payments> for further instruction. If you have any issues with online payments please contact Elizabeth Dequeant at Elizabeth.Dequeant@LA.GOV.

Contact Information for LDEQ's Permit Application and Administrative Review Group (PAAR):

For questions regarding these procedures please contact Kaylee Fontenot, PAAR Group Supervisor, at Kaylee.Fontenot@LA.GOV.

Air Permits – airpermitapp@LA.GOV

Water Permits – waterpermitapp@LA.GOV

Waste Permits (including waste tire) – wastepermitapp@LA.GOV

Expedited Permit Applications – expeditedpermit@LA.GOV

NOC-1 Forms – noc1@LA.GOV

FAC Update – facupdate@LA.GOV

Sewage Sludge/Biosolids- DEQ-biosolidspermitapp@LA.GOV

APPENDIX B

GUIDANCE PROTOCOL FOR ELECTRONIC SUBMITTALS TO THE DEPARTMENT RELATED TO THE MOTOR FUEL TRUST FUND ELIGIBILITY AND REIMBURSEMENT APPLICATIONS

The following protocol is intended to assist the regulated community in electronic submittals to the Department related to the Motor Fuel Trust Fund Eligibility and Reimbursement Applications for the duration of this Order.

To the extent possible and to assist the Department during this time, please submit files as one PDF file (i.e. please try to convert any Word or Excel files to PDF). This will assist the Department with processing any documentation submitted and alleviate any potential loss of documentation.

The preferred method of electronic submittals is via electronic mail to MFTF@la.gov.

To submit large file size documents (over 10 MB), please follow these instructions to utilize LDEQ's Dropoff Application. Should you need to submit a large file to the Department, please begin by sending an email to one of the designated contacts to request that a Dropoff Link be sent to your email or a specified email account. The appropriate contact will generate a link to LDEQ's Dropoff Application for you to upload your documents. This link will be active for three (3) days, so please promptly upload your documents. The assigned contact below will then download the documents, confirm receipt of the documents via email (although an automatic email should be generated by the system), and route them to the appropriate party for processing at the Department.

Due to the increased use of LDEQ's server, large file size documents should preferably be submitted before 8am or after 6pm.

Contact Information for LDEQ's Motor Fuel Trust Fund Eligibility and Reimbursement Group:

If you have questions regarding these procedures please contact Jeffrey Baker at Jeffrey.Baker@LA.GOV. Otherwise, please send all requests for links to the LDEQ Dropoff Application to MFTF@la.gov.

APPENDIX C

GUIDANCE PROTOCOL FOR RADIATION (X-RAY) MACHINE AND RADIOACTIVE MATERIAL LICENSE COMPLIANCE AND COVID-19

The Louisiana Department of Environmental Quality, Radiation Section registers facilities possessing radiation sources such as X-ray machines, licenses facilities that utilize Radioactive Material, and is responsible for notifying the regulated community of radiation control changes.

The Louisiana Radiation Regulations on radioactive material (RAM) and X-ray machines (LAC 33:XV) include various testing and notifications to be conducted to maintain compliance. The Radiation Section is aware that some facilities are limiting access to vendors due to restrictions they have implemented because of COVID-19. Those prohibitions include restricting or barring access to licensed medical physicists and contractors who conduct required surveys at authorized radioactive material licensees, which will result in a delay in conducting required physics surveys and calibrations. The inability to complete performance testing may lead to a backlog of equipment to be tested.

In light of the COVID-19 pandemic, the Radiation Section is issuing the following guidance for registrants and licensees to ensure the continuity of radiation safety during COVID-19 related restrictions. This is a fluid situation and subject to change.

For additional information, contact the Radiation Section at (225) 219-3041.

X-RAY EQUIPMENT SURVEY GUIDANCE. The following guidance is provided for the next 90 days, effective August 3, 2021.

The State will extend the annual medical physicist equipment survey windows as outlined below. Inquiries regarding extensions to federal or accreditation requirements should be directed to those entities. The State contact is Karen Burgard, 225-219-3670. The FDA MQSA contact is Ashley Menard, 337-262-1235.

Annual Medical Physicist CT and Fluoroscopy Equipment Surveys:

May be extended to a 16-month window from date of last equipment evaluation. Surveys required following major repair or new installations may be delayed until such time as the physicist can enter the facility safely. The installation/repair report shall be maintained for inspection.

For all surveys that do not meet the required timeline, the facility shall document the reason for the delay as Covid-19, including any specific site information. This documentation shall be maintained for inspection.

Facilities needing a longer extension are asked to contact the State for further guidance.

Annual Medical Physicist Mammography Equipment Surveys:

The FDA intends to grant a 2-month extension of the annual Medical Physicist survey requirement for facilities that have Medical Physicist surveys due anytime between January 2020 and June 2020. This 2-month extension is granted from the date the facility would have met their 14-month Medical Physicist survey requirement.

Annual Medical Physicist X-Ray Therapy Equipment Calibration/Surveys:

Facilities needing an extension are asked to contact the State for further guidance. The State will evaluate these requests on a case-by-case basis.

RADIOACTIVE MATERIAL LICENSEE GUIDANCE. The following guidance is provided for the next 90 days, effective August 3, 2021.

RAM licensees:

- If the licensee *is not prohibited* by facility, local, state, or national governmental guidance or orders related to COVID-19 at the time a regulated task is required, then the licensee shall assume it must perform the task(s) in compliance with all Louisiana regulations.
- If the radiation safety officer or other person responsible for completing a required regulated task is unable to perform his or her duties due to employer or government restrictions related to COVID-19, a licensee must make reasonable efforts to find another qualified individual who can timely perform the regulated task (for example, the therapy physicist may be able to perform routine nuclear medicine tests if the diagnostic physicist is unable to enter the facility).
- All licensees must document any mitigating regulatory factors due to COVID-19 encountered during this time and make the documentation available at inspection. LDEQ will consider documented extenuating circumstances when making final decisions regarding compliance actions.
- If a licensee has documented it is unable to maintain compliance with Louisiana regulations related to RAM due to compliance with local, state, or national government guidance or orders related to the COVID-19 pandemic, this extenuating circumstance will be considered during the next inspection.

Industrial Radiography Certification:

- Industrial radiography certification programs outside of Louisiana, including the American Society of Nondestructive testing (ASNT) that issue extensions will be recognized under the contingency policies of the issuing agencies, not to exceed 12 months past expiration date. Documentation of those policies need to be available along with the industrial radiography certification card at the site of industrial radiographic operations in Louisiana.

Compliance with the following requirements is required at all times:

- **Reports of lost, stolen or missing radioactive sources**
- **Notification of incidents involving radioactive material**

- **Notification of exceeding annual dose limits**
- **Notification of medical events as described in current Louisiana regulations**

Direct your questions to:

- RAM Inspection & Rule Compliance: Karen.burgard@la.gov
- Incident or Medical Event reporting:
 - Initial reports: james.patell@la.gov
 - Follow-Up reporting: james.patell@la.gov
- RAM Licensing/SS&D/Industrial Radiography issues: Karen.burgard@la.gov
- Industrial Radiography Certification: Melanie.bauder@la.gov
- X-Ray Inspection and Rule Compliance: Jennifer.Elee@la.gov
- Mammography (MQSA): Ashley.Menard@la.gov
- X-Ray Registration issues: Karen.burgard@la.gov