

POTPOURRI  
Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division

Notice of Public Hearing  
Substantive Changes to Proposed Rule WQ099  
Water Quality Trading (LAC 33:IX.2603, 2605, 2607, 2611, and 2619)

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:IX.2603, 2605, 2607, 2611, and 2619 (Log # WQ099S), which was originally noticed as WQ099 in the January 20, 2019, issue of the *Louisiana Register*. (1907Pot1)

The department has proposed substantive changes to address comments received during the public comment period of proposed rule WQ099. 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 IX. Water Quality**  
**Subpart 1. Water Pollution Control**

**Chapter 26. Water Quality Trading**

**§2603. General Definitions**

\* \* \*

*Credit Life*—the period from the date a credit is certified and becomes available for sale (i.e., effective date) to the date that the credit is no longer valid (i.e., expiration date).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).  
HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office

of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

**§2605. Eligibility**

A. — B.1. ...

2. Point source-to-nonpoint source trades are trades between a permitted point source and a nonpoint source to reduce the discharge of nonpoint source pollutants below baseline levels required to generate credits.

B.3. — E.2. ...

3. activities in the coastal area as defined by R.S. 49:214.2(4) that are not inconsistent with the Louisiana Coastal Master Plan or any local, state, and federal requirements;

4. other activities or BMP(s) as approved by the department on a case-by-case basis.

F. Regulatory Instruments to Authorize Trading

1. Permits. A WQT plan may be implemented in an LPDES permit in an effort to meet water quality based effluent requirements and/or achieve net reductions of a pollutant, as required by a TMDL or other management strategy. The conditions set forth in the WQT plan that meets the requirements of this Chapter shall be included as enforceable permit condition(s). The permittee is legally responsible for complying with all WQT plan requirements. Registering trades with the department or its designee does not affect the responsibility of a permittee to comply with the terms of its permit;

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

**§2607. Requirements of a Water Quality Trading Plan**

A. ...

B. Absent a watershed trading framework, a permit's WQT plan shall include the following components, as appropriate, and shall describe how they were derived:

B.1. — D. ...

E. Annual Report. The permittee shall submit an annual report to the department that describes the WQT plan implementation and performance over the past year. The department shall make the annual report readily available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

### **§2611. Requirements for Trading Baselines**

A. The requirements that comprise a trading baseline may be derived from:

A.1. — C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

### **§2619. Requirements for Credits**

A. — A.2. ...

B. Credits used for compliance with an LPDES permit shall be generated within the trading area of an approved WQT plan.

C. — G. ...

H. Credit-generating projects may not include water quality benefits obtained with public conservation funds. Unless otherwise prohibited by the terms and conditions of the public funded project, funding in part by public conservation funds shall be prorated based on the ratio of nonpublic funding used to generate credits.

I. — M.1. ...

2. when and from what source(s) certified credits may be acquired by the

permittee; and

3. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(B)(9).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

A public hearing on the substantive changes will be held on August 28, 2019, 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 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. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as WQ099S. Such comments must be received no later than August 28, 2019, 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 or to Fax (225) 219-4068 or E-mailed to [DEQ.Reg.Dev.Comments@la.gov](mailto: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 WQ099S. These proposed regulations are available on the internet at <http://deq.louisiana.gov/page/rules-regulations>.

These substantive changes to WQ099 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.

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