

DEQ ACTIONS

UPDATED: February 1, 2022

The following is a summary of actions taken by the Department of Environmental Quality with respect to adoption, amendment, or repeal of proposed rules and of actions taken by the agency with respect to adoptions, increases, or decreases. Included are actions taken January 1, 2021 to February 28, 2022.

Proposed dates are those on which the notice of intended action was published in the Louisiana Register pursuant to La. R.S. 49:953. Public hearing dates are those on which the agency held public hearings pursuant to La. R.S. 49:953. Oversight hearing dates are those on which oversight hearings were conducted pursuant to La. R.S. 49:968. Final dates are those on which the actions were published in the Louisiana Register pursuant to La. R.S. 49:954.

AQ390ft — Lead-Based Paint Activities-Recognition, Accreditation, Licensure, and Standards for conducting Lead-Based Paint Activities (LAC 33:III.2803 and 2811)

Chapter 28, Lead-Based Paint Activities: Recognition, Accreditation, Licensure and Standards for Conducting Lead-Based Paint Activities outlines the requirements for persons who disturb lead-based paint in target housing and child-occupied facilities. The Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) adopted new dust-lead hazard standards and dust-lead clearance levels for surface dust and windowsills in target housing and child-occupied facilities effective January 6, 2020, and March 8, 2021. As an EPA-authorized state, LDEQ is required to adopt the new standards within two years of federal promulgation.

Proposed Date: April 20, 2021

Oversight Hearing:

Public Hearing: May 25, 2021

Withdrawn:

Final Date: July 20, 2021

Substantive
Changes:

IA06 — Brownfields Cleanup Revolving Loan Fund Program (LAC 33:VI.1103, 1107, 1109, 1111, and 1113)

A brownfields site is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Such property may also be referred to as a brownfields or as brownfields property. Currently, only brownfields sites enrolled in the LDEQ Voluntary Remediation Program qualify for the LDEQ Brownfields Cleanup Revolving Loan Fund. The proposed Rule will remove the requirement that only sites enrolled in the LDEQ Voluntary Remediation Program are eligible for funding from the LDEQ Brownfields Cleanup Revolving Loan Fund. The proposed Rule change allows LDEQ to financially expand the LDEQ Brownfields Cleanup Revolving Loan Fund to a wider base of properties, and therefore cleanup and redevelop a larger number of brownfields properties.

Proposed Date: April 20, 2021

Oversight Hearing:

Public Hearing: May 25, 2021

Withdrawn:

Final Date: July 20, 2021

Substantive
Changes:

WQ108 — Post-WQ097 Cleanup Rule (LAC 33:IX.1109. and 1123 Table 3)

Late in the rulemaking process for WQ097, items were found requiring a cleanup Rule to rectify them including a deleted “use”, an extraneous “are” and two inaccurate subsegment boundary descriptions. Republishing WQ097 to include these items would have extended the finalization of the Rule past its regulatory expiration date.

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| Proposed Date: April 20, 2021 | Oversight Hearing: |
| Public Hearing: May 25, 2021 | Withdrawn: |
| Final Date: July 20, 2021 | Substantive Changes: |

WQ109 — Requirements for Credits (LAC 33:IX.2619.H)

The proposed Rule will include a revision to the Water Quality Trading (WQT) program at LAC 33:IX.2619.H to allow eligibility consideration of water quality benefits obtained from public conservation funds. This rulemaking is necessary to provide credit eligibility consideration of water quality benefits from public conservation funded projects in the WQT program unless otherwise prohibited by the terms and conditions of the public funded project. In LAC 33:IX.2619.H, eligibility to generate credits with public conservation funds, even when it is allowed by the funding source, is not currently considered. The use of public conservation funding sources can be critical to implementing larger projects and broader watershed improvement strategies, thereby increasing the potential for improved water quality. Eligibility of credits generated with public conservation funds, when allowed by the funding source, encourages participation in the WQT program and remains consistent with the goal of water quality improvement.

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| Proposed Date: April 20, 2021 | Oversight Hearing: |
| Public Hearing: May 25, 2021 | Withdrawn: |
| Final Date: July 20, 2021 | Substantive Changes: |

RP067 — Regulation and Licensing of Naturally Occurring Radioactive Material (NORM) (LAC 33:XV.1403, 1404, 1407, 1408, 1409, 1410, 1411, 1412, 1416, 1417, 1418, 1420, 1421, and 1499)

This Rule updates the regulations pertaining to Naturally Occurring Radioactive Materials (NORM). These proposed changes to the state regulations are necessary to clarify some misunderstandings and misinterpretations of the previous NORM regulations. A section on specific licenses has been added and a section on types of general licenses was moved. Notification procedures have also been clarified and a new section pertaining to acceptable surface contamination levels for NORM has been added.

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| Proposed Date: August 20, 2021 | Oversight Hearing: |
| Public Hearing: October 27, 2021 | Withdrawn: |
| Final Date: | Substantive Changes: |

RP069ft — Medical Use of Byproduct Material (LAC 33:XV.102, 328, 331, 613, 706, 708, 710, 712, 718, 719, 732, 735, 739, 741, 742, 743, 744, 745, 747, 750, 762, 763, 777, 915, 1510, and 1520)

This Rule updates the regulations pertaining to the medical use of byproduct material. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS IDs 2018-1 and 2020-2. This Rule will update the state regulations to be compatible with changes in the federal regulations. The changes in the state regulations are category B, C, and H&S requirements for the state of Louisiana to remain an NRC agreement state.

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| Proposed Date: August 20, 2021 | Oversight Hearing: |
| Public Hearing: October 27, 2021 | Withdrawn: |
| Final Date: December 20, 2021 | Substantive Changes: |

HW128ft — Conditional Exclusion for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities (LAC 33:V.105 and 109)

This rulemaking adopts the federal Rule published by the U.S. Environmental Protection Agency on January 3, 2014. The proposed Rule revises the regulations for hazardous waste management under the Resource Conservation and Recovery Act (RCRA) to conditionally exclude carbon dioxide (CO2) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO2 streams are captured from emission sources, are injected into Underground Injection Control Class VI wells regulated under the Safe Drinking Water Act for purposes of geologic sequestration, and meet certain other conditions. The management of these CO2 streams, when meeting certain conditions, does not present a substantial risk to human health or the environment, and therefore additional regulation pursuant to hazardous waste regulations is unnecessary. Geologic sequestration is the process of injecting CO2 captured from an emission source into deep subsurface rock formations in order to isolate the CO2 permanently. Geologic sequestration is a key component of carbon capture and storage, which is a set of climate change mitigation technologies. This Rule will substantially reduce the uncertainty associated with identifying these CO2 streams under RCRA subtitle C, and will also facilitate the deployment of geologic sequestration by providing additional regulatory certainty.

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| Proposed Date: September 20, 2021 | Oversight Hearing: |
| Public Hearing: October 27, 2021 | Withdrawn: |
| Final Date: December 20, 2021 | Substantive Changes: |

AQ391ft — 2021 Annual Incorporation by Reference of Certain Federal Air Quality Regulations (LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901)

Louisiana Administrative Code (LAC), Title 33, Part III (Air) incorporates by reference (IBR) a number of federal regulations - 40 CFR Parts 60, 61, 63, 68, and 72 as well as 40 CFR 70.6(a) and 40 CFR 51, Appendix M - as they existed in the code of Federal Regulations (CFR) on July 1, 2020. Any exceptions and/or modifications to the IBR are explicitly prescribed in LAC 33:III. This Rule updates the date reference of the federal regulations incorporated to July 1, 2021. In order for Louisiana's air quality regulations to remain equivalent to federal air quality regulations, certain regulations in the most current CFR (i.e., July 1, 2021) must be incorporated into LAC 33:III. This rulemaking is also necessary to maintain LDEQ's authority to implement, administer, and enforce standards delegated to Louisiana by the Environmental Protection Agency.

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| Proposed Date: December 20, 2021 | Oversight Hearing: |
| Public Hearing: January 27, 2022 | Withdrawn: |
| Final Date: | Substantive Changes: |

OS097 — Expansion of the Expedited Penalty Program (LAC 33:I.803, 805, and 807)

The proposed Rule adds additional hazardous waste, solid waste, underground storage tank, water, radiation, and air violations to LAC 33:I.807. The proposed Rule also clarifies various violation citation language in the current radiation and air violations and adjusts penalty amounts associated with specific regulatory citations to be appropriate and consistent with penalty amounts associated with specific regulatory citations in the proposed Rule. The structure of the expedited penalty table is changed to divide it into separate tables by media and type. Currently, the regulatory maximum cap of \$3,000 poses a barrier for the departments' use program. A facility that has multiple violations can quickly exceed the current XP monetary cap thereby requiring the enforcement writer to assess a fine in accordance with the nine factors set forth in the regulations. The administrative review and processing time is greatly increased when drafting traditional penalty assessments, along with the possibility of having to testify in the adjudicatory hearing process. The proposed increased amount of \$5,000 for two or more violations will allow the department to use the XP program more frequently which will provide a cleaner and healthier environment for all the citizens of the state and reduce staff time in the administrative process for compliance. The proposed Rule will expand the current program to include additional minor violations with no additional cost. The current expedited penalty program has resulted in a significant decrease in the number of formal enforcement actions issued for the categories of violations addressed by the current Rule. This reduction in formal enforcements issued in connection with types of violations has resulted in a decrease in the man-hours and other resources expended by the department in the pursuit of these enforcement cases. Many prior enforcement referrals for minor and moderate violations had not been addressed in a timely manner due to more complex enforcement issues.

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| Proposed Date: January 20, 2022 | Oversight Hearing: |
| Public Hearing: February 25, 2022 | Withdrawn: |
| Final Date: | Substantive Changes: |

RP068 — Chapter 6 X-Rays in the Healing Arts Update (LAC 33:XV.602, 603, 604, 605, 606, 607, 610, 611, and 699)

The proposed Rule updates the radiation regulations pertaining to X-rays in the healing arts. This will more closely align the Louisiana regulations with current national standards. The changes in the state regulations are necessary to align with current manufacturer requirements and new X-ray technology and industry standards that have evolved over the last decade.

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| Proposed Date: January 20, 2022 | Oversight Hearing: |
| Public Hearing: February 25, 2022 | Withdrawn: |
| Final Date: | Substantive Changes: |

MM021 — Act No. 405 2021 Regular Legislative Session Fee Increase (LAC 33:I.4707, LAC 33:III.223, LAC 33:VII:1501, 1503, 1505, 10535, and LAC 33:XV.2599)

This Rule provides for the fee changes authorized in Act 405 of the 2021 Regular Legislative Session. Act 405 of the 2021 Regular Legislative Session authorizes certain fee increases, new fees, and other changes to the regulations pertaining to fees.

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| Proposed Date: February 20, 2022 | Oversight Hearing: |
| Public Hearing: March 29, 2022 | Withdrawn: |
| Final Date: | Substantive Changes: |