

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Gasoline Handling
(LAC 33:III.2131) (AQ309)

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.2131 (AQ309).

This Rule will clarify the applicability of LAC 33:III.2131. LAC 33:III.2131 regulates control requirements for gasoline handling facilities. Parishes exempt from the gasoline handling requirements of LAC 33:III.2131.A are nevertheless subject to 40 CFR Part 63, Subpart CCCCCC. This will be a revision to the State Implementation Plan (SIP). This Rule will make the Louisiana Administrative Code at least as stringent in the gasoline handling area as the federal regulations. The basis and rationale for this Rule are to mirror the federal regulations. 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.

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

A public hearing will be held on April 28, 2010, 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 Donald Trahan 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 invited to submit written comments on this proposed regulation. Persons commenting should reference this proposed regulation by (AQ309). Such comments must be received no later than May 5, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation 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 AQ309. This proposed regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is 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, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds
Subchapter F. Gasoline Handling

§2131. Filling of Gasoline Storage Vessels

A. Applicability. This regulation is applicable to each gasoline handling facility in the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant. Any parish to which this regulation does not apply remains subject to the requirements of 40 CFR 63, Subpart CCCCCC.

BA. Control Requirements. No person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage container unless such container is equipped with a submerged fill pipe and unless the displaced vapor emissions from submerged filling of the container are processed by a vapor recovery system ~~which~~that reduces such emissions by at least 90 percent.

CB. Approved Vapor Balance System. When a vapor balance system is used to comply with the above vapor recovery system control requirements, the balance system will be assumed to meet the specified control requirements if the following conditions are met.

1. A vapor-tight return line having an internal cross-sectional area at least one-half that of the liquid line is connected before gasoline ~~is~~can be transferred into the storage container. No gasoline leaks exist anywhere in the liquid transfer system. Inspection for visible liquid leaks, visible fumes, or odors resulting from gasoline dispensing operations shall be conducted by the owner or the operator of the gasoline outlet and the owner or the operator of the tank truck. Gasoline loading or unloading through the affected transfer lines shall be discontinued immediately when a leak is observed and shall not be resumed until the observed leak is repaired.

2. The only atmospheric emission during gasoline transfer into the storage container is through the storage container pressure-vacuum valve.

3. The delivery vessel is kept vapor-tight at all times with vapor recovery equipment. The delivery vessel must be in compliance with LAC 33:III.2137. The vapor-laden delivery vessel may only be refilled at bulk gasoline plants complying with LAC 33:III.2133 or bulk gasoline terminals complying with LAC 33:III.2135.

DC. Alternate Vapor Balance Systems. Other vapor balance arrangements may be accepted if proof of the emission level required in Subsection B of this Section~~LAC 33:III.2131.A~~ is provided to the administrative authority. Approval of any alternate vapor balance system shall not be valid unless it is received from the administrative authority in writing.

ED. Exemptions. The following are exempt from the requirements of Subsection B of this Section~~LAC 33:III.2131.A~~:

1. ~~affected facilities in attainment or unclassified areas (all parishes except Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard and Grant);~~

12. transfers made to storage tanks with a capacity greater than 40,000 gallons (151,400 liters) and equipped with controls as required by LAC 33:III.2103 of these regulations;

23. any gasoline outlet in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee ~~or~~ West Baton Rouge whose throughput is less than 120,000 gallons (454,200 liters) per year, or any gasoline outlet in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, ~~or~~ St. Mary whose throughput is less than 500,000 gallons (1,892,700 liters) per year. Once the rolling 30-day average throughput exceeds 10,000 gallons for a facility in the parishes of Ascension, Calcasieu, East Baton Rouge, Iberville, Livingston, Pointe Coupee, ~~or~~ West Baton Rouge, or 42,000 gallons for a facility in the parishes of Beauregard, Bossier, Caddo, Grant, Jefferson, Lafayette, Lafourche, Orleans, St. Bernard, St. Charles, St. James, St. John the Baptist, ~~or~~ St. Mary, that facility becomes an affected facility, and does not revert to an exempted facility when the throughput drops back below the throughput exemption level;

34. tanks with a capacity of 2,000 gallons or less installed before January 1, 1979, and new tanks with a capacity of 250 gallons or less installed after December 31, 1978; and

45. tanks having a capacity of less than 550 gallons used exclusively for the fueling of farm implements and having a submerged fill line.

FF. Compliance. Compliance with this Section shall be determined by applying the following test methods, as appropriate:

1. Test Method 27 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of vapor tightness of gasoline delivery tanks using pressure-vacuum test;

2. Guideline report EPA-450/2-78-051, Appendix B, Gasoline Vapor Leak Detection Procedure by Combustible Gas Detector;

3. Test Method 21 (40 CFR Part 60, Appendix A, as incorporated by reference at LAC 33:III.3003) for determination of volatile organic compound leaks.

GF. Recordkeeping. The owner or operator of any operation that is involved with storing gasoline in any stationary container and required to comply with this Section ~~LAC 33:III.2131~~ shall maintain records to verify compliance with this Section. The records ~~shall~~ will be maintained for at least two years and ~~shall~~ will include, but not be limited to, the following:

1. the date of delivery of each shipment of gasoline, and the certificate number and date of certification of each delivery vehicle that delivers a shipment: Any owner or operator subject to this Section shall not accept delivery of gasoline from any gasoline tank truck that does not comply with LAC 33:III.2137.A.2;

a. ~~regulation LAC 33:III.2137.A.2 requires a sticker to be displayed on the gasoline tank truck with the identification number of the tank and the date it was tested;~~

b. ~~the owner or operator of any operation involved with storing gasoline in any stationary container and required to comply with LAC 33:III.2131 shall not accept delivery of gasoline from any gasoline tank truck that does not have a sticker indicating that it has been inspected in the last year;~~

e. ~~the sticker should be located near the Department of Transportation certification plate;~~

[NOTE: All gasoline tank trucks must have a sticker displayed on each tank indicating the identification number of the tank and the date

each tank last passed the pressure and vacuum test described in LAC 33:III.2137.A.1. Each tank must be certified annually and the sticker must be displayed near the Department of Transportation certification plate. Any repairs necessary to pass the specified requirements must be made within 15 days of failure.]

2. the dates and a descriptions of any malfunction, repair, replacement or modification of control systems or control equipment required to be used in the transfer of gasoline from the gasoline tank truck to a stationary storage tank. If the problem is with equipment on the tank truck, the name of~~information on~~ the owner or operator of the tank truck, the truck identification number, the date the problem occurred, and the driver's name shall be recorded as part of the descriptions ~~of any malfunction, repair, replacement or modification of control systems required above;~~ and

3. ~~the owner or operator shall maintain~~ records of any testing requested by the administrative authority to prove compliance with this Section~~LAC 33:III.2131~~ or any testing done by the owner or operator on a voluntary basis.

HG. Implementation Schedule. Facilities must be in compliance with this Section within six months after becoming an affected facility.

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 16:609 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:654 (July 1991), LR 18:1123 (October 1992), LR 19:1564 (December 1993), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:193 (February 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 36:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ309

Person Preparing Statement:	<u>Timothy Bergeron</u> <u>Timothy.Bergeron@la.gov</u> (email address)	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225)219-3490</u>	Office:	<u>Environmental Assessment</u>
Return Address:	<u>602 N. 5th. St.</u> <u>Baton Rouge, LA 70802</u>	Rule Title:	<u>Gasoline Handling (LAC 33:III.2131)</u>
		Date Rule Takes Effect:	<u>Upon promulgation</u>

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The estimated costs to facilities that do not already have the required control equipment are approximately \$12,000 per facility. This cost will not be incurred until a facility's monthly gasoline throughput exceeds 100,000 gallons per month. There should be no impact to the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant because the required control equipment is already in place in these parishes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of the proposed rule. The proposed rule results from a federal law that applies nationwide.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This proposed rule will clarify the applicability of of LAC 33:III.2131. Section 2131 regulates control requirements for gasoline handling facilities. Parishes exempt from the requirements of this section by Subsection A of the section are nevertheless subject to 40 CFR Part 63, Subpart CCCCCC. This proposal will be a revision to the State Implementation Plan (SIP).

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

This proposed rule is necessary so that the Louisiana Administrative Code is at least as stringent in the gasoline handling area as the federal regulations.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ___ Yes. If yes, attach documentation.

(b) ___ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There is no anticipated increase (decrease) in costs to implement the proposed action.

COSTS	FY09-10	FY10-11	FY11-12
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR	-0-	-0-	-0-
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This statement is not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY09-10	FY10-11	FY11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The agency has sufficient funds to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact on local governmental units because this proposed regulation simply clarifies the applicability of LAC 33:III.2131.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This statement is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT
 WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY09-10	FY10-11	FY11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This statement is not applicable.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

A gasoline-handling facility that does not already have the required control equipment could be affected by the proposed action. The cost to the facility would not be incurred until the facility's monthly gasoline throughput exceeds 100,000 gallons per month. The estimated costs to install the required control equipment are approximately \$12,000 per facility. There should be no impact to the parishes of Bossier, Caddo, Beauregard, Calcasieu, Livingston, Pointe Coupee, East Baton Rouge, West Baton Rouge, Iberville, Lafayette, St. Mary, Ascension, St. James, St. John the Baptist, St. Charles, Lafourche, Jefferson, Orleans, St. Bernard, and Grant because the required control equipment is already in place in these parishes.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no impact on receipts and/or income resulting from the proposed rule.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact on competition or employment in the public or private sector resulting from the proposed rule. The proposed rule is a result of a federal regulation that already applies nationwide, that is, to all covered gasoline handling facilities.