

## NOTICE OF INTENT

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Reportable Quantity for Brine from Solution Mining  
(LAC 33:I.3905 and 3931) (OS085)

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 Office of the Secretary regulations, LAC 33:I.3905 and 3931 (OS085).

This Rule will provide a new definition for brine from solution mining of salt from underground deposits, which was previously a subset of the definition of produced water. New standards will then be able to be set for reporting spillage of such brine. The environmental hazards associated with brine from solution mining are much lower than those associated with produced water from oilfield operations or underground storage of hydrocarbons. The reportable quantity for brine from solution mining will be 5000 pounds for unauthorized discharges to make the reportable quantity consistent with EPA guidance and the reportable quantities for other similar substances. The basis and rationale for this Rule is the proportionate regulation of the affected industries while maintaining the appropriate protection to human health and the environment. 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 these proposed regulations. 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 these proposed regulations. Persons commenting should reference this proposed regulation by (OS085). 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](mailto:donald.trahan@la.gov). Copies of these proposed regulations 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 OS085. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

These proposed regulations are 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 I. Office of the Secretary  
Subpart 2. Notification**

**Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges**

**Subchapter A. General**

**§3905. Definitions**

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

\* \* \*

Brine from Solution Mining—liquids and suspended particulate matter that are obtained by processing fluids brought to the surface in conjunction with the solution mining of brine.

\* \* \*

Produced Water—includes liquids and suspended particulate matter that ~~is~~are obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations; or with underground storage of hydrocarbons; ~~or with solution mining of brine.~~

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33: 2080 (October 2007), LR 33: 2627 (December 2007), LR 36:\*\*\*\*.

**Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges**

**§3931. Reportable Quantity List for Pollutants**

A. – A.2.b....

B. Modifications or Additions. The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants. If a pollutant is listed with more than one reportable quantity, the lower value reportable quantity shall be used.

Pollutant	Synonym	CAS No. <sup>1</sup>	RCRA <sup>2</sup> Waste Number	Pounds
* * *				
[See Prior Text in Acetaldehyde through Barium compounds]				
<u>Brine from Solution Mining</u>				<u>5000</u>
* * *				

[See Prior Text in n-Butyl alcohol through Methyl ethyl ketone]

[See Prior Text in Footnotes \*No reporting of releases... through #RQ for the state ....]  
C....

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR: 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR:35:1106 (June 2009), LR:36: \*\*\*

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	Dwight Bradshaw dwight.bradshaw@la.gov (email address)	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(504)736-7714</u>	Office:	<u>Secretary/Legal Division</u>
Return Address:	<u>P.O. Box 4302</u> <u>Baton Rouge, LA 70821</u>	Rule Title:	<u>Reportable Quantity for Brine from Solution Mining (LAC 33:I.3905 and 3931)</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)

The proposed revision should require no implementation costs, as notifications systems are already in place to address facility self-reporting in the event of an unauthorized discharge.

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

The proposed revision will have no effect on state or local revenue collections. Self-reporting of unauthorized releases is not fee-related.

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

Affected organizations include primarily industrial facilities that use high chloride-content waters, drawn from natural underground salt deposits, in the production of chlorine. No significant effect is anticipated, as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

The proposed rule would change the reportable quantity of brine dischargers from solution mining to 5000 pounds instead of 1 barrel as under the produced water requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment are anticipated, as this proposal is merely a clarification of existing regulations.

\_\_\_\_\_  
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).

The proposed amendment will provide a new definition for *brine* from solution mining of salt from underground deposits, which was previously a subset of the definition of *produced water*. New standards will then be able to be set for reporting spillage of such brine. The environmental hazards associated with brine from solution mining are much lower than those associated with produced water from oilfield operations or underground storage of hydrocarbons. The reportable quantity for brine from solution mining will be 5000 pounds for unauthorized discharges to make the reportable quantity consistent with EPA guidance and the reportable quantities for other similar substances.

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

The action is not required by federal regulation. This amendment would establish the reportable quantity for brine spills from solution mining of salt and its constituents to be consistent with federal guidance and to more accurately reflect the environmental risks associated with the unauthorized discharge of brine from solution mining.

- 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.

There will be no increase in expenditure of funds due to this rule.

- (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 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?

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 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 rule.

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 will be no impact on local governmental units, as notifications systems designed to address self-reporting of unauthorized releases are already established.

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

This 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.

No increases or decreases in revenues are anticipated as a result of this rule.

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.

Affected organizations include primarily industrial facilities that use solution mined brine for salt or caustic/chlorine production. No significant effect is anticipated as these organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

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.

This is not applicable.

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.

No significant effect on competition or employment is anticipated, as affected organizations already have procedures in place to address existing notification requirements related to the unauthorized release of other pollutants.

