

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

EPA Notice
(LAC 33:III.533) (AQ334)

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.533 (AQ334).

This rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA § 505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA § 505(a)(2) and 40 CFR 70.8(b)(2).

The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed. The basis and rationale for this rule are to make LAC 33:III.533 consistent with the Clean Air Act and 40 CFR

Pat 70. 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 August 29, 2012, 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 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 invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ334. Such comments must be received no later than September 5, 2012, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@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 AQ334. These proposed regulations are available on the Internet at 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 III. Air

Chapter 5. Permit Procedures

§533. EPA Notice, Review, and Objection

A. - B.2. ...

~~3. The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.~~

43. A copy of each final permit issued to a major Part 70 source shall be provided to EPA by the permitting authority.

54. The permitting authority shall keep for five years such records and submit to EPA such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the Federal CAA and 40 CFR Part 70.

C. EPA Review

1. No permit pertaining to a major Part 70 source which is an initial permit under LAC 33:III.507 or a permit revision, renewal, or reopening affecting the federal conditions of the existing permit shall be issued if the administrator objects to its issuance within 45 days of receipt of the notice and information provided pursuant to Paragraphs B.2 ~~and 3~~ of this Section and LAC 33:III.531.B.1.c.

C.2. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1376 (December 1994), amended by the Office of the Secretary, Legal Affairs Division, LR 38:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ334

Person
Preparing
Statement: Bryan D. Johnston Dept.: Environmental Quality
Phone: (225) 219-3450 Office: Environmental Services
bryan.johnston@la.gov
Return
Address: 602 North Fifth Street Rule Title: EPA Notice (LAC 33:III.533)
Baton Rouge, LA 70802
Date Rule
Takes Effect: Upon Promulgation

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 rule change will have no impact on state or local governmental expenditures. The rule change deletes the provision regarding "EPA Notice" in LAC 33:III.533.B.3 to make the rule consistent with the Clean Air Act and 40 CFR Part 70.

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 as a result of the proposed rule change.

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

There will be no costs to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector because of the proposed rule change.

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 rule will revise LDEQ's "EPA Notice" provisions in LAC 33:III.533 to make them consistent with the Clean Air Act and 40 CFR Part 70.

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

Both the Clean Air Act (CAA) and 40 CFR Part 70 require a permitting authority to notify the Environmental Protection Agency (EPA) and an affected state of any refusal to accept all recommendations for a proposed permit that the affected state submits. See CAA § 505(a)(2) and 40 CFR 70.8(b)(2). These provisions are addressed by LAC 33:III.531.B.1.c, which reads as follows:

The permitting authority shall provide prompt notice in writing to the administrator and to any affected state of refusal by the permitting authority to accept any recommendations for the permit that the affected state submitted. The notice shall include the permitting authority's reasons for refusing any such recommendation. The permitting authority may refuse to accept any recommendations that are not based on federally applicable requirements.

A second provision, LAC 33:III.533.B.2, also addresses CAA § 505(a)(2) and 40 CFR 70.8(b)(2).

The permitting authority shall promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment. Prompt notice shall also be provided of any refusal by the permitting authority to accept all recommendations for the proposed permit that any affected state submitted during the affected state review period, together with reason for such refusal.

Because the second portion of LAC 33:III.533.B.2 is addressed by LAC 33:III.531.B.1.c, and because neither the CAA nor Part 70 requires a permitting authority to "promptly provide to EPA notice of any intended changes to a proposed permit resulting from consideration of public comment or affected state comment," LAC 33:III.533.B.2 will be repealed.

- 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 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 or decrease in costs to state agencies as a result of this proposed rule.

COSTS	FY 12-13	FY 13-14	FY 14-15
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. 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.

There is no anticipated increase or decrease in costs associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

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

SOURCE	FY 12-13	FY 13-14	FY 14-15
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?

No funds are required 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.

No impact on local governmental units is anticipated, including adjustments in workload and paperwork requirements.

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

There are no costs or savings to local governmental units; therefore, no funding is needed.

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?

There will be no effect on revenue collections of state or local governmental units from the proposed rule.

REVENUE INCREASE/DECREASE	FY 12-13	FY 13-14	FY 14-15
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 increase or decrease in revenues will be realized.

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.

The proposed rule impacts only the permitting authority (i.e., the Department of Environmental Quality (DEQ)). There will be no effect on costs, including workload adjustments and additional paperwork, as a result of the proposed action.

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 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 effect on competition or employment in the public or private sectors resulting from the proposed rule.