NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

UST New and Used Motor Oil Storage Fee Correction

(LAC 33:XI.307) (UT019)

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 Underground Storage Tanks regulations, LAC 33:XI.307 (UT019).

This Rule will correct the fee for storing new or used motor oil in underground storage tanks. R.S 30:2195.3 specifies a fee of $275 for this storage. Act 451 of the 2016 Regular Legislative Session authorized certain fee increases, new fees, and other changes to the regulations pertaining to fees. A change to the fee for storing new or used motor oil in an underground storage tank found in R.S. 30:2195.3 was not included in Act 451. This correction will make the fee in the regulation match the fee in the statute. The basis and rationale for this rule are to implement the fee specified in R.S. 30:2195.3. 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.

**Family Impact Statement**

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

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT019. Such comments must be received no later than March 8, 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 by 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. A check or money order is required in advance for each copy of UT019. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

**Public Hearing**

A public hearing will be held on March 1, 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 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.

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

General Counsel

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part XI. Underground Storage Tanks**

**Chapter 3.** **Registration Requirements, Standards, and Fee Schedule**

**§307. Fee Schedule**

A. — B.3. …

4. Fees are assessed according to the following schedule.

|  |  |  |
| --- | --- | --- |
| Fee  Number | Annual Fees | Amount |
| 1 | Annual Registration Fee |  |
|  | All registered UST systems | $60 |
| 2 | Annual Maintenance and Monitoring Fees |  |
| a | UST systems at federal facilities (all categories except USTs defined in Fee Number 2.b., which shall be assessed the higher fee) | $174 |
| b | UST systems containing any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as hazardous waste under the department’s Hazardous Waste Regulations, LAC 33:V.Subpart 1) | $726 |
| c | UST systems containing petroleum products not meeting the definition of motor fuels | $174 |
| 3 | Motor Fuels Underground Storage Tank Trust Fund Fee |  |
|  | UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D) | $~~303~~275 |

C. — F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:950 (May 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:1597 (September 2018), amended by LR:45

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES LOG #: \_UT019\_\_\_\_\_\_\_

Person

Preparing Elizabeth Dequeant

Statement: Elizabeth.dequeant@la.gov Dept.: Department of Environmental Quality (email address)

Phone: (225) 219-3863 Office: Office of Management and Finance

Return Rule UST New and Used Motor Oil Storage

Address: 602 North 5th Street Title: Fee Correction

Date Rule

Baton Rouge, LA 70802 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 is not anticipated to have any implementation costs or savings and will be accomplished within Department of Environmental Quality (DEQ) employees’ normal scope of work and during regular working hours. The proposed rule change corrects an erroneous increase for the underground storage tanks containing new or used motor oil fee adopted in 2017. That change increased the fee by $28 (from $275 to $303) beginning in FY 19.

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

The proposed rule change will decrease revenue collections to DEQ out of the Motor Fuel Trust Fund by approximately $980. DEQ has begun refunding underground storage tank owners that have paid the additional fee. DEQ anticipated there would be approximately 35 tank owners that would have paid this additional fee in FY 19; therefore, this $28 reduction is anticipated to reduce annual revenue collections out of the Motor Fuel Trust Fund by $980. DEQ anticipates they will be able to absorb these reductions with current resources.

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

The proposed rule change will correct an erroneous increase in the underground storage tanks containing new or used motor oil fee that will provide these storage owners with a $28 decrease in annual fees (from $303 to $275). Storage owners that have paid the additional fee amount have either been reimbursed or will be reimbursed for this error. All future payments will be at the $275 amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not have any effect on competition and employment.

Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Herman Robinson, General 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 corrects the fee in LAC 33:XI.307 to match the fee in R.S. 30:2195.3.

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

Louisiana Revised Statutes (multiple citations) require that the department shall promulgate rules and regulations for the implementation of these Sections in accordance with the Administrative Procedure Act.

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.

No, this 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?

COSTS FY18-19 FY19-20 FY20-21

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 question is not applicable.

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

SOURCE FY18-19 FY19-20 FY20-21

STATE GENERAL FUND -0- -0- -0-

AGENCY SELF-GENERATED (980) (980) (980)

DEDICATED -0- -0- -0-

FEDERAL FUNDS -0- -0- -0-

OTHER (Please specify) -0- -0- -0-

TOTAL (980) (980) (980)

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

Yes, the agency currently 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.

No impact on local governmental units is anticipated.

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

There will be no costs or savings to local governmental units, so no funding sources will be affected.

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 FY18-19 FY19-20 FY20-21

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

\*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.

Revenues will increase based on the fee increases provided in Act No. 421 of the 2016 Regular Legislative Session. It will impact the Environmental Trust Fund.

These amounts were calculated by the department by taking into account each fee, the number of entities that currently pay the fee, and the increase in what they will pay starting in FY 2019.

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.

All non-governmental groups that pay permit or other fees to DEQ will be directly affected by the proposed action, which includes industries such as petrochemical, manufacturing, and construction. Workload adjustments and/or additional paperwork should not be required, as the billing and invoicing structure has not changed, only the amounts billed.

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 should be no change on receipts or income, only changes in costs and/or expenditures.

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.

We do not anticipate any impact on competition in the public and private sectors as the fee increases required by the miscellaneous amendments and corrections will be negligible. These fees have been discussed with industry participants who are subject to the increases and we do not anticipate any significant impact on public or private sector employment.