

**NOTICE OF INTENT**

Department of Environmental Quality  
Office of the Secretary  
Legal Division

Regulatory Permit for Flaring of Materials Other than Natural Gas  
(LAC 33:III.319) (AQ322)

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.319 (AQ322).

This rule will be provided for a regulatory permit which will authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The authorization will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq). The basis and rationale for this rule are to establish a regulatory permit to authorize air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). 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 October 31, 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 AQ322. Such comments must be received no later than November 7, 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](mailto: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 AQ322. 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).

Proposed/September 20, 2012

AQ322

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 3. Regulatory Permits

#### §319. Regulatory Permit for Flaring of Materials Other than Natural Gas

##### A. Applicability

1. This regulatory permit authorizes the flaring of gaseous materials other than natural gas (e.g., propane, ethylene, propylene, ammonia) resulting from metering, purging, and maintenance operations, subject to the requirements established herein, upon notification that the department has determined the application (i.e., notification form) submitted in accordance with Subsection G of this Section to be complete. The material to be flared may be supplemented with natural gas.

2. The material to be flared must have a higher heating value greater than or equal to 300 Btu per standard cubic foot.

B. The flare must be capable of accommodating the maximum amount of material to be combusted at any point during the flaring event.

##### C. Opacity

1. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

2. Particulate Matter. The emission of particulate matter shall be controlled so that the shade or appearance of the emission is not denser than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

3. Emissions of smoke or suspended particulate matter that pass onto or across a public road and create a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensify an existing traffic hazard condition are prohibited.

4. The owner or operator of the flare shall conduct a 6-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, upon request of the department. Results shall be kept on-site and available for inspection by the Office of Environmental Compliance.

D. The authorization for the flaring event associated with the specific metering, purging, or maintenance operation addressed by the application submitted in accordance with Subsection G of this Section shall remain effective for 60 days following the date on which the department determines that the application is complete.

E. Flaring events with a duration of more than 10 calendar days shall not be authorized by this regulatory permit and must be approved separately by the department.

F. When an Ozone Action Day has been declared by the department, flaring of ethylene or propylene shall be restricted to between the hours of 4:00 p.m. and 10:00 a.m.

G. Notification Requirements

1. The following information shall be submitted to the Office of Environmental Services using the appropriate form provided by the department:

- a. name of the owner or operator;
- b. material to be flared;
- c. estimated volume of the material to be flared;
- d. reason for the flaring event;
- e. physical location;
- f. date(s) and expected duration of the flaring event; and
- g. estimated emissions of criteria pollutants and toxic air pollutants (TAPs) associated with the flaring event. TAPs are listed in LAC 33:III.5112, Tables 51.1 and 51.3.

2. A copy of the notification required by Paragraph G.1 of this Section shall be submitted to the appropriate DEQ Regional Office.

3. A separate notification shall be submitted for each flaring event.

H. Monitoring, Recordkeeping, and Reporting

1. The volume of material combusted during the flaring event shall be monitored using a flow meter.

2. The following information shall be recorded and submitted to the Office of Environmental Services no later than 30 calendar days after completion of the flaring event:

- a. date(s) and duration of the flaring event;
- b. actual volume of material flared; and
- c. actual criteria pollutant and TAP emissions associated with the flaring event.

I. In accordance with LAC 33:III.223, Table 1, the fee for this regulatory permit shall be \$300 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 39:\*\*.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

LOG #: AQ322

## Person

## Preparing

Statement:	<u>Bryan D. Johnston</u>	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225) 219-3450</u>	Office:	<u>Environmental Services</u>

## Return

Address:	<u>602 North Fifth Street</u>	Rule Title:	<u>Regulatory Permit for Flaring of</u>
	<u>Baton Rouge, LA 70821</u>		<u>Material Other than Natural Gas</u>
			<u>(LAC 33:III.319)</u>

## 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)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule creates a new regulatory permit which authorizes the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The regulatory permit requires applicants to submit a notification form in lieu of a generic permit application. The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the Department of Environmental Quality that the application (i.e., notification form) required by the regulatory permit has been determined complete.

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

No increase or decrease in revenues to state or local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee of \$300 is equivalent to, and in place of, that which would have been required had a permit been applied for and processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

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

Owners or operators of pipelines or industrial facilities seeking approval to flare a material other than natural gas will be affected by the proposed rule. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to “submit a written notification ... in lieu of submission of a permit application.” However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., flaring of material other than natural gas) and used in place of the traditional, more generic permit application documents. The fee for this regulatory permit is \$300, which is equivalent to the permit application fee normally associated with requests to flare a material other than natural gas. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department’s review of such documents. A final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

\_\_\_\_\_  
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 regulatory permit for flaring of materials other than natural gas to be established by this rule provides for a streamlined means of authorizing air emissions from the flaring of materials other than natural gas (e.g., propane, ethylene, propylene, ammonia). The authorization to emit air emissions pursuant to the provisions of this regulatory permit will become effective only upon notification by the department that the application required by the regulatory permit has been determined complete.

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

R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits. A "regulatory permit" is a permit that is incorporated into the regulations (LAC 33:III in the instant case) in the form of a rule. Regulatory permits can be used to authorize construction and operation of certain sources or activities that generate air emissions subject to requirements and limitations set forth in R.S. 30:2054(B)(9)(b) (codified in LAC 33:III.303). The owner or operator of a source or activity not addressed by a regulatory permit must apply for site-specific authorization.

Per R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.).

- 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, 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?

No costs or savings to state agencies are anticipated 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.

This question is not applicable.

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 additional 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.

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?

No increase or decrease in revenues to state and local governmental units will be realized. R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to submit "any fee authorized by this Subtitle and applicable regulations to the secretary... in lieu of submission of a permit application." This fee of \$300 is equivalent to, and in place of, that which would have been required had a permit been applied for and processed pursuant to LAC 33:III.501 or if another approval mechanism (e.g., a variance) had been employed to authorize air emissions from the source or activity in question.

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.

Owners or operators of pipelines or industrial facilities seeking approval to flare a material other than natural gas (e.g., propane, ethylene, propylene, ammonia) will be affected by the proposed action.

With respect to workload adjustments and additional paperwork, R.S. 30:2054(B)(9)(b)(vii) requires an applicant seeking a regulatory permit to "submit a written notification ... in lieu of submission of a permit application." However, this notification form will be specifically tailored to the activity addressed by the regulatory permit (i.e., flaring of material other than natural gas) and used in place of the traditional, more generic permit application documents. Therefore, there will be no increase in costs to applicants seeking coverage under this regulatory permit.

Use of a notification form specifically tailored to the activity addressed by this regulatory permit should facilitate the department's review of such documents. A final decision on proposed projects should be reached more expeditiously, possibly resulting in economic benefits to applicants.

- 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.

No impact on receipts or income of the affected persons or non-governmental groups is expected.

#### 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 sector.