NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Division

Repeal of LAC 33:III.2153.B.1.i

(LAC 33:III.2153.B.1.i) (AQ362)

 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.2153.B.1.i (AQ362).

 This Rule will repeal LAC 33:III.2153.B.1.i. Due to LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater) “affected VOC wastewater streams” are required to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be, “equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume.”

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is, “not … required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year.” This exemption was approved by EPA into Louisiana’s State Implementation Plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule\* finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are, “substantially inadequate to meet [Clean Air Act] requirements” because they provide, “automatic exemptions for excess emissions from otherwise applicable SIP emission limitations.” Consequently, EPA issued a, “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.1.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA’s SIP call, LDEQ will repeal LAC 33:III.2153.B.1.i.

\* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction [80 FR 33840]

The basis and rationale for this rule are to repeal the exemption provided by LAC 33:III.2153.B.1.i in order to comply with EPA’s SIP call. 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.

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

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

 A public hearing will be held on May 25, 2016, 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 AQ362. Such comments must be received no later than June 1, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. 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 AQ362. 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.

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Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions from Industrial Wastewater

§2153. Limiting VOC Emissions from Industrial Wastewater

A. - B. …

1. The wastewater component shall meet the following requirements:

 a. - h.iii. …

i. ~~for wastewater tanks that would normally be required to have a control device or recovery device, these devices shall not be required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year~~Repealed.

B.2. - I. …

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 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2087 (October 2007), LR 37:3232 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), LR 42:\*\*.