

## ***LDEQ ACTIONS***

UPDATED: March 1, 2023

The following is a summary of actions taken by the Louisiana Department of Environmental Quality with respect to adoption, amendment, or repeal of proposed rules and of actions taken by the agency with respect to adoptions, increases, or decreases. Included are actions taken January 1, 2022, to February 28, 2023. Proposed dates are those on which the notice of intended action was published in the Louisiana Register pursuant to La. R.S. 49:961. Public hearing dates are those on which the agency held public hearings pursuant to La. R.S. 49:961. Oversight hearing dates are those on which oversight hearings were conducted pursuant to La. R.S. 49:966. Final dates are those on which the actions were published in the Louisiana Register pursuant to La. R.S. 49:965.

### **OS097-Expansion of the Expedited Penalty Program**

#### **LAC 33:I.807**

The proposed Rule adds additional hazardous waste, solid waste, underground storage tank, water, radiation, and air violations to LAC 33:I.807. The proposed Rule also clarifies various violation citation language in the current radiation and air violations and adjusts penalty amounts associated with specific regulatory citations to be appropriate and consistent with penalty amounts associated with specific regulatory citations in the proposed Rule. The structure of the expedited penalty table is changed to divide it into separate tables by media and type. Currently, the regulatory maximum cap of \$3,000 poses a barrier for the departments' use program. A facility that has multiple violations can quickly exceed the current XP monetary cap thereby requiring the enforcement writer to assess a fine in accordance with the nine factors set forth in the regulations. The administrative review and processing time is greatly increased when drafting traditional penalty assessments, along with the possibility of having to testify in the adjudicatory hearing process. The proposed increased amount of \$5,000 for two or more violations will allow the department to use the XP program more frequently which will provide a cleaner and healthier environment for all the citizens of the state and reduce staff time in the administrative process for compliance.

The proposed Rule will expand the current program to include additional minor violations with no additional cost. The current expedited penalty program has resulted in a significant decrease in the number of formal enforcement actions issued for the categories of violations addressed by the current Rule. This reduction in formal enforcements issued in connection with types of violations has resulted in a decrease in the man-hours and other resources expended by the department in the pursuit of these enforcement cases. Many prior enforcement referrals for minor and moderate violations had not been addressed in a timely manner due to more complex enforcement issues. The basis and rationale for the proposed Rule are to provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The expedited penalty program is a flexible

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and voluntary program that will be continually expanded to accommodate minor to moderate violations to the regulations.

Proposed Date:	January 20, 2022	Oversight Hearing:
Public Hearing:	February 25, 2022	Withdrawn:
Final Date:	July 20, 2022	Substantive Changes:

**RP068S-Chapter 6 X-Rays in the Healing Arts Update  
LAC 33:XV.602, 603, 604, 605, 606, 607, 610, 611, and 699**

The proposed Rule updates the radiation regulations pertaining to X-rays in the healing arts. This will more closely align the Louisiana regulations with current national standards. The changes in the state regulations are necessary to align with current manufacturer requirements and new X-ray technology and industry standards that have evolved over the last decade. The basis and rationale for this Rule are to enable the state to mirror other states' regulations and regulate the use of new X-ray technologies.

Proposed Date:	January 20, 2022	Oversight Hearing:
Public Hearing:	February 25, 2022	Withdrawn:
Final Date:	December 20, 2022	Substantive Changes: Yes

**MM021-Act No. 405 2021 Regular Legislative Session Fee Increase  
LAC 33:I.4707, LAC 33:III.223, LAC 33:VII:1501, 1503, 1505, 10535, and LAC  
33:XV.2599**

This Rule provides for the fee changes authorized in Act 405 of the 2021 Regular Legislative Session. Act 405 of the 2021 Regular Legislative Session authorizes certain fee increases, new fees, and other changes to the regulations pertaining to fees.

Proposed Date:	February 20, 2022	Oversight Hearing:
Public Hearing:	March 29, 2022	Withdrawn:
Final Date:	June 20, 2022	Substantive Changes:

**WQ110-Criteria  
LAC 33:IX.1113.C.Table 1A**

Numeric freshwater ammonia criteria were adopted into the Water Quality Standards, LAC 33:IX. Chapter 11, on November 20, 2020. After promulgation, the Louisiana Department of Environmental Quality (the Department) discovered additional information pertaining to the cost of the implementation of the criteria, which will potentially cost affected facilities, in the aggregate, between 157 million and one billion dollars, to implement. This proposed Rule rescinds the freshwater numeric ammonia criteria so that the Department can reconsider the costs

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to directly affected persons, in the aggregate, to implement the freshwater ammonia criteria, together with the environmental and/or human health risks and benefits. All other portions of the previous Water Quality Standards Triennial Revisions remain unaffected by this proposed Rule.

Federal regulations (40 C.F.R. § 131.20) require the state to review and, as appropriate, modify and/or adopt water quality standards, at least once every three years. The state must either adopt or revise criteria for parameters for which the Environmental Protection Agency (EPA) has published new or updated Clean Water Act (CWA) section 304(a) criteria recommendations, or provide an explanation of the reasons for not adopting new or revised criteria when it submits the results of its triennial review to the EPA Regional Administrator. Additionally, federal regulations (40 C.F.R. § 130.3) require the state to review and revise water quality standards and, as appropriate, update their Water Quality Management plans to reflect such revisions. One required component of a Water Quality Management plan is a process for developing effluent limitations and schedules of compliance based on the adopted Water Quality Standards, including numeric criteria (40 C.F.R. § 130.5 and 130.6(c)(1); LAC 33:IX.1109.I).

Freshwater numeric ammonia criteria were adopted into LAC 33:IX.1113.C.Table 1A as part of the promulgation of the Water Quality Standards Triennial Revision on November 20, 2020. Public notice of the Triennial Revision was published in the Louisiana Register on December 20, 2019, which included a fiscal and economic impact statement, approved by the legislative fiscal office, indicating that there were no estimated costs to directly affected persons or nongovernmental groups, as required by La. R.S. 49:953(A). The public notice also included certification that the Triennial Revision would cost the state and affected persons less than one million dollars, in the aggregate, to implement, as required by La. R.S. 49:953(G) and La. R.S. 30:2019(D). However, upon review of additional information, the Department has discovered that implementation of the numeric ammonia criteria into Louisiana Pollutant Discharge Elimination System (LPDES) permits will cost affected persons well in excess of one million dollars, in the aggregate, to implement. Additionally, prior to implementing a numeric ammonia criteria, the Department must update the accompanying Water Quality Management Plan (Volume 3, Implementation of Louisiana's Water Quality Standards, and Version 8) to incorporate a process for developing ammonia effluent limitations and schedules of compliance, as required.

After adoption of the freshwater numeric ammonia criteria, draft LPDES effluent limit calculations resulted in draft permit limits for facilities in many areas of the state that would require advanced treatment to remove ammonia which would require costly modifications or retrofits of both publicly and privately owned treatment works and industrial facilities. Based on the Department's review, the potential total cost of ammonia-nitrogen removal to affected persons has been estimated between 157 million and one billion dollars (statewide), dependent upon the draft permit limits and the existing treatment technology. Although data is not available to estimate the total cost to industrial facilities statewide, the Department anticipates that certain industrial facilities will also be affected. The Department has received information from one chicken processing plant that the estimated cost to install treatment to achieve draft permit limits of 0.67 mg/L (monthly average) and 1.58 mg/L (daily maximum) is estimated between 8.5

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million dollars and 11 million dollars, with an additional annual operating cost of \$500,000 to one million dollars. Other similarly situated facilities would also have estimated costs exceeding one million dollars necessary to achieve limitations. The implementation of such limitations may require affected facilities to seek additional funding in the form of federal or state grants, loans, and/or increases in user fees.

Without the freshwater numeric ammonia criteria, the Water Quality Standards Triennial Revision has no estimated costs to directly affected persons or nongovernmental groups, as stated in the fiscal and economic impact statement. Further, without the freshwater numeric ammonia criteria, the Water Quality Standards Triennial Revision costs the state and affected persons less than one million dollars, in the aggregate, to implement, as required by La. R.S. 49:953(G) and La. R.S. 30:2019 (D).

This rulemaking rescinds the freshwater numeric ammonia criteria so that the Department can reconsider the environmental and/or human health risks addressed by the freshwater ammonia criteria, the environmental and/or human health benefits produced by the freshwater numeric ammonia criteria, and the costs to the state and affected persons, in the aggregate, of implementing the freshwater ammonia criteria.

Proposed Date:	March 20, 2022	Oversight Hearing:
Public Hearing:	April 28, 2022	Withdrawn:
Final Date:	June 20, 2022	Substantive Changes:

**SW069-Revision to Update Solid Waste Regulations  
LAC 33:VII.115, 721, 10509, 10511, 10523, and 10529**

This Rule provides updates to facilitate implementation of the legislative mandate of remediating environmental and public health problems caused by improper disposal of waste tires. These proposed regulations establish procedures, standards, and requirements for Solid Waste Type III landfills to collect, transport, process, properly dispose of waste tires, and provides for the updates authorized in Act 291 of the 2021 Regular Legislative Session.

Proposed Date:	September 20, 2022	Oversight Hearing:
Public Hearing:	October 27, 2022	Withdrawn:
Final Date:		Substantive Changes:

**HW129-One Time Wastes Excluded - Marine Shale Processors (MSP) Site PRP Group  
LAC 33:V.4999.Appendix E**

The Marine Shale Processors Site PRP Group (the Group) is petitioning to exclude (delist) from the hazardous waste regulations ash generated by activities conducted by Marine Shale Processors, Inc. (MSP, Inc.) at the Marine Shale Processors (MSP) Site in Amelia, Louisiana. This is a one-time delisting which applies to ash (referred to by MSP, Inc. as either

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primary aggregate or vitrified aggregate) what was used as fill by MSP, Inc. at the MSP Site to build up the elevation of the property. The delisting has been requested to facilitate management of approximately 11,400 cubic yards of ash through removal to off-site disposal of the ash and any associated contaminated media.

The delisting program is regulated by LAC 33:V.105.M, which includes a formal rulemaking process. Applicants who wish to exclude a particular waste from the list of hazardous wastes must submit a petition and satisfy all other requirements of LAC 33:V.105.M. The exclusion, if granted, applies only to the ash used as fill located at the MSP Site in Amelia, Louisiana. LDEQ has reviewed the Group’s petition and found it satisfies the delisting requirements of LAC 33:V.105.M. LDEQ used the Delisting Risk Assessment Software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

The ash was generated as residue of MSP, Inc.’s combustion of various wastes, including hazardous and nonhazardous wastes and contaminated media, in a rotary kiln incinerator at the MSP Site in Amelia, Louisiana. The Group analyzed the ash for all underlying hazardous constituents. The department’s proposed action to grant the petition is based on the evaluation of the information provided by the petitioner, including the analytical data, and the department’s analysis of the information, including results of the DRAS assessment.

Proposed Date:	October 20, 2022	Oversight Hearing:
Public Hearing:	November 28, 2022	Withdrawn:
Final Date:	January 20, 2023	Substantive Changes:

**RP070ft-Miscellaneous Corrections**  
**LAC 33:XV.503, 542, 544, 545, 551, 577, 732, 762, 763, 1508, 1519, 1599, 1609, 1613, 1623, 1739, and 2022**

This Rule is identical to federal regulations found in 10 CFR Part 20, 30, 34, 35, 36, 37, 39, 40, 70, and 71, which are applicable in Louisiana. This Rule updates the regulations pertaining to individual monitoring devices and Nuclear Regulatory Commission (NRC) organizational changes, and makes miscellaneous corrections. This Rule was promulgated by the NRC as RATS IDs 2018-1, 2018-3, 2019-1 & 2, and 2020-1 & 3. This Rule will update the state regulations to be compatible with changes in the federal regulations.

Proposed Date:	October 20, 2022	Oversight Hearing:
Public Hearing:	November 28, 2022	Withdrawn:
Final Date:	January 20, 2023	Substantive Changes:

**WQ111-Water Quality Standards Triennial Revision**  
**LAC 33:IX.1109, 1113, and 1123**

The proposed Rule will revise Chapter 11 of the Water Quality regulations for clarification. The 2021 Triennial Review Report of Findings document identified several sections

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in Chapter 11 with errors. Throughout Chapter 11, units expressed in terms of milligrams per liter use the abbreviation (mg/L). An abbreviation was found having (mg/l) in Section 1109. Section 1113 incorrectly implies numeric criteria may be adopted based on the absence of data. Table 1 of Section 1113 has the endrin freshwater chronic criterion listed with a missing digit. Table 3 of Section 1123 has a missing designated use, an extraneous designated use, and incorrectly listed temperature criterion. These errors will be corrected with this Rule. The Water Quality Management Plan, Volume 3 was updated in July 2022, resulting in the need to update verbiage in Sections 1109 and 1113. This action is required in order to fulfill the department's obligation to review and revise the state's water quality standards, pursuant to 40 CFR 131.20, as necessary, at least once every three years.

Proposed Date:	January 20, 2023	Oversight Hearing:
Public Hearing:	February 28, 2023	Withdrawn:
Final Date:		Substantive Changes:

**AQ393-Act No. 405 2021 RLS Criteria Pollutant Fee Increase  
LAC 33:III.223**

This Rule provides for the fee changes authorized in Act 405 of the 2021 Regular Legislative Session which authorizes a two step increase to fees for criteria pollutants.

Proposed Date:	February 20, 2023	Oversight Hearing:
Public Hearing:	March 28, 2023	Withdrawn:
Final Date:		Substantive Changes:

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