

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Repeal of LAC 33:III.2307.C
(LAC 33:III.2307.C) (AQ363)

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.2307.C (Log #AQ363).

This rule will repeal LAC 33:III.2307.C. LAC 33:III.2307.C applies to nitric acid plants that are not subject to 40 CFR 60 Subpart G (Standards of Performance for Nitric Acid Plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a “four-hour start-up exemption from [NOX] emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G. LAC 33:III.2307.C.2.a provides a similar exemption “where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.” These provisions were 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.2307.C, are “substantially inadequate to meet [Clean Air Act] requirements” because they provide “impermissible discretionary exemptions” from “otherwise applicable SIP emission limitations.” Consequently, EPA issued a “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ identified only one nitric acid plant that is not subject to 40 CFR 60 Subpart G, that being Nitric Acid Train 4 (NNA4-1, EQT 0007), located at PCS Nitrogen Fertilizer’s (PCS’s) Geismar Agricultural Nitrogen & Phosphate Plant (Agency Interest No. 3732). Nitric Acid Train 4 is currently operating under Permit No. 2240-V8, issued February 6, 2015.

A Consent Decree between EPA, LDEQ, and PCS (Civil Action No. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NOX control equipment (i.e., selective catalytic reduction, or SCR) on Nitric Acid Train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA’s SIP call, LDEQ will repeal LAC 33:III.2307.C.

* 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]
This rule is also a revision to the Louisiana State Implementation Plan for air quality.

The basis and rationale for this rule are to repeal the exemptions provided by LAC 33:III.2307.C 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 July 27, 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 AQ363. Such comments must be received no later than August 3, 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 diedra.johnson@la.gov. Copies of this proposed regulation 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 AQ363. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is 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
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Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 23. Control of Emissions for Specific Industries¹

¹Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - B. ...

C. Exceptions Reserved.

1. ~~Start-Up Provision~~

~~a. — A four hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring-up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.~~

~~b. — This provision is applicable to infrequent start ups only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emission must be minimized and no ambient air quality standard may be jeopardized.~~

2. ~~On Line Operating Adjustments~~

~~a. — A four hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.~~

~~b. — This provision is applicable to infrequent on-line adjustments only. Before the exemption can be granted, the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment.~~

~~e. — In addition, the duration of excess emissions must be minimized and no ambient air quality standard may be jeopardized.~~

D. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2088 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:**.