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Department of Environmental Quality

Office of the Secretary
Legal Division

Notice of Public Hearing
Substantive Changes to Proposed Rule AQ365
Emission Reduction Credits (ERC) from Mobile Sources
(LAC 33:III.603, 605, 606, 607, 611, 617 and 619)

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 the department is seeking to incorporate substantive changes to LAC 33:III.603, 605, 606, 607, 611, 617 and 619 (AQ365S), which were originally noticed as AQ365 in the August 20, 2016, issue of the *Louisiana Register*. (1702Pot 1)

The department has made the following substantive changes to address comments received on AQ365. These changes clarify that:

* minor stationary sources that operated under an air permit and submitted emissions inventories meeting the requirements of LAC 33:III.919 during the baseline period (but are not necessarily currently subject to LAC 33:III.919) may participate in the emissions banking program;
* exhaust control technologies may be installed in *or connected to* an engine’s exhaust system;
* an existing engine may be replaced with a new *or remanufactured* engine certified to *or configured to meet* a more stringent set of emission standards;
* eligible on-road mobile sources must be part of a commercial, governmental, or institutional fleet;
* on-road mobile sources and nonroad engines must be no more than 20 years old and marine vessels must be no more than 40 years old in order to participate in the emissions banking program;
* eligible emission reduction projects must generate at least 0.5 tons of NOX or VOC emission reduction credits (ERC);
* records of maintenance activities on a modified or substitute mobile source must be retained for the life of the source; and
* ERC cannot be generated by permanently removing a locomotive from Louisiana.

In the interest of clarity and transparency, the department is providing public notice and opportunity to comment on the proposed changes to the amendments of the regulations. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout, underline, and shaded version of the proposed rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available at www.deq.louisiana.gov under Rules and Regulations.

The following changes are to be incorporated into the Notice of Intent:

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 6. Regulations on Control of Emissions through the Use of Emission Reduction Credits (ERC) Banking

§603. Applicability

A. Major stationary sources are subject to the provisions of this Chapter for the purpose of utilizing emission reductions as offsets in accordance with LAC 33:III.504. Minor stationary sources located in nonattainment areas may submit ERC applications for purposes of banking, provided the source was operating under an air permit and submitted emissions inventories meeting the requirements of LAC 33:III.919 during the baseline period. Sources located in EPA-designated attainment areas may not participate in the emissions banking program, except as specified in Subsection C of this Section.

B. - D. …

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 20:874 (August 1994), amended LR 24:2239 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1622 (September 1999), LR 28:301 (February 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2068 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2767 (November 2012), LR 41:2320 (November 2015), LR 43:

§611. Determination of Creditable Emission Reductions from Mobile Sources

A. - A.1. …

2. Eligible emission reduction strategies include:

a. exhaust control technologies in which a pollution control device, such as an oxidation catalyst, is installed in or connected to an engine’s exhaust system;

b. - c. …

d. engine repowers in which an existing engine is replaced with a newer or remanufactured engine certified to or configured to meet a more stringent set of emission standards or otherwise powered with an alternative fuel;

e. …

f. clean alternative fuel conversions in which a mobile source or engine is permanently altered to operate on alternative fuels such as propane, natural gas, alcohol, or electricity. The conversion system must be certified by EPA in order to ensure that the project is exempt from the tampering prohibition in section 203(a) of the Clean Air Act.

3. On-road mobile sources must be part of a commercial, governmental, or institutional fleet. Privately-owned vehicles operated primarily for personal use may not participate in the emissions banking program.

4. On-road mobile sources and nonroad engines must be no more than 20 years old and marine vessels must be no more than 40 years old in order to participate in the emissions banking program.

5. Eligible emission reduction projects must generate at least 0.5 tons of NOX or VOC ERC.

B. - C. …

1. The owner or operator shall operate and maintain the modified or substitute mobile source in accordance with the manufacturer’s emission-related operation and maintenance instructions. Records of maintenance activities shall be retained for the life of the source at a location approved by the department and made available for inspection upon request.

2. - 3.a. …

b. Testing shall not be required:

 i. if the modified mobile source must be re-certified with or configured to meet federal exhaust emission standards as a matter of federal law;

1.b.ii. - 4.b. …

5. Repealed.

D. - E. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

§617. Procedures for Review and Approval of ERCs

A. - C.1. …

2. Upon issuance of a permit that relies upon the use of approved ERCs as offsets, the department shall be responsible for recalculating the ERC balance for that entity and for providing that entity with an adjusted ERC certificate. In the case of a partial use of an ERC from an emission reduction project, the department shall issue a new certificate reflecting the available credits remaining. The remaining ERC(s) shall be reviewed again in accordance with LAC 33:III.607 or 611, as applicable, at the time a request is received to use the remaining portion.

C.3. - E. …

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 20:878 (August 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 28:304 (February 2002), amended by the Office of the Secretary, Legal Division, LR 43:

A public hearing on the substantive changes will be held on March 29, 2017, 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 make 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 persons submitting written comments should reference the proposed regulation as AQ365S. Such comments must be received no later than March 29, 2017, 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, fax (225) 219-4068, or e-mail at deidra.johnson@la.gov. The comment period for the substantive changes ends on March 29, 2017. Copies of these substantive changes may be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ365S. These proposed regulations are available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/](http://www.deq.louisiana.gov/portal/tabid/1669/) default.aspx.

AQ365S is available for inspection at the following LDEQ 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; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson

General Counsel

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