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Department of Environmental Quality

Office of the Secretary

Legal Affairs and Division

Notice of Public Hearing

Substantive Changes to Proposed Rule SW068

Disposal of Coal Combustion Residuals

(LAC 33:VII.1002 and 1004)

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 proposed regulation (LAC 33:VII.1002 and 1004, ) (Log number SW068S), which was originally noticed as SW068 in the October 20, 2023, issue of the *Louisiana Register*. (2407Pot1)

The department has proposed substantive changes to address comments received during the public comment period of proposed rule SW068. The changes clarify the proposed rule language. 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 regulation in question. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout/underline/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 on the department’s website under Rules and Regulations at <https://www.deq.louisiana.gov/page/rules-regulations>. The following changes are to be incorporated into the Notice of Intent:

**ENVIRONMENTAL QUALITY**

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 10. Coal Combustion Residuals (CCR) Waste Management**

**§1002. Definitions**

A. …

\* \* \*

*Aquifer*—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield usable quantities of water to wells or springs. For the purposes of these regulations, a *usable quantity of water* is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:

**§1004. CCR Permit Requirements**

A. — B. …

1. Each CCR permit renewal application or permit modification application shall contain the information required by application forms and instructions prescribed by the department, including the substantive information required by this Section and 40 CFR part 257 subpart D.

B.2. — G.1.a. …

b. A sufficient number of wells shall be installed in the uppermost aquifer, to ensure the entirety of the zone is monitored. Depending on the thickness of the aquifer, monitoring wells may be required to be installed at the top of aquifer, middle of the aquifer, and/or bottom of the aquifer of use of well screens that encompass the length of the aquifer may be utilized, as long as well screens do not exceed 10 feet in length.

c. …

2. If there are statistically significant increases (SSIs) above background concentrations while in detection monitoring, or if there are statistically significant levels (SSLs) above groundwater protection standards while in assessment monitoring, the department may require the installation of additional monitoring wells in the next (deeper) aquifer(s). Additionally, vertical and horizontal delineation of the aquifer(s) shall be required.

a. If there are SSIs or SSLs then monitoring of the uppermost aquifer shall continue.

b. If there are SSIs or SSLs in any portion of the uppermost aquifer zone, monitoring wells shall be installed into the next (deeper) aquifer to ensure groundwater quality beneath the permitted unit.

c. If there are SSIs or SSLs in the aquifer beneath the uppermost aquifer, monitoring wells shall be installed in the next aquifer to determine and monitor groundwater quality beneath the permitted unit.

G.3. — H.2. …

a. The owner or operator shall submit sufficient information, such as supporting data, analyses, and where applicable, the most recent alternate source demonstration to support a detection monitoring program that meets the requirements of LAC 33:VII.1003.A.

b. In addition to the requirements of LAC 33:VII.1003.A, facilities shall comply with the notification requirements of LAC 33:VII.805.C.6.a.i and ii.

H.3. — H.3.a.iii. …

b. A facility may remain in detection monitoring if an alternate source demonstration is submitted for the SSIs and approved by the department within 90 days of detection of SSIs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the detection of SSIs, the facility shall initiate the assessment monitoring requirements.

H.3.d. — H.4.a.iii. …

b. A facility may remain in assessment monitoring if an alternate source demonstration for the SSLs is submitted and approved by the department within 90 days of identification of the SSLs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the detection of SSLs, the facility shall initiate the corrective action monitoring requirements.

H.4.d. — L. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:

A public hearing on the substantive changes will be held on August 27, 2024, at 1:30 p.m. in the Galvez Building, Oliver Pollock Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend in person or via Zoom at https://deqlouisiana.zoom.us/j/6836133613?omn=94218724960 or by telephone at (646) 255-1997 using the Meeting ID 683 613 3613. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below, or at (225) 219-1325.

All interested persons are also invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation as SW068. Such comments must be received no later than August 27, 2024, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or emailed to DEQ.Reg.Dev.Comments@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes can 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 SW068S. This regulation is available on the Internet at https://deq.louisiana.gov/page/monthly-regulation-changes-2024%20.

These substantive changes to SW068 are available for inspection at the following LDEQ office locations from 8:00 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.

 Aurelia S. Giacometto

 Secretary