

Laura Almond

From: Laura Almond
Sent: Monday, September 9, 2024 8:50 AM
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Cc: Aurelia Giacometto (DEQ Secretary); Noah Hoggatt (DEQ); Jill Clark
Subject: Summary Report for Proposed Rule SW068S
Attachments: SW068FinalCommentSummaryResponse.pdf; SW068rulelanguagewamend.pdf; SW068 Notice of Intent.pdf

September 9, 2024

The Honorable Eddie J. Lambert, Chairman
Senate Committee on Environmental Quality
c/o Committee Staff

The Honorable Brett F. Geyman, Chairman
House Committee on Natural Resources and Environment
c/o Committee Staff

RE: Summary Report for Proposed Rule SW068S
Disposal of Combustion Residuals
LAC 33:VII.Chapter 10
Proposed on October 20, 2023

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Environmental Quality is submitting a report regarding the above-referenced proposed rule, which was published in the *Louisiana Register*. Two public hearings were held with comments received. Amendments have been made to the proposed rule in response to the comments. This revised rule language is attached. This final summary report is comprised of the attached electronic documents.

We would appreciate it if you would acknowledge receipt of this message by return email. Please contact our office at (225) 219-3985 if you have questions regarding this material.

Sincerely yours,

W. Noah Hoggatt
Executive Counsel

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This concludes this transmission.

Laura Almond
Environmental Project Specialist
Louisiana Department of Environmental Quality
Legal Affairs Division

(225) 219-3985

**Final Comment Summary Response
Disposal of Coal Combustion Residuals
(LAC 33:VII.Chapter 10) (SW068)**

COMMENT 1: The Department proposes to amend the LDEQ Solid Waste Regulations (LAC 33:Part VII) to incorporate federal requirements for landfills and surface impoundments that contain coal combustion residuals (“CCR”). The draft CCR regulation, LAC 33:VII.Chapter 10, proposes to adopt the federal CCR regulation by reference. The federal CCR rule was initially promulgated by the U.S. Environmental Protection Agency (“EPA”) in 2015 and is set forth in 40 CFR Part 257 subpart D. As noted in the preamble to the *Notice of Intent*, “adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits.” Since 2016, LDEQ and EPA have reviewed the requirements for the creation and implementation of a state CCR permitting program in Louisiana, as authorized by the WIIN Act. LEUEG supports this effort and believes EPA should approve LDEQ’s CCR permitting program after a final rule is issued by LDEQ.

LEUEG generally supports LDEQ’s proposed rule and believes that delegation of the federal CR program to LDEQ is justified, in part, based on the state agency’s longstanding regulation of landfills and surface impoundments in Louisiana. LDEQ has the statutory authority to regulate landfills and surface impoundments and has regulated CCR units since at least 1989. The current LDEQ Solid Waste Regulations were promulgated pursuant to authority granted in the Louisiana Solid Waste Management and Resource Recovery Law and are modeled after the federal “Subtitle D” solid waste regulations. See, La. R.S. 30:2151 *et seq.* and LAC 33:Part VII. As noted, LDEQ has administered these regulations for decades prior to the promulgation of the federal regulations. These regulations ensure that solid waste units manage, store, and/or dispose of solid waste, including CCR, in a manner to protect human health and the environment.

In SW068, LDEQ proposes to incorporate the federal CCR rule by reference, including certain amendments to the federal rule promulgated by EPA in 2018. LDEQ will also continue to require the existing permitting, financial assurance, and public

participation and enforcement regulations for CCR-regulated units in Louisiana. Thus, authorizing LDEQ to administer the substantive and permitting requirements of the federal CCR will promote efficiency of resources and streamline the existing federal and state programs. LDEQ is also in the best position to issue permits for these units due to knowledge of local geological and site-specific conditions, and because it has regulated all existing CCR units in Louisiana for decades.

For these reasons, LEUEG supports the delegation of the federal CCR program from EPA to LDEA that includes the promulgation of SW068. LEUEG provides the following comments to LDQ for its consideration as a part of this rulemaking.

- FOR/AGAINST: No arguments necessary; comment does not suggest amendment or change.
- RESPONSE 1: The department appreciates the support.
- COMMENT 2: *LDEQ should amend the definition of “uppermost aquifer” as defined in LAC 33:VII.1002.A.*

In the draft rule, LDEQ proposes to define “uppermost aquifer” to mean:

Uppermost Aquifer – The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formation that are aquifers and are hydraulically connected within the facility’s property boundary. An aquifer can yield useable quantities of groundwater and for the purposes of this regulation, an aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

(Emphasis Added). To prevent confusion and for consistency, LDEQ should amend the above definition to match the definition of “uppermost aquifer” in LAC 33:VII.115. LDEQ should also delete the following sentence from the proposed definition: “An aquifer can yield usable quantities of groundwater and for the purposes of this regulation, an

aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry." This sentence is not consistent with how LDEQ proposes to define "aquifer" in the proposed rule (e.g., "significant quantities" of water versus "useable quantities"). LDEQ should use consistent terms in both definitions as well as the definitions in LAC 33:VII.115. LEUEG recommends that the LDEQ define "uppermost aquifer" as follows in the final rule:

Uppermost Aquifer – The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formation that are aquifer and are hydraulically connected within the facility's property boundary. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

FOR: Making the change from "significant" to "usable" in the definition of aquifer will create consistency amongst the aquifer and uppermost aquifer definition and consistency with the language used in the federal Part 257 Rule.

Utilizing existing definitions would be easier for the state as definitions already exist for aquifer and uppermost aquifer.

AGAINST: While the LDEQ already has a definition of uppermost aquifer, this definition is different than the definition of uppermost aquifer codified in § 257.53. The definition in the LDEQ solid waste regulations is not as stringent as the definition in § 257.53. Developing definitions for aquifer and uppermost aquifer that are consistent with the federal Part 257 Rule will allow for consistency with the federal Part 257 Rule, even though definitions vary from those currently in the LDEQ regulations. Terms need to be as stringent/consistent with federal Part 257. Creating definitions that are in compliance with the LDEQ regulations and the federal Part 257 regulations will allow LDEQ to continue operating as it has in regards to the CCR facilities. The proposed uppermost aquifer definition is a hybrid of the definition in the federal rule and the LDEQ regulations. This definition is more stringent than the definition currently in § 257.53 and will allow LDEQ to protect

the aquifers in Louisiana. This definition has been discussed with the stakeholders and the EPA.

RESPONSE 2: Based on discussions with EPA and the definition currently listed in the federal rule, the proposed definition of uppermost aquifer will remain as written. As suggested, the definition of aquifer will also remain as written with a small change by having the word “significant” changed to “usable” to be consistent with the terminology used in the federal rule. This allows for the definition of aquifer to be consistent with the definition of uppermost aquifer.

COMMENT 3: *LDEQ should clarify what it intends to exclude from the incorporation of the federal CCR rule in LAC 33:VII.1003.A.*

In Section 1003.A of the draft rule, LDEQ proposes to incorporate the federal CCR rule into LAC 33:VII.Chapter 10 as follows:

The department hereby incorporates by reference 40 CFR Part 257, Subpart D, *Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments*, July 1, 2022, except 40 CFR 257.50, 57.51, and all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR 36435), including the addition of 257.90(g).

(Emphasis added). As written, this section is unclear regarding what LDEQ intends to incorporate by reference and what the Department intends to exclude. For instance, the above sentence could be interpreted to mean that LDEQ intends to incorporate 40 CFR Art 257, Subpart D and all amendments made to the federal CCR regulations in the July 30, 2018 final rule but exclude only 40 CFR 257.50 and 257.51. LEUEG assumes this is LDEQ's intent. However, the sentence could also be interpreted that LDEQ intends to incorporate 40 CFR Part 257, Subpart D and exclude both 40 CFR 257.50-257.51 and all amendments made in the July 30, 2018 final rule. LEUEG requests that LDEQ clarify this section in the final rule as follows:

Except as noted, the department hereby incorporates by reference 40 CFR Part 257, Subpart D, *Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments*, July 1, 2022 and

all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR 36435), including the addition of 257.90(g). The department does not incorporate by reference 40 CFR 257.50 or 40 CFR 257.51 into this Chapter.

FOR: This language could be interpreted to include the 2018 amendments. Including those amendments would be beneficial to the facilities in Louisiana.

AGAINST: The way this section is written could be interpreted as presented by the commenter. While it appears that what is being incorporated may be unclear, what is being incorporated by reference is clearly stated. As certain portions of the 2018 amendments cannot be incorporated by reference, they will be excluded from this program. The 2018 amendments remain under EPA authority and states will not be granted authority for these amendments.

RESPONSE 3: The way this section is currently written is accurate. EPA retains the approval authority for the July 30, 2018 amendments and as such, LDEQ will not be incorporating these amendments into LDEQ's solid waste CCR program. The EPA has recommended LDEQ not adopt the 2018 amendments, nor 40 CFR 257.50, 40 CFR 257.51, and 40 CFR 257.90(g). The amendments Parts A and B will remain under EPA authority for approval or denial of the Part A and B applications. None of the facilities in Louisiana submitted Part A or B applications; however, the LDEQ could not approve or deny even if applications are submitted at a later date.

Part 257.50 refers to legacy surface impoundments, of which, none are located in Louisiana. Therefore, it was recommended not to adopt this citation as Louisiana does not regulate any legacy CCR units. Part 257.51 was vacated from the Part 257 rule update, dated May 8, 2024. Part 257.9(g) is for the demonstration supporting the suspension of groundwater monitoring activities. As groundwater monitoring programs cannot be suspended by LDEQ (only the EPA has authority to suspend a program), this regulations is also not adopted.

COMMENT 4: *LDEQ should clarify what is required to be included in permit applications as set forth in proposed LAC 33:VII.1004.B.1.*

In the proposed rule, LDEQ references the information required in CCR permit renewal applications and permit modifications. LAC 33:VII.1004.B.1 states:

Each CCR permit renewal application or permit modification application shall contain the information required by this Chapter, 40 CFR Part 257 subpart D, and on the department's website with regards to permit applications and permit application instructions.

As written, this section indicates that 40 CFR Part 257, Subpart D includes procedures and requirements for permits issued by LDEQ. To prevent potential confusion and also clarify what is required in permit applications, LEUEG requests that LDEQ revise LAC 33:VII.1004.B.1 to state the following:

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.

- FOR: Clarifying language to avoid confusion is important with regulations. Having the regulations state what is required in the permitting aspect and what is required with regards to requirements is important. When incorporating the federal rule by reference and utilizing the LDEQ's existing permitting requirements, it is important to state which requirements are which and will be utilized.
- AGAINST: Keeping the language as is would not require a change as the requirements are currently listed in the existing language.
- RESPONSE 4: Based on the proposed change, clarifying the language to state that the permitting requirements are LDEQ's and will incorporate specific substantive information from the federal Part 257 rule. This change is to avoid confusion with what is required during the permitting process. The LDEQ is adopting the proposed rule language.
- COMMENT 5: *LDEQ should delete extraneous information set forth in LAC 33:VII.1004.G.1.b of the proposed rule.*

In LAC 33:VII.1004.G.1.b, LDEQ proposes the following requirement related to groundwater monitoring wells:

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 the aquifer, middle of the aquifer, and/or bottom of the aquifer.

LDEQ should delete the second sentence of the above section. Although LDEQ requires that a "sufficient number of wells" are installed around solid waste units, neither the federal CCR rule nor LDEQ's current solid waste regulations require monitoring wells at the "top," the "middle" and the "bottom" of the aquifer as suggested by this sentence. Because the first sentence provides sufficient detail and flexibility for groundwater monitoring wells, LDEQ should remove the second sentence entirely to streamline this section and avoid confusion.

FOR: The aquifers are already being monitored and have been monitored for 30 years. Additional wells in the aquifers may not provide any additional data to protect the groundwater versus the costs of installing and monitoring wells.

AGAINST: While the federal rule does not explicitly state that monitor wells shall be installed to monitor the entirety of the aquifer, this is the intent of the rule. Additional monitoring wells may be required to ensure the total saturated thickness of an aquifer is monitored and protected. Additionally, facilities may utilize screens up to 10 feet in length to use as few wells as possible to monitor the aquifer if an aquifer exceeds 10 feet in thickness. While installing additional wells to monitor the aquifer that has been monitored for 30 years is not ideal, ensuring that the aquifer is properly monitored is required. By allowing the use of 10 foot screens, it can show that only one well or two wells would be required to adequately monitor an aquifer.

RESPONSE 5: As required in Part 257.91(a) a sufficient number of monitoring wells shall be installed at appropriate depths and locations to yield groundwater samples from the uppermost aquifer. The depths of monitoring wells shall be based on

aquifer thickness. Based on discussions with EPA, this means that the entirety of the uppermost aquifer shall be monitored. EPA is expecting the full length of the aquifer to be monitored, and if necessary monitoring wells installed in the top, middle, and bottom of the aquifer to ensure groundwater quality throughout the aquifer is monitored. As such, the language shall remain in place requiring monitoring of the entirety of the aquifer. A change to the proposed language was incorporated to eliminate the need for installing multiple wells by allowing multi length screens (not to exceed ten feet in length) that ensure adequate coverage of the aquifer. Utilizing wells with 10-foot well screens would reduce the number of wells necessary for monitoring. The thickness of the aquifer would determine how many monitoring would be required for monitoring.

COMMENT 6: *LDEQ should change the word "identified" in LAC 33:VII.1004.G.2.a-c of the proposed rule to "confirmed."*

Section 1004.G.2 of the proposed rule includes the following requirements related to "statistically significant increases" and "statistically significant levels" that may be detected during groundwater monitoring:

If statistically significant increases (SSIs) are identified above background concentrations while in detection monitoring, or if statistically significant levels (SSLs) are identified 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 SSIs or SSLs are identified monitoring of the uppermost aquifer shall continue.
- b. If SSIs or SSLs are identified 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 SSIs or SSLs are identified 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.

(Emphasis added). LDEQ should replace the word “identified” with “confirmed.” LDEQ’s solid waste regulations allow for confirmatory sampling with SSIs or SSLs are detected during groundwater monitoring activities. Thus, the initial “identification” of SSIs or SSLs should not be the basis for installation of additional wells in or beneath the uppermost aquifer. Rather, such activities may be required after SSIs or SSLs are confirmed. For this reason, LDEQ should use the word “confirmed” in LAC 33:VII.1004.G.2 to more appropriately describe when additional monitoring and/or installation of monitoring wells may be required.

LDEQ should also replace the word “shall” with the word “may” in LAC 33:VII.1004.G.2.a-c of the proposed rule to provide necessary flexibility during the review and recommendations associated with groundwater monitoring, which typically require case-by-case and site-specific evaluations.

FOR: Clarifying the language to state whether SSIs or SSLs are identified, confirmed, or initial is important. This language needs to be consistent with the federal rule and by utilizing differing terms, and it is currently not consistent. It can be confusing to utilizing differing terms and there is a need to be clear and concise. When there is an SSI or SSL, resampling has already occurred and the 90 day window to submit and have an ASD approved or initiate the next monitoring program begins. To ensure that the facility has their entire 90 day window, it is important to ensure language is as clear as possible.

AGAINST: The use of “initial” would indicate that any SSIs or SSLs identified during the initial detection before a confirmatory sampling event would require additional monitoring wells before determining if the SSI or SSL is indicative of a release or an outlier.

RESPONSE 6: The wording has been changed to be consistent with the federal Part 257 rule. The rule does not mention identified or confirmed with regards to SSIs or SSLs. When utilizing confirmed or identified, these terms can be confusing and do not necessarily take into account whether any resampling has

been conducted. As such, stating if there are any SSIs provides clarity. This is consistent with 257.93(h), 257.94, and 257.95. Therefore, the language was updated to be consistent with the federal Part 257 rule by stating if there are SSIs or SSLs, then what the next steps would be. With regard to the “shall” and “may”, “shall” will remain as this is consistent with the federal Part 257 rule and “shall” is utilized in the federal rule citations. The EPA federal rule does not utilize “may”.

COMMENT 7: *LDEQ should delete LAC 33:VII.1004.H.3.b and c of the proposed rule.*

Proposed Sections 1004.H.3.b and 1004.H.3.c include the following requirements related to alternative source demonstrations and additional investigations associated with groundwater monitoring:

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

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

LDEQ should delete the above sentences from the proposed rule. First, LDEQ should not mandate substantive actions based on approval deadlines that are completely outside the control of the permittee. Second, these requirements are not required by the existing LDEQ Solid Waste Regulations or the federal CCR rule. For example, circumstances may justify that a CCR unit remain in detection monitoring beyond 90 days of submittal of the demonstration and approval by LDEQ. Likewise, assessment monitoring may not be justified while a demonstration is still under review by LDEQ or additional investigation is ongoing more than 90 days after the confirmation of SSIs. For these reasons, LEUEG requests that LDEQ remove both sections from the final rule.

At a minimum, LDEQ should include flexibility in the proposed rule by stipulating that “A facility may remain in detection monitoring while an alternative source demonstration is under

review by the department.” This change will provide necessary flexibility to both LDEQ and the permittee. Finally, if LDEQ decides not to delete these sentences, the phrase “initial detection of SSIs” should be changed to “confirmation of SSIs.”

FOR: Changing the required timeline to greater than 90 days would be beneficial to facilities to allow them to complete an ASD without going into the next program.

Additionally, changing language from initial to confirmed as suggested would eliminate confusion. To be consistent with the federal rule identified SSIs or SSLs will be used in lieu of initial or confirmed.

AGAINST: The proposed language is from the federal Part 257 rule and as LDEQ is adopting the rule by reference the language cannot be changed to something less stringent. While changing the required timeline to greater than 90 days would be beneficial to facilities to allow them to complete an ASD without going into the next program, this would not be in compliance with the federal rule.

The use of “initial” would indicate that any SSIs or SSLs identified during the initial detection before a confirmatory sampling event would require additional monitoring wells before determining if the SSI or SSL is indicative or a release or an outlier.

RESPONSE 7: This language is taken from 257.94(e) and shall remain as the LDEQ regulations cannot be less stringent than the federal Part 257 Rule. LDEQ will update the proposed language to remove “initial” as initial is not used in the federal Part 257 Rule and to remain consistent the language will be removed.

COMMENT 8: *LDEQ should delete LAC 33:VII.1004.H.4.b-e of the proposed rule.*

Proposed Sections 1004.H.b-e include the following requirements related to corrective action associated with groundwater monitoring:

b. A facility may remain in assessment monitoring if an alternative source demonstration for the SSLs is

submitted and approved by the department within 90 days of initial identification of SSLs.

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

d. If the alternative source demonstration is denied, the facility shall initiate the corrective action requirements.

e. In addition to the requirements of this Chapter, when a facility initiates corrective action requirements, the facility shall submit a plan to the department in accordance with LAC 33:VII.805.D.7.

LDEQ should delete proposed LA 33:VII.1004.H.4.b and 1004.H.4.c in the final rule. First, LDEQ should not mandate substantive actions based on approval deadlines that are completely outside the control of the permittee. Second, these requirements are not required by the existing LDEQ Solid Waste Regulations or the federal CCR rule. For example, circumstances may justify that a CCR unit remain in assessment monitoring beyond 90 days of submittal of the demonstration and approval by LDEQ. Likewise, corrective action may not be justified while a demonstration is still under review by LDEQ or additional investigation is ongoing more than 90 days after the confirmation of SSIs. For these reasons, LEUEG requests that LDEQ remove both sections from the final rule.

At a minimum, LDEQ should include flexibility in the proposed rule by stipulating that "A facility may remain in assessment monitoring while an alternative source demonstration is under review by the department." This change will provide necessary flexibility to both LDEQ and the permittee. Finally, if LDEQ decides not to delete these sentences, the terms "initial identification" in LAC 33:VII.1004.H.4.b and "initial detection" in LAC 33:VII.1004.H.4.c should be changed to "confirmation" in the final rule.

FOR:

Changing the required timeline to greater than 90 days would be beneficial to facilities to allow them to complete an ASD without going into the next program.

Additionally changing language from initial to confirmed as suggested would eliminate confusion. To be consistent with the federal rule identified SSIs or SSLs will be used in lieu of initial or confirmed.

AGAINST:

The proposed language is taken directly from 257.95(g) and as LDEQ is adopting the rule by reference the language cannot be changed to something less stringent. While changing the required timeline to greater than 90 days would be beneficial to facilities to allow them to complete an ASD without going into the next program, this would not be in compliance with the federal rule.

The use of "initial" would indicate that any SSIs or SSLs identified during the initial detection before a confirmatory sampling event would require additional monitoring wells before determining if the SSI or SSL is indicative or a release or an outlier.

RESPONSE 8:

This language is currently included in 257.95(g) and shall remain as the LDEQ regulations cannot be less stringent than the federal Part 257 Rule. LDEQ will update the proposed language to remove "initial" as initial is not used in the federal Part 257 Rule and to remain consistent the language will be removed.

**Final Comment Summary Response
Disposal of Coal Combustion Residuals
(LAC 33:VII.Chapter 10) (SW068)**

<u>COMMENT #</u>	<u>SUGGESTED BY</u>
01 – 08	Kyle Beall, Beall Law on behalf of Louisiana Electric Utility Environmental Group (LEUEG)

Comments reflected in this document are repeated verbatim from the written submittal.

Total Commenters: 01
Total Comments: 08

ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 1. Solid Waste Regulations

Chapter 10. Coal Combustion Residuals (CCR) Waste Management

§1001. Applicability

A. Except as provided in LAC 33:VII.1001.B, this Chapter applies to:

1. owners and operators of new and existing coal combustion residuals (CCR) landfills and surface impoundments that dispose of or otherwise engage in solid waste management of CCR generated from the combustion of coal located at electric utilities and independent power producers;

2. owners and operators of new or existing CCR disposal units located off-site of electric utility or independent power producer facilities;

3. owners and operators of inactive CCR surface impoundments located at active electric utilities and independent power producers regardless of the fuel currently used to produce electricity at the facility;

4. a lateral expansion of a CCR landfill or surface impoundment; and

5. any CCR management practice that does not meet the definition of beneficial use of CCR in 40 CFR 257.53.

B. This Chapter does not apply to:

1. owners and operators of CCR landfills that ceased receiving CCR before October 19, 2015;

2. CCR surface impoundments that no longer contain water or can no longer impound liquids;

3. cooling water ponds, process water ponds, wastewater treatment ponds, stormwater holding ponds, or aeration ponds;

4. wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated at facilities that are not part of an electric utility or independent power producer, such as manufacturing facilities, universities, and hospitals;

5. fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated primarily from the combustion of fuels (including other fossil fuels) other than coal, for the purpose of generating electricity unless the fuel burned consists of more than 50 percent coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

6. beneficial use of CCR, as defined in 40 CFR 257.53;

7. CCR placement at active or abandoned, underground, or surface coal mines;

8. owners and operators of municipal solid waste landfills that receive CCR;

9. owners and operators of commercial industrial nonhazardous waste landfill (CINWL) facilities, authorized by an LDEQ state permit issued under LAC 33:VII.Chapters 5 and 7; or

10. the use of *mandatory modifications* as defined in LAC 33:VII.115.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§1002. Definitions

A. Terms provided in 40 CFR 257.53 are adopted by reference as of July 1, 2022, with the exception of *Aquifer* and *Uppermost Aquifer*. In addition to the definitions referenced above, the definitions listed below will be utilized for this Chapter.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq).

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.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

Department—the Louisiana Department of Environmental Quality as created by R.S. 30:2001 et seq.

Liner—layer or layer(s) of materials beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

Monitoring Well—any permanent cased hole that is drilled, augured, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at the regulated units.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Person—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Uppermost Aquifer—The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formations that are aquifers and are hydraulically connected within the facility's property boundary. An aquifer can yield usable quantities of groundwater and for the purposes of this regulation, an aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§1003. CCR Standards

A. The department hereby incorporates by reference 40 CFR Part 257, Subpart D, Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments, July 1, 2022, except 40 CFR 257.50, 257.51, and all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR 36435), including the addition of 257.90(g).

B. Except as provided in LAC 33:VII.1001, facilities that manage or dispose of CCR generated from the combustion of coal at electric utilities or independent power producers in an existing landfill, or an existing or inactive surface impoundment, shall submit a permit application to the department for a new solid waste permit or a modification to an existing solid waste permit, as applicable, in accordance with LAC 33:VII.Chapter 5, within 365 days of the effective date of this regulation.

C. Except as provided in LAC 33:VII.1001, the disposal or management of CCR in a new or lateral expansion of a CCR landfill or surface impoundment is prohibited unless such activity is authorized by a permit issued in accordance with LAC 33:VII.509, 513, and 517.

D. The duration of any permit issued for the disposal or management of CCR shall be a maximum of 10 years, and shall comply with the requirements of LAC 33:VII.509.D.2.

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 and Criminal Investigations Division, LR 49:

§1004. CCR Permit Requirements

A. Permitting Requirements

1. Any person who processes and/or disposes of CCR shall submit a timely permit application as required under this Chapter and shall operate in compliance with all terms and conditions of the effective permit.

2. All permit application contents listed in LAC 33:VII.519 and all permit conditions listed in LAC 33:VII.529 shall apply for each permit issued under this Chapter.

3. All permits issued to CCR facilities shall be issued with an effective period not to exceed 10 years, and may be issued for a period of less than 10 years in accordance with LAC 33:VII.509.D.2.

a. A renewal application shall be submitted no later than 365 days prior to expiration of the permit in accordance with LAC 33:VII.509.D.2.a, once a permit has been issued for a facility.

b. Submittal of a timely permit renewal application shall administratively extend the effectiveness of the terms and conditions of the current permit until final action is taken on the renewal application.

4. Each facility processing and/or disposing of CCR subject material to the permitting requirements of this Chapter shall operate under a permit for the active life of the facility and duration of post-closure care, until such time the department deems closure and post-closure complete and terminates permit coverage.

5. The owner or operator shall obtain a permit modification in accordance with LAC 33:VII.517 prior to making a change in a CCR unit, or initiating any change that is a deviation from the specifications in 40 CFR Part 257, subpart D and/or the existing permit.

6. The owner/operator of any permitted CCR facility shall submit an application for a permit modification to incorporate any changes necessary to ensure that coal ash units continue to maintain compliance with revised federal CCR standards.

7. All proposed changes in ownership shall comply with the provisions specified in LAC 33:I,Chapter 19.

B. Permit Application Requirements

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.

2. A new permit application or permit renewal application under this Chapter shall include information in LAC 33:VII.519 and 709.A-D. All major permit modifications or minor permit modification applications under this Chapter shall be processed in accordance with LAC 33:VII.517.

3. All technical reports in an application shall be prepared and signed by a professional engineer licensed in the state of Louisiana.

4. All certifications and verifications executed by a licensed professional engineer in an application shall be accompanied by all material technical reports relied upon by the professional engineer licensed in the state of Louisiana for certification.

5. Maps shall be provided with the application. In addition, topographic, aerial, and facility layout maps shall be provided that visually describe surrounding features and facility layout and identify unit-related details.

6. The permit application shall include a verification that the design, construction, and operation of the CCR landfill, lateral expansion, or surface impoundment meet the requirements of 40 CFR 257.70-84.

7. Property owner information shall be provided in the application in accordance with LAC 33:VII.519.B.1.

8. Any fee required by LAC 33:VII.Chapter 15 shall be submitted with the permit application.

C. Geology

1. The application shall be prepared and signed in accordance with LAC 33:VII.801 and 803. It shall include a summary of the geologic conditions at the facility and the relation of the geologic units and aquifers to each CCR unit. In addition to the groundwater monitoring requirements of 40 CFR 257.90-98, the requirements of LAC 33:VII.805.A shall also apply.

2. Previously prepared documents shall be submitted by the permit applicant, unless otherwise instructed by the department, but shall be supplemented or updated, as necessary, to provide the requested information.

3. Sources and references for previously prepared documents for permit applications shall be provided.

D. An applicant shall submit documentation in the application demonstrating compliance with applicable land use and/or location restrictions, in accordance with 40 CFR 257.3-1-3-3 and 257.60-64.

E. Design Criteria

1. An applicant shall submit documentation in the permit application demonstrating compliance with applicable design criteria, in accordance with 40 CFR 257.70-74.

a. The liner system beneath a new landfill, or any lateral expansion of a landfill under 40 CFR 257.70(b), shall include a composite geomembrane liner at least 30-mil thick that shall be installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

b. The liner system beneath a retrofitted or new surface impoundment shall meet the requirements of LAC 33:VII.1004.E.1.a and include a composite geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

2. For new or lateral expansions of CCR landfill and surface impoundments, the owner or operator shall submit subsurface soil information. A sufficient number of borings shall be performed to establish the subsurface stratigraphy and determine geotechnical properties beneath the unit. The borings shall be to a sufficient depth to identify the uppermost aquifer and any underlying hydraulically interconnected aquifer. All borings shall be conducted in accordance with established field exploration methods. The subsurface soil information shall be prepared and included in the application and certified in accordance with 40 CFR Part 257 and LAC 33:VII.803. The subsurface soil information shall include:

a. a lithological description of all borings drilled at the unit location to test soils and characterize groundwater;

b. a unit map drawn to scale showing the surveyed locations and elevations of the borings and monitoring wells;

c. cross-sections prepared from the borings and monitoring wells depicting the generalized strata beneath the unit;

d. boring logs for all soil boring and monitoring wells, including a description of materials encountered and any discontinuities such as fractures, fissures, slickensides, lenses, or seams;

e. a description of the geotechnical data and geotechnical properties of the subsurface soil materials, including the suitability of the soils and strata for the intended uses; and

f. a demonstration that all geotechnical tests were performed in accordance with industry practice and recognized procedures.

F. The applicant shall submit documentation in the permit application demonstrating compliance with Chapter 10 and 40 CFR Part 257, subpart D, including submittal of the most recent annual inspection report prepared pursuant to 40 CFR 257.83 (b)(2) and 257.84 (b)(2), certified by a professional engineer in the state of Louisiana.

G. Groundwater Monitoring Zone and Unit Siting

1. Facilities shall monitor the groundwater quality of the entirety of the uppermost aquifer, as defined in LAC 33:VII.1002.A, beneath the permitted unit on a semiannual basis.

a. Monitoring wells shall be installed at the facility in accordance with 40 CFR 257.91, and shall be completed and/or plugged and abandoned in accordance with LAC 33:VII.805.A.3-6.

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 or 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. The geology beneath the permitted unit shall be characterized as well as the aquifer(s) beneath the permitted unit.

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.

3. The facility shall monitor all aquifers with groundwater wells on a semiannual basis and address any contamination identified during the investigation/delineation conducted in accordance with Paragraph G.2 of this Section.

4. The base of the CCR unit (surface impoundments, new landfills, or lateral expansions of landfill) shall be at least 5 feet above the uppermost aquifer that is being monitored.

H. Groundwater Monitoring and Corrective Action Information in Permit Applications

1. An applicant shall submit or reference the following information in the permit application:

a. a description and details of the groundwater monitoring system that demonstrates compliance with the requirements of this Chapter; and

b. a description and details of the groundwater sampling and analysis program that demonstrates compliance with the requirements of this Chapter.

2. Detection Monitoring

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.

3. Assessment Monitoring

a. If any Appendix III constituents in 40 CFR Part 257 have been detected in the groundwater at SSIs above background concentrations, and no alternate source demonstration has been made before issuance of a permit modification required by LAC 33:VII.1003.B, the owner or operator to support an assessment monitoring program that meets the requirements of this Chapter shall submit:

i. sufficient information;

ii. supporting data; and

iii. analyses.

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

d. If the alternate source demonstration is denied, the facility shall initiate the assessment monitoring requirements.

e. In addition to the requirements of this Chapter, when a facility initiates assessment monitoring requirements, the facility shall submit an assessment work plan to the department in accordance with LAC 33:VII.805.D.6.

4. Corrective Action

a. If any Appendix IV constituents in 40 CFR Part 257 have been detected in the groundwater at SSLs above groundwater protection standards, the owner or operator shall submit:

i. sufficient information;

ii. supporting data; and

iii. analyses to establish a corrective action program that meets the requirements of this Chapter and 40 CFR 257.96-98.

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.

d. If the alternate source demonstration is denied, the facility shall initiate the corrective action requirements.

e. In addition to the requirements of this Chapter, when a facility initiates corrective action requirements, the facility shall submit a plan to the department in accordance with LAC 33:VII.805.D.7.

I. Groundwater Monitoring Parameters

1. A facility shall collect semiannual samples for the parameters set forth in 40 CFR Part 257, Appendix III for detection monitoring.

2. A facility in assessment monitoring shall collect semiannual samples for all the parameters set forth in 40 CFR 257.95(b), Appendix III, and at a minimum, those parameters detected during the 40 CFR Part 257, Appendix IV sampling event. Sampling for all Appendix IV parameters shall occur annually. The results of the semiannual sampling events are to be placed into the facility's operating record.

3. In addition to monitoring the parameters in Paragraphs 1.1 and 2 of this Section, the facility shall also monitor groundwater for parameters that provide a reliable indication of the presence of CCR contaminants in the groundwater. The facility shall follow LAC 33:VII.805.C.7.a.i-iv to determine the additional monitoring parameters.

J. Closure and Post-Closure Care Permit Application Information

1. The applicant shall submit documentation in the permit application demonstrating compliance with 40 CFR 257.100-104.

2. Submit closure and post-closure care cost estimate(s) required by LAC

33:VII.Chapter 13.

K. In addition to the requirements of 40 CFR 257.105, the owner or operator shall keep records throughout the term of the permit. These records include applications, notifications, and reports required by this Chapter and 40 CFR 257.105, data, and supplemental information used to complete applications and reports required by this Chapter.

L. Documents that have already been submitted to the department for review and approval or posted on the publicly accessible website prior to the effective date of LAC 33:VII.Chapter 10 shall be submitted to the department upon request.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§1005. Semiannual Groundwater Monitoring Reports

A. The owner or operator shall submit semiannual groundwater monitoring reports to the department in the format specified by LAC 33:VII.805.C.5.a within 90 days of initiation of the semiannual sampling and analysis events, in addition to the annual groundwater monitoring and corrective action report required, as set forth in 40 CFR 257.90(e). The annual, semiannual, and corrective action groundwater monitoring reports shall comply with the requirements of 40 CFR 257.90(e) and LAC 33:VII.805.C.5.a.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

§1006. Public Notice and Public Hearing Procedures

A. Public Notice

1. Applicability. This Section applies to permit applications for initial permits, permit renewals, and major modifications of CCR landfills and surface impoundments, which are subject to the requirements of this Chapter. The public notice and public comments requirements in LAC 33:VII.513.B.7 and 8 shall apply to permit applications for initial and renewal permits for CCR landfills and surface impoundments subject to the provisions of this Chapter, as well as major modification and final permit decisions issued pursuant to LAC 33:VII.Chapter 10, except as otherwise provided in this Section.

2. Pre-Application Public Notice

a. Prior to the submittal of a permit application, the applicant shall publish a public notice of intent to submit a permit application within 45 days prior to submission of the application in accordance with LAC 33:VII.513.B.7.

b. Proof of publication shall be posted on the facility's public CCR website.

3. Post-Application Public Notice

a. After submittal of the permit application to the Louisiana Department of Environmental Quality, Office of Environmental Services, the applicant shall publish a public notice of submission within 45 days after submittal of the application in accordance with LAC 33:VII.513.B.8.

b. Proof of publication shall be posted on the facility's public CCR website.

4. Draft Permit Decision

a. Once an application is deemed technically complete and a draft permit has been prepared, the draft permit shall be submitted for public notice in accordance with

LAC 33:VII.513.G and notification of public notices shall be published on the facility's public CCR website.

b. The draft permit shall be sent to the local public library in the parish where the facility is located, LDEQ regional offices, and/or governing authority for public review.

c. The draft permit shall be made available for public review in the department's electronic document management system.

d. The public comment period will be a minimum of 30 days for permit applications and major modifications.

e. The department will review and consider all public comments received during the public comment period prior to making a final decision on a permit.

5. Final Permit Decision

a. After the public notice period has ended, the department will issue a final decision on the permit in accordance with LAC 33:VII.513.H.

b. No later than 20 days following the issuance of a final permit decision for a standard permit, the department shall publish a notice of final permit decision, in accordance with LAC 33:VII.513.I, on the department's website.

c. The notice will be sent to those persons who commented on the draft permit decision or those who have requested to be provided written notice.

B. Public Hearing

1. Applicability. Any public hearings held by the administrative authority will be conducted in accordance with LAC 33:VII.509.E. A public hearing shall be held for any CCR facility permit if the administrative authority determines, on the basis of comments received and/or other information, that a hearing is necessary or appropriate.

2. The proceedings of all public hearings conducted pursuant to this Section shall be recorded and a copy of the recording, or a verbatim transcript recording, shall be filed in the record of the hearing.

3. The department retains the discretion to hold a public hearing on any permit application that does not require a public hearing.

4. Public notices of public hearings will be published in accordance with LAC 33:VII.509.E.6

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 and Criminal Investigations Division, LR 49:

§1007. Financial Assurance

A. Financial assurance for CCR units shall be established and maintained for the duration of the active life of the facility, post-closure care period, and any corrective action for known releases when needed in accordance with LAC 33:VII.519.B.8.c.

B. The financial assurance requirements in LAC 33:VII.1303 and 1399 shall apply to CCR units.

C. The financial assurance shall be submitted to the department within 60 days of approval of permit modification or permit application.

D. Updated financial assurance shall be submitted to the department within 60 days of any changes to the cost estimate.

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 and Criminal Investigations Division, LR 49:

§1008. Enforcement

A. The failure of any person to comply with this Chapter or the terms and conditions of any permit granted or order issued thereunder shall constitute a violation of the Act.

B. CCR units are subject to LAC 33:VII.Chapter 9, if a violation of the Act occurs.

C. Investigation shall be undertaken to determine:

1. whether a violation has occurred or is about to occur;

2. the scope and nature of the violation; and

3. the persons or parties involved.

D. The results of an investigation may be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

E. When the administrative authority determines that a violation of the Act or these Chapter 10 regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

~~II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)~~

~~There is no impact on state or local governmental revenues.~~

~~III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)~~

~~The proposed rulemaking will benefit students impacted by COVID-19 by enabling them to retain their TOPS funding and pursue postsecondary education and thus gain educational benefits and access to higher paying jobs.~~

~~IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)~~

~~There are no anticipated effects on competition and employment resulting from these measures other than promoting a better educated pool of workers.~~

~~Robyn Rhea Lively
Senior Attorney
2310#039~~

~~Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office~~

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

**Disposal of Coal Combustion Residuals
(LAC 33:VII, Chapter 10)(SW068)**

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 Solid Waste regulations, LAC 33:VII, Chapter 10 (SW068).

This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for coal combustion residual (CCR) landfills and/or surface impoundments in Louisiana. This new Chapter will adopt by reference the federal CCR Rule promulgated by the Environmental Protection Agency (EPA) at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs.

The Environmental Protection Agency (EPA) promulgated the Federal CCR Rule in April 2015, requiring federal regulations for facilities that operate CCR landfill and surface impoundments. In 2016, the WIIN Act was passed by Congress allowing states to manage CCR units under state permitting programs. In order to regulate the CCR units in Louisiana, new regulations are required for operating CCR units in the state. The basis and rationale for this proposed Rule are to provide for a single, merged program implemented under state authority for the regulation of coal combustion residue units in Louisiana. This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for CCR landfills and/or surface impoundments. This new Chapter will adopt by

reference the federal CCR Rule promulgated by EPA at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 10. Coal Combustion Residuals (CCR) Waste Management

§1001. Applicability

A. Except as provided in LAC 33:VII.1001.B, this Chapter applies to:

1. owners and operators of new and existing coal combustion residuals (CCR) landfills and surface impoundments that dispose of or otherwise engage in solid waste management of CCR generated from the combustion of coal located at electric utilities and independent power producers;

2. owners and operators of new or existing CCR disposal units located off-site of electric utility or independent power producer facilities;

3. owners and operators of inactive CCR surface impoundments located at active electric utilities and independent power producers regardless of the fuel currently used to produce electricity at the facility;

4. a lateral expansion of a CCR landfill or surface impoundment; and

5. any CCR management practice that does not meet the definition of beneficial use of CCR in 40 CFR 257.53.

B. This Chapter does not apply to:

1. owners and operators of CCR landfills that ceased receiving CCR before October 19, 2015;

2. CCR surface impoundments that no longer contain water or can no longer impound liquids;

3. cooling water ponds, process water ponds, wastewater treatment ponds, stormwater holding ponds, or aeration ponds;

4. wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated at facilities that are not part of an electric utility or independent power producer, such as manufacturing facilities, universities, and hospitals;

5. fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated primarily from the combustion of fuels (including other fossil fuels) other than coal, for the purpose of generating electricity unless the fuel burned consists of more than 50 percent coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

6. beneficial use of CCR, as defined in 40 CFR 257.53;

7. CCR placement at active or abandoned, underground, or surface coal mines;

8. owners and operators of municipal solid waste landfills that receive CCR;

9. owners and operators of commercial industrial nonhazardous waste landfill (CINWL) facilities, authorized by an LDEQ state permit issued under LAC 33:VII.Chapters 5 and 7; or

10. the use of *mandatory modifications* as defined in LAC 33:VII.115.

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

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

§1002. Definitions

A. Terms provided in 40 CFR 257.53 are adopted by reference as of July 1, 2022, with the exception of *Aquifer* and *Uppermost Aquifer*. In addition to the definitions referenced above, the definitions listed below will be utilized for this Chapter.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq).

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

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

Department—the Louisiana Department of Environmental Quality as created by R.S. 30:2001 et seq.

Liner—layer or layer(s) of materials beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

Monitoring Well—any permanent cased hole that is drilled, augured, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at the regulated units.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Person—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Uppermost Aquifer—The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formations that are aquifers and are hydraulically connected within the facility's property boundary. An aquifer can yield usable quantities of groundwater and for the purposes of this regulation, an aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

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

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

§1003. CCR Standards

A. The department hereby incorporates by reference 40 CFR Part 257, Subpart D, *Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments*, July 1, 2022, except 40 CFR 257.50, 257.51, and all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR, 36435), including the addition of 257.90(g).

B. Except as provided in LAC 33:VII.1001, facilities that manage or dispose of CCR generated from the combustion of coal at electric utilities or independent power producers in an existing landfill, or an existing or inactive surface impoundment, shall submit a permit application to the department for a new solid waste permit or a modification to an existing solid waste permit, as applicable, in accordance with LAC 33:VII.Chapter 5, within 365 days of the effective date of this regulation.

C. Except as provided in LAC 33:VII.1001, the disposal or management of CCR in a new or lateral expansion of a CCR landfill or surface impoundment is prohibited unless such activity is authorized by a permit issued in accordance with LAC 33:VII.509, 513, and 517.

D. The duration of any permit issued for the disposal or management of CCR shall be a maximum of 10 years, and shall comply with the requirements of LAC 33:VII.509.D.2.

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

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

§1004. CCR Permit Requirements

A. Permitting Requirements

1. Any person who processes and/or disposes of CCR shall submit a timely permit application as required under this Chapter and shall operate in compliance with all terms and conditions of the effective permit.

2. All permit application contents listed in LAC 33:VII.519 and all permit conditions listed in LAC 33:VII.529 shall apply for each permit issued under this Chapter.

3. All permits issued to CCR facilities shall be issued with an effective period not to exceed 10 years, and may be issued for a period of less than 10 years in accordance with LAC 33:VII.509.D.2.

a. A renewal application shall be submitted no later than 365 days prior to expiration of the permit in accordance with LAC 33:VII.509.D.2.a, once a permit has been issued for a facility.

b. Submittal of a timely permit renewal application shall administratively extend the effectiveness of the terms and conditions of the current permit until final action is taken on the renewal application.

4. Each facility processing and/or disposing of CCR subject material to the permitting requirements of this Chapter shall operate under a permit for the active life of the facility and duration of post-closure care, until such time the department deems closure and post-closure complete and terminates permit coverage.

5. The owner or operator shall obtain a permit modification in accordance with LAC 33:VII.517 prior to making a change in a CCR unit, or initiating any change that is a deviation from the specifications in 40 CFR Part 257, subpart D and/or the existing permit.

6. The owner/operator of any permitted CCR facility shall submit an application for a permit modification to incorporate any changes necessary to ensure that coal ash units continue to maintain compliance with revised federal CCR standards.

7. All proposed changes in ownership shall comply with the provisions specified in LAC 33:I.Chapter 19.

B. Permit Application Requirements

1. Each CCR permit renewal application or permit modification application shall contain the information required by this Chapter, 40 CFR Part 257 subpart D, and on the department's website with regards to permit applications and permit application instructions.

2. A new permit application or permit renewal application under this Chapter shall include information in LAC 33:VII.519 and 709.A.-D. All major permit modifications or minor permit modification applications under this Chapter shall be processed in accordance with LAC 33:VII.517.

3. All technical reports in an application shall be prepared and signed by a professional engineer licensed in the state of Louisiana.

4. All certifications and verifications executed by a licensed professional engineer in an application shall be accompanied by all material technical reports relied upon by the professional engineer licensed in the state of Louisiana for certification.

5. Maps shall be provided with the application. In addition, topographic, aerial, and facility layout maps shall be provided that visually describe surrounding features and facility layout and identify unit-related details.

6. The permit application shall include a verification that the design, construction, and operation of the CCR landfill, lateral expansion, or surface impoundment meet the requirements of 40 CFR 257.70-84.

7. Property owner information shall be provided in the application in accordance with LAC 33:VII.519.B.1.

8. Any fee required by LAC 33:VII.Chapter 15 shall be submitted with the permit application.

C. Geology

1. The application shall be prepared and signed in accordance with LAC 33:VII.801 and 803. It shall include a summary of the geologic conditions at the facility and the relation of the geologic units and aquifers to each CCR unit. In addition to the groundwater monitoring requirements of 40 CFR 257.90-98, the requirements of LAC 33:VII.805.A shall also apply.

2. Previously prepared documents shall be submitted by the permit applicant, unless otherwise instructed by the department, but shall be supplemented or updated, as necessary, to provide the requested information.

3. Sources and references for previously prepared documents for permit applications shall be provided.

D. An applicant shall submit documentation in the application demonstrating compliance with applicable land use and/or location restrictions, in accordance with 40 CFR 257.3-1-3-3 and 257.60-64.

E. Design Criteria

1. An applicant shall submit documentation in the permit application demonstrating compliance with applicable design criteria, in accordance with 40 CFR 257.70-74.

a. The liner system beneath a new landfill, or any lateral expansion of a landfill under 40 CFR 257.70(b), shall include a composite geomembrane liner at least 30-mil thick that shall be installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

b. The liner system beneath a retrofitted or new surface impoundment shall meet the requirements of LAC 33:VII.1004.E.1.a and include a composite geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

2. For new or lateral expansions of CCR landfill and surface impoundments, the owner or operator shall submit subsurface soil information. A sufficient number of borings shall be performed to establish the subsurface stratigraphy and determine geotechnical properties beneath the unit. The borings shall be to a sufficient depth to identify the uppermost aquifer and any underlying hydraulically interconnected aquifer. All borings shall be conducted in accordance with established field exploration methods. The subsurface soil information shall be prepared and included in the application and certified in accordance with 40 CFR Part 257 and LAC 33:VII.803. The subsurface soil information shall include:

a. a lithological description of all borings drilled at the unit location to test soils and characterize groundwater;

b. a unit map drawn to scale showing the surveyed locations and elevations of the borings and monitoring wells;

c. cross-sections prepared from the borings and monitoring wells depicting the generalized strata beneath the unit;

d. boring logs for all soil boring and monitoring wells, including a description of materials encountered and any discontinuities such as fractures, fissures, slickensides, lenses, or seams;

e. a description of the geotechnical data and geotechnical properties of the subsurface soil materials, including the suitability of the soils and strata for the intended uses; and,

f. a demonstration that all geotechnical tests were performed in accordance with industry practice and recognized procedures.

F. The applicant shall submit documentation in the permit application demonstrating compliance with Chapter 10 and 40 CFR Part 257, Subpart D, including submittal of the most recent annual inspection report prepared pursuant to 40 CFR 257.83(b)(2) and 257.84(b)(2), certified by a professional engineer in the state of Louisiana.

G. Groundwater Monitoring Zone and Unit Siting

1. Facilities shall monitor the groundwater quality of the entirety of the *uppermost aquifer*, as defined in LAC 33:VII.1002.A., beneath the permitted unit on a semiannual basis.

a. Monitoring wells shall be installed at the facility in accordance with 40 CFR 257.91, and shall be completed and/or plugged and abandoned in accordance with LAC 33:VII.805.A.3-6.

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.

c. The geology beneath the permitted unit shall be characterized as well as the aquifer(s) beneath the permitted unit.

2. If statistically significant increases (SSIs) are identified above background concentrations while in detection monitoring, or if statistically significant levels (SSLs) are identified 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 SSIs or SSLs are identified monitoring of the uppermost aquifer shall continue.

b. If SSIs or SSLs are identified 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 SSIs or SSLs are identified 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.

3. The facility shall monitor all aquifers with groundwater wells on a semiannual basis and address any contamination identified during the investigation/delineation conducted in accordance with Paragraph G.2 of this Section.

4. The base of the CCR unit (surface impoundments, new landfills, or lateral expansions of landfill) shall be at least 5 feet above the uppermost aquifer that is being monitored.

H. Groundwater Monitoring and Corrective Action Information in Permit Applications

1. An applicant shall submit or reference the following information in the permit application:

a. a description and details of the groundwater monitoring system that demonstrates compliance with the requirements of this Chapter; and

b. a description and details of the groundwater sampling and analysis program that demonstrates compliance with the requirements of this Chapter.

2. Detection Monitoring

a. The owner or operator shall submit sufficient information, 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:VIII.1003.A.

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

3. Assessment Monitoring

a. If any Appendix III constituents in 40 CFR Part 257 have been detected in the groundwater at SSIs above background concentrations, and no alternate source demonstration has been made before issuance of a permit modification required by LAC 33:VII.1003.B., the owner or operator to support an assessment monitoring program that meets the requirements of this Chapter shall submit:

i. sufficient information;

ii. supporting data; and

iii. analyses.

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 initial detection of SSIs.

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

d. If the alternate source demonstration is denied, the facility shall initiate the assessment monitoring requirements.

e. In addition to the requirements of this Chapter, when a facility initiates assessment monitoring requirements, the facility shall submit an assessment work plan to the department in accordance with LAC 33:VII.805.D.6.

4. Corrective Action

a. If any Appendix IV constituents in 40 CFR Part 257 have been detected in the groundwater at SSLs above groundwater protection standards, the owner or operator shall submit:

i. sufficient information;

ii. supporting data; and

iii. analyses to establish a corrective action program that meets the requirements of this Chapter and 40 CFR 257.96-98.

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 initial identification of the SSLs.

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

d. If the alternate source demonstration is denied, the facility shall initiate the corrective action requirements.

e. In addition to the requirements of this Chapter, when a facility initiates corrective action requirements, the facility shall submit a plan to the department in accordance with LAC 33:VII.805.D.7.

I. Groundwater Monitoring Parameters

1. A facility shall collect semiannual samples for the parameters set forth in 40 CFR Part 257, Appendix III for detection monitoring.

2. A facility in assessment monitoring shall collect semiannual samples for all the parameters set forth in 40 CFR 257.95(b), Appendix III, and at a minimum, those parameters detected during the 40 CFR Part 257, Appendix IV sampling event. Sampling for all Appendix IV parameters shall occur annually. The results of the semiannual sampling events are to be placed into the facility's operating record.

3. In addition to monitoring the parameters in Paragraphs I.1 and 2 of this Section, the facility shall also monitor groundwater for parameters that provide a reliable indication of the presence of CCR contaminants in the groundwater. The facility shall follow LAC 33:VII.805.C.7.a.i-iv to determine the additional monitoring parameters.

J. Closure and Post-Closure Care Permit Application Information

1. The applicant shall submit documentation in the permit application demonstrating compliance with 40 CFR 257.100-104.

2. Submit closure and post-closure care cost estimate(s) required by LAC 33:VII.Chapter 13.

K. In addition to the requirements of 40 CFR 257.105, the owner or operator shall keep records throughout the term of the permit. These records include applications, notifications, and reports required by this Chapter and 40 CFR 257.105, data, and supplemental information used to complete applications and reports required by this Chapter.

L. Documents that have already been submitted to the department for review and approval or posted on the publicly accessible website prior to the effective date of LAC 33:VII.Chapter 10 shall be submitted to the department upon request.

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 and Criminal Investigations Division, LR 50:

§1005. Semiannual Groundwater Monitoring Reports

A. The owner or operator shall submit semiannual groundwater monitoring reports to the department in the format specified by LAC 33:VII.805.C.5.a within 90 days of initiation of the semiannual sampling and analysis events, in addition to the annual groundwater monitoring and corrective action report required, as set forth in 40 CFR

257.90(e). The annual, semiannual, and corrective action groundwater monitoring reports shall comply with the requirements of 40 CFR 257.90(e) and LAC 33:VII.805.C.5.a.

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 and Criminal Investigations Division, LR 50:

§1006. Public Notice and Public Hearing Procedures

A. Public Notice

1. Applicability. This Section applies to permit applications for initial permits, permit renewals, and major modifications of CCR landfills and surface impoundments, which are subject to the requirements of this Chapter. The public notice and public comments requirements in LAC 33:VII.513.B.7. and 8. shall apply to permit applications for initial and renewal permits for CCR landfills and surface impoundments subject to the provisions of this Chapter, as well as major modification and final permit decisions issued pursuant to LAC 33:VII.Chapter 10, except as otherwise provided in this Section.

2. Pre-Application Public Notice

a. Prior to the submittal of a permit application, the applicant shall publish a public notice of intent to submit a permit application within 45 days prior to submission of the application in accordance with LAC 33:VII.513.B.7.

b. Proof of publication shall be posted on the facility's public CCR website.

3. Post-Application Public Notice

a. After submittal of the permit application to the Louisiana Department of Environmental Quality, Office of Environmental Services, the applicant shall publish a public notice of submission within 45 days after submittal of the application in accordance with LAC 33:VII.513.B.8.

b. Proof of publication shall be posted on the facility's public CCR website.

4. Draft Permit Decision

a. Once an application is deemed technically complete and a draft permit has been prepared, the draft permit shall be submitted for public notice in accordance with LAC 33:VII.513.G. and notification of public notices shall be published on the facility's public CCR website.

b. The draft permit shall be sent to the local public library in the parish where the facility is located, LDEQ regional offices, and/or governing authority for public review.

c. The draft permit shall be made available for public review in the department's electronic document management system.

d. The public comment period will be a minimum of 30 days for permit applications and major modifications.

e. The department will review and consider all public comments received during the public comment period prior to making a final decision on a permit.

5. Final Permit Decision

a. After the public notice period has ended, the department will issue a final decision on the permit in accordance with LAC 33:VII.513.H.

b. No later than 20 days following the issuance of a final permit decision for a standard permit, the department shall publish a notice of final permit decision, in accordance with LAC 33:VII.513.I, on the department's website.

c. The notice will be sent to those persons who commented on the draft permit decision or those who have requested to be provided written notice.

B. Public Hearing

1. Applicability. Any public hearings held by the administrative authority will be conducted in accordance with LAC 33:VII.509.E. A public hearing shall be held for any CCR facility permit if the administrative authority determines, on the basis of comments received and/or other information, that a hearing is necessary or appropriate.

2. The proceedings of all public hearings conducted pursuant to this Section shall be recorded and a copy of the recording, or a verbatim transcript recording, shall be filed in the record of the hearing.

3. The department retains the discretion to hold a public hearing on any permit application that does not require a public hearing.

4. Public notices of public hearings will be published in accordance with LAC 33:VII.509.E.6.

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 and Criminal Investigations Division, LR 50:

§1007. Financial Assurance

A. Financial assurance for CCR units shall be established and maintained for the duration of the active life of the facility, post-closure care period, and any corrective action for known releases when needed in accordance with LAC 33:VII.519.B.8.c.

B. The financial assurance requirements in LAC 33:VII.1303 and 1399 shall apply to CCR units.

C. The financial assurance shall be submitted to the department within 60 days of approval of permit modification or permit application.

D. Updated financial assurance shall be submitted to the department within 60 days of any changes to the cost estimate.

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 and Criminal Investigations Division, LR 50:

§1008. Enforcement

A. The failure of any person to comply with this Chapter or the terms and conditions of any permit granted or order issued thereunder shall constitute a violation of the Act.

B. CCR units are subject to LAC 33:VII.Chapter 9, if a violation of the Act occurs.

C. Investigation shall be undertaken to determine:

1. whether a violation has occurred or is about to occur;

2. the scope and nature of the violation; and

3. the persons or parties involved.

D. The results of an investigation may be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

E. When the administrative authority determines that a violation of the Act or these Chapter 10 regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

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 and Criminal Investigations Division, LR 50:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

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

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

Provider Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW068. Such comments must be received no later than December 5, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of this proposed regulation 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 SW068. The proposed regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2023%20>.

Public Hearing

A public hearing will be held via Zoom on November 28, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/81211942923?pwd=gdYW43qh9oakrNY0PiAc88YyKygti.1> password 813415 or by telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

The proposed regulation 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; 508 Downing Pines Road, 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.

Courtney J. Burdette
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Disposal of Coal Combustion Residuals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change.

The proposed rule change would require the current coal combustion residuals (CCR) units in Louisiana and any future CCR units to be managed under Chapter 10 and referenced federal regulations and not the current regulations. The units are currently managed dually under the solid waste regulations and the federal CCR program and this proposed rule would consolidate the CCR units to be managed under one program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units resulting from this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Currently, facilities with CCR units have to perform monitoring and meet requirements of the Louisiana solid waste regulations and the Federal CCR Rule. This creates a financial burden to the facility by having them do work under two programs and spend more time and money adhering to two sets of rules. By aligning the state rule with the federal CCR Rule and regulating these units under the Louisiana regulations, the costs impact on the facilities is greatly reduced. Under the proposed rule, these facilities would only report to LDEQ, instead of both LDEQ and the Environmental Protection Agency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Courtney J. Burdette
Executive Counsel
2310#026

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Subscriber Agreements
(LAC 33:I.2105)(OS102)

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 Office of the Secretary regulations, LAC 33:I.2105.B (OS102).

The proposed changes to LAC 33:I.2105.B are intended to clarify the approval procedure for subscriber agreements as defined in LAC 33:I.2103.A. Previously, the approval procedure for subscriber agreements, as found in LAC 33:I.2105.B, differed from the definition of subscriber agreement, as found in LAC 33:I.2103.A. The proposed changes to LAC 33:I.2105.B are intended to bring such language into conformity. The basis and rationale for this

rule are to increase procedural clarity and reduce confusion. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 21. Electronic Submittals and Electronic Signatures**

§2105. Procedures

A. - A.4. . . .

B. Each *subscriber agreement*, as defined in LAC 33:I.2103.A, shall receive approval from the department, and be retained on file with the department while the subscriber agreement is active and for an additional five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2043 and 9:2601.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:1612 (August 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 50:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

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

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.6.

Provider Impact Statement

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

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by OS102. Such comments must be received no later than December 5, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation 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 OS102. The proposed regulation is available on the Internet at <https://www.deq.louisiana.gov/page/monthly-regulation-changes-2023%20>.

Public Hearing

A public hearing will be held via Zoom on November 28, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at <https://deqlouisiana.zoom.us/j/812119429237pwd=gdYW43qh9oakrNY0PiAc88YyKygcti.1> password 813415 or by telephone by dialing (636) 651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

Laura Almond

From: APA - House Speaker <apa.housespeaker@legis.la.gov>
Sent: Monday, September 9, 2024 8:50 AM
To: Laura Almond
Subject: Request received

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE SPEAKER

Your Administrative Procedure Act (APA) submission has been received by the Office of the Speaker, Louisiana House of Representatives.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees

<https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees

<https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Laura Almond

From: APA - House Natural Res <apa.h-natr@legis.la.gov>
Sent: Monday, September 9, 2024 8:50 AM
To: Laura Almond
Subject: Request received

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Natural Resources, Louisiana House.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Laura Almond

From: Shane Landry
Sent: Monday, September 9, 2024 8:51 AM
To: Ashley Plunkett
Cc: Laura Almond
Subject: Re: Certify time statements

I'll do it first thing tomorrow. I can never access the portal at home on a good day and today Cox is acting up. I'm online with My phone.

From: Ashley Plunkett <Ashley.Plunkett@LA.GOV>
Sent: Monday, September 9, 2024 8:46 AM
To: Shane Landry <Shane.Landry@LA.GOV>
Cc: Laura Almond <Laura.Almond@LA.GOV>
Subject: Certify time statements

Shane, can you go certify your time statements for pay period 16-2024 and 18-2024?

Thanks,
Ashley

Laura Almond

From: APA - Senate President <APA.senatepresident@legis.la.gov>
Sent: Monday, September 9, 2024 8:50 AM
To: Laura Almond
Subject: Request received

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE PRESIDENT

Your Administrative Procedure Act (APA) submission has been received by the Office of the President, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Laura Almond

From: APA - Senate Environment <apa.s-envq@legis.la.gov>
Sent: Monday, September 9, 2024 8:50 AM
To: Laura Almond
Cc: APA - Senate Environment
Subject: Request received

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Environment, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Laura Almond

From: Microsoft Outlook
To: 'apa.h-natr@legis.la.gov'; apa.s-envq@legis.la.gov; 'apa.housespeaker@legis.la.gov';
'apa.senatepresident@legis.la.gov'
Sent: Monday, September 9, 2024 8:50 AM
Subject: Relayed: Summary Report for Proposed Rule SW068S

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

'apa.h-natr@legis.la.gov' (apa.h-natr@legis.la.gov)

apa.s-envq@legis.la.gov (apa.s-envq@legis.la.gov)

'apa.housespeaker@legis.la.gov' (apa.housespeaker@legis.la.gov)

'apa.senatepresident@legis.la.gov' (apa.senatepresident@legis.la.gov)

Subject: Summary Report for Proposed Rule SW068S



Summary Report
for Proposed Ru...

Laura Almond

From: Microsoft Outlook
To: Aurelia Giacometto (DEQ Secretary)
Sent: Monday, September 9, 2024 8:50 AM
Subject: Delivered: Summary Report for Proposed Rule SW068S

Your message has been delivered to the following recipients:

[Aurelia Giacometto \(DEQ Secretary\) \(Aurelia.Giacometto@LA.GOV\)](mailto:Aurelia.Giacometto@LA.GOV)

Subject: Summary Report for Proposed Rule SW068S



Summary Report
for Proposed Ru...

Laura Almond

From: Microsoft Outlook
To: Noah Hoggatt (DEQ)
Sent: Monday, September 9, 2024 8:50 AM
Subject: Delivered: Summary Report for Proposed Rule SW068S

Your message has been delivered to the following recipients:

Noah Hoggatt (DEQ) (Noah.Hoggatt@la.gov)

Subject: Summary Report for Proposed Rule SW068S



Summary Report
for Proposed Ru...

Laura Almond

From: Microsoft Outlook
To: Nathan Mills
Sent: Monday, September 9, 2024 8:50 AM
Subject: Delivered: Summary Report for Proposed Rule SW068S

Your message has been delivered to the following recipients:

Nathan Mills (Nathan.Mills@LA.GOV)

Subject: Summary Report for Proposed Rule SW068S



Summary Report
for Proposed Ru...

Laura Almond

From: Microsoft Outlook
To: Jill Clark
Sent: Monday, September 9, 2024 8:50 AM
Subject: Delivered: Summary Report for Proposed Rule SW068S

Your message has been delivered to the following recipients:

Jill Clark (Jill.Clark@la.gov)

Subject: Summary Report for Proposed Rule SW068S



Summary Report
for Proposed Ru...

Laura Almond

From: Nathan Mills
To: Laura Almond
Sent: Monday, September 9, 2024 8:59 AM
Subject: Read: Summary Report for Proposed Rule SW068S

Your message

To: Nathan Mills
Subject: Summary Report for Proposed Rule SW068S
Sent: Monday, September 9, 2024 11:50:09 PM (UTC+10:00) Brisbane

was read on Monday, September 9, 2024 11:58:16 PM (UTC+10:00) Brisbane.