



ETC Tiger Pipeline, LLC
711 Louisiana Street, Houston TX 77002-2716
Houston Offices 832-668-1000

May 18, 2010

Ms. Kimberly D. Bose, Secretary
Office of the Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: ETC Tiger Pipeline, LLC
ETC Tiger Pipeline
FERC Docket No. CP09-460-000
Plan for Burning in Wetlands for Pipeline Facilities

Dear Ms. Bose:

On April 7, 2010, as amended by an Errata Notice issued April 8, 2010, the Federal Energy Regulatory Commission ("Commission"), pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, issued ETC Tiger Pipeline, LLC ("ETC Tiger") a certificate of public convenience and necessity for the ETC Tiger Pipeline Project ("Certificate Order").¹ ETC Tiger notified the Commission on April 8, 2010, that it accepted the Certificate Order.

ETC Tiger is submitting for filing attached hereto its Plan for Burning in Wetlands for Pipeline Facilities for the ETC Tiger Pipeline Project. This attached Plan is being submitted electronically to the Commission's eFiling website pursuant to the Commission's Order No. 703, Filing via the Internet Guidelines issued on November 15, 2007 in FERC Docket No. RM07-16-000. A paper copy of this filing is being provided directly to Mr. John Wisniewski with the Office of Energy Projects, and to Ms. Amy Davis with Natural Resource Group, LLC. Any questions or comments regarding this filing should be directed to the undersigned at (281) 714-2056.

Respectfully submitted,

/s/ Kelly Allen

Kelly Allen, Manager
Certificates and Reporting

cc: Mr. John Wisniewski, Office of Energy Projects, Room 6H-10
Ms. Amy Davis, Natural Resource Group, LLC

¹ ETC Tiger Pipeline, LLC, 131 FERC ¶ 61,010 (2010), Errata Issued April 8, 2010.

Certificate of Service

I hereby certify that I have this day caused a copy of the foregoing electronic document to be served upon each person designated on the official service list compiled by the Commission's Secretary in this proceeding in accordance with the requirements of Section 385.2010 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures.

/s/ Kelly Allen

Kelly Allen, Manager
Certificates and Reporting
ETC Tiger Pipeline, LLC
(281) 714-2056



ETC TIGER PIPELINE, LLC

Plan for Burning in Wetlands for Pipeline Facilities

ETC TIGER PIPELINE PROJECT

May 2010

1.0 Purpose

The ETC Tiger Pipeline Project (Project) is a 175-mile-long natural gas pipeline project in various stages of planning and construction by ETC Tiger Pipeline, LLC (ETC Tiger) in Texas and Louisiana. The Project has been approved by the Federal Energy Regulatory Commission (FERC).

This document describes procedures proposed by ETC Tiger to burn woody debris in wetland areas to reduce construction impacts to jurisdictional wetland areas. ETC Tiger believes that use of the procedures outlined in this plan will result in less environmental impact on these wetlands than would multiple trips in and out of wetlands with heavy equipment and trucks to remove woody vegetation by minimizing erosion, reducing soil compaction and minimizing soil transport of the wetlands.

ETC Tiger has contacted the Fort Worth and Vicksburg Districts and neither have an objection to burning woody debris in wetlands (see attachments with e-mail documentation).

2.0 Proposed Burn Procedures

ETC Tiger's clearing contractor proposes to clear the entire construction right-of-way (CROW) in each of the wetland areas. After initial clearing, wetland topsoil will be removed from the ditch line, spoil storage areas, and any areas where a burn pile will be established. All burn pile locations will be monitored by the ETC Tiger Environmental Inspectors (EIs) during the stripping and stockpiling of topsoil material. As soon as the burn areas are identified by the contractor, the EIs will document them in the daily report, which will be passed on to the FERC Third-Party Monitors. The daily reports will track use of these burn areas from identification through burning of timber debris, removal of remaining burn debris, and cleanup.

The topsoil will be removed using track hoes to a depth of approximately 12 inches, and be temporarily placed in compact piles in order to prevent any loss of the topsoil. All wetland topsoil will be stored at sufficient distance from the burn location so as to avoid any sterilization of the topsoil material.

Timber and debris will be combined and piled using excavators and timber forwarders to lift and carry the brush to each location. Timber and brush will not be dragged to the extent possible. The burn piles will then be ignited using propane torches.

ETC Tiger's contractor will tend all fires and conduct all burning in accordance with all Texas Commission on Environmental Quality (TCEQ), Louisiana DEQ, and local open burning regulations. Appropriate fire control equipment and personnel trained in fire management will be on hand to prevent any fires from exiting the approved construction right-of-way.

After the burn piles have been burned to the extent possible, the remaining burn debris, including ashes, will be removed from the wetlands for disposal. All burn debris will be removed prior to trenching operations in the wetlands. The dump trucks will access the burn locations using a mat road built for wetland construction access. The wetland topsoil that was previously removed and stockpiled will be spread back over the burn area.

ATTACHMENT 1

ETC TIGER USACE CONSULTATIONS

Thomason, Buffy

From: Land, Fred J SWF [Fred.J.Land@usace.army.mil]
Sent: Monday, May 17, 2010 7:15 AM
To: Thomason, Buffy
Subject: RE: Burning in Wetlands

Buffy,

I agree with Jennifer Mallard's comments below. Because we regulate the discharge of dredged and fill materials, we would not regulate burning in wetlands, if it does not cause a discharge of dredged or fill materials.

However, our authorization of your nationwide permit does not authorize infringement of other federal, state, local laws or regulations.

Regards,

Fred

Frederick J. Land
Regulatory Project Manager

U.S. Army Corps of Engineers
Fort Worth District - Regulatory Branch
819 Taylor Street, Room 3A37
P.O. Box 17300
Ft. Worth, Texas 76102-0300
Direct (817) 886-1729
Fax (817) 886-6493
fred.j.land@usace.army.mil

Please assist the Regulatory Program improve its service by completing the survey on the following website:
<http://per2.nwp.usace.army.mil/survey.html>

www.swf.usace.army.mil/pubdata/environ/regulatory/index.asp

-----Original Message-----

From: Thomason, Buffy [mailto:Buffy.Thomason@energytransfer.com]
Sent: Friday, May 14, 2010 10:10 AM
To: Land, Fred J SWF
Subject: FW: Burning in Wetlands

Below is Jennifer's response in case you want to copy it. Just a quick note like hers would be great. I gave you a call to (stalk you) see if you were in, but it went to voicemail. I hope you are off and enjoying the day.

Thank you,

Buffy Thomason
Energy Transfer Company
D: 281-714-2195, C: 979-571-3113

-----Original Message-----

From: Mallard, Jennifer A MVK [mailto:Jennifer.A.Mallard@usace.army.mil]

Sent: Friday, May 14, 2010 8:39 AM
To: Thomason, Buffy
Subject: RE: Burning in Wetlands

Ms. Thomason,

It is my opinion that burning in/of herbaceous wetlands is not a regulated activity under Section 404 CWA. There should be no discharge of dredge and/or fill material within the wetlands, therefore no reason to assert jurisdiction.

Sincerely,
Jennifer

-----Original Message-----

From: Thomason, Buffy [mailto:Buffy.Thomason@energytransfer.com]
Sent: Friday, May 14, 2010 8:29 AM
To: Mallard, Jennifer A MVK
Subject: Burning in Wetlands

Hi, Jennifer,

We received our Notices to Proceed from FERC for the compressor stations and pipelines. We have begun construction on the compressor stations and are about to begin on the pipeline. I had spoken to you before about the potential for us burning in wetlands. We have been advised that we need documentation to that effect.

The burns will be monitored by ETC Tiger Environmental Inspectors and all remaining materials will be removed following the burns. Would you please respond to this email to document that the USACE Vicksburg District is not opposed to ETC Tiger burning in wetlands? Please let me know if you have any specific regulations, restrictions, or recommendations.

Thank you,

Buffy Thomason

Energy Transfer Company

711 Louisiana St., Ste. 900, Houston, TX 77002

Direct: 281-714-2195

Cell: 979-571-3113

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Energy Transfer Company

711 Louisiana St., Ste. 900, Houston, TX 77002

Direct: 281-714-2195

Cell: 979-571-3113

ATTACHMENT 2

TCEQ AND LDEQ REGULATIONS GOVERNING OPEN BURNING

SUBCHAPTER B: OUTDOOR BURNING
§§111.201, 111.203, 111.205, 111.207, 111.209, 111.211, 111.213,
111.215, 111.219, 111.221
Effective July 19, 2006

§111.201. General Prohibition.

No person may cause, suffer, allow, or permit any outdoor burning within the State of Texas, except as provided by this subchapter or by orders or permits of the commission. Outdoor disposal or deposition of any material capable of igniting spontaneously, with the exception of the storage of solid fossil fuels, shall not be allowed without written permission of the executive director. The term "executive director," as defined in Chapter 3 of this title (relating to Definitions), includes authorized staff representatives.

Adopted August 21, 1996

Effective September 16, 1996

§111.203. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Commission on Environmental Quality (commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA, the following terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) **Extinguished**--The absence of any visible flames, glowing coals, or smoke.
- (2) **Landclearing operation**--The uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property clean-up activities, nor does it include burning following clearing for ecological restoration.
- (3) **Neighborhood**--A platted subdivision or property contiguous to and within 300 feet of a platted subdivision.
- (4) **Practical alternative**--An economically, technologically, ecologically, and logistically viable option.
- (5) **Prescribed burn**--The controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and confined to a predetermined area, following appropriate planning and precautionary measures.

(6) **Refuse**--Garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

(7) **Structure containing sensitive receptor(s)**--A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "man-made structure" does not include such things as range fences, roads, bridges, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds. The term "sensitive live vegetation" is defined as vegetation that has potential to be damaged by smoke and heat, examples of which include, but are not limited to, nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.

(8) **Sunrise/Sunset**--Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.

(9) **Wildland**--Uncultivated land other than fallow, land minimally influenced by human activity, and land maintained for biodiversity, wildlife forage production, protective plant cover, or wildlife habitat.

Adopted June 28, 2006

Effective July 19, 2006

§111.205. Exception for Fire Training.

(a) Outdoor burning shall be authorized for training fire-fighting personnel when requested in writing and when authorized either verbally or in writing by the local air pollution control agency. In the absence of such local entities, the appropriate commission regional office shall be notified. The burning shall be authorized if notice of denial from the local air pollution control agency, or commission regional office is not received within 10 working days after the date of postmark or the date of personal delivery of the request.

(b) Facilities dedicated solely for fire-fighting training, at which training routinely will be conducted on a frequency of at least once per week, shall submit an annual written notification of intent to continue such training to the appropriate commission regional office and any local air pollution control agency.

(c) Facilities dedicated solely for fire-fighting training, at which training is conducted less than weekly, shall provide an annual written notification of intent, with a telephone or electronic facsimile notice 24 hours in advance of any scheduled training session. No more than one such notification is required for multiple training sessions scheduled within any one-week period, provided the initial telephone/facsimile notice includes all such sessions. Both the written and telephone notifications shall be submitted to the appropriate commission regional office and any local air pollution control agency.

(d) Authorization to conduct outdoor burning under this provision may be revoked by the executive director if the authorization is used to circumvent other prohibitions of this subchapter.

Adopted August 21, 1996

Effective September 16, 1996

§111.207. Exception for Fires Used for Recreation, Ceremony, Cooking, and Warmth.

Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather. Such burning shall be subject to the requirements of §111.219(7) of this title (relating to General Requirements for Allowable Outdoor Burning).

Adopted August 21, 1996

Effective September 16, 1996

§111.209. Exception for Disposal Fires.

Except as provided in Local Government Code, §352.082, outdoor burning is authorized for the following:

(1) domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property. Provision of waste collection refers to collection at the premises where the waste is generated. The term "domestic waste" is defined in §101.1 of this title (relating to Definitions).

Wastes normally resulting from the function of life within a residence that can be burned include such things as kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings. Examples of wastes not considered domestic waste that cannot be burned, include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances;

(2) diseased animal carcass burning when burning is the most effective means of controlling the spread of disease;

(3) veterinarians in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains;

(4) on-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth, by the owner of the property or any other person authorized by the owner, and when the material is generated only from that property:

(A) in a county that is part of a designated nonattainment area or that contains any part of a municipality that extends into a designated nonattainment area; if the plant growth was generated as a result of right-of-way maintenance, landclearing operations, and maintenance along water canals when no practical alternative to burning exists. Such burning is subject to the

requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning). Commission notification or approval is not required; or

(B) in a county that is not part of a designated nonattainment area and that does not contain any part of a municipality that extends into a designated nonattainment area; this provision includes, but is not limited to, the burning of plant growth generated as a result of right-of-way maintenance, landclearing operations, and maintenance along water canals. Such burning is subject to local ordinances that prohibit burning inside the corporate limits of a city or town and that are consistent with the Texas Clean Air Act, Chapter 382, Subchapter E, Authority of Local Governments, and the requirements of §111.219(3), (4), (6), and (7) of this title. Commission notification or approval is not required.

(5) at a site designated for consolidated burning of waste generated from specific residential properties. A designated site must be located outside of a municipality and within a county with a population of less than 50,000. The owner of the designated site or the owner's authorized agent shall:

(A) post at all entrances to the site a placard measuring a minimum of 48 inches in width and 24 inches in height and containing, at a minimum, the words "DESIGNATED BURN SITE - No burning of any material is allowed except for trees, brush, grass, leaves, branch trimmings, or other plant growth generated from specific residential properties for which this site is designated. All burning must be supervised by a fire department employee. For more information call {PHONE NUMBER OF OWNER OR AUTHORIZED AGENT}." The placard(s) must be clearly visible and legible at all times;

(B) designate specific residential properties for consolidated burning at the designated site;

(C) maintain a record of the designated residential properties. The record must contain the description of a platted subdivision and/or a list of each property address. The description must be made available to commission or local air pollution control agency staff within 48 hours, if requested;

(D) ensure that all waste burned at the designated site consists of trees, brush, grass, leaves, branch trimmings, or other plant growth;

(E) ensure that all such waste was generated at specific residential properties for which the site is designated; and

(F) ensure that all burning at the designated site is directly supervised by an employee of a fire department who is part of the fire protection personnel, as defined by Texas Government Code, §419.021, and is acting in the scope of the person's employment. The fire department employee shall notify the appropriate commission regional office with a telephone or electronic facsimile notice 24 hours in advance of any scheduled supervised burn. The commission

shall provide the employee with information on practical alternatives to burning. Commission approval is not required;

(6) crop residue burning for agricultural management purposes when no practical alternative exists. Such burning shall be subject to the requirements of §111.219 of this title and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of the intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required. This section is not applicable to crop residue burning covered by an administrative order; and

(7) brush, trees, and other plant growth causing a detrimental public health and safety condition burned by a county or municipal government at a site it owns upon receiving site and burn approval from the executive director. Such a burn can only be authorized when there is no practical alternative, and it may be done no more frequently than once every two months. Such burns cannot be conducted at municipal solid waste landfills unless authorized under §111.215 of this title (relating to Executive Director Approval of Otherwise Prohibited Outdoor Burning), and shall be subject to the requirements of §111.219 of this title.

Adopted June 28, 2006

Effective July 19, 2006

§111.211. Exception for Prescribed Burn.

Outdoor burning shall be authorized for:

(1) Prescribed burning for forest, range and wildland/wildlife management purposes, with the exception of coastal salt-marsh management burning. Such burning shall be subject to the requirements of §111.219 of this title (relating to General Requirements for Allowable Outdoor Burning), and structures containing sensitive receptors must not be negatively affected by the burn. When possible, notification of intent to burn should be made to the appropriate commission regional office prior to the proposed burn. Commission notification or approval is not required.

(2) Coastal salt-marsh management burning conducted in Aransas, Brazoria, Calhoun, Chambers, Galveston, Harris, Jackson, Jefferson, Kleberg, Matagorda, Nueces, Orange, Refugio, and San Patricio Counties. Coastal salt-marsh burning in these counties shall be subject to the following requirements:

(A) All land on which burning is to be conducted shall be registered with the appropriate commission regional office using a United States Geological Survey map or equivalent upon which are identified significant points such as roads, canals, lakes, and streams, and the method by which access is made to the site. For large acreage, the map should be divided into manageable blocks with identification for each defined block. The information must be received for review at least 15 working days before the burning takes place.

(B) Prior to any burning, notification, either verbal or written, must be made to, and authorization must be received from the appropriate commission regional office. Notification must identify the specific area and/or block to be burned, approximate start and end time, and a responsible party who can be contacted during the burn period.

(C) Such burning shall be subject to the requirements of §111.219 of this title.

Adopted August 21, 1996

Effective September 16, 1996

§111.213. Exception for Hydrocarbon Burning.

Outdoor burning shall be authorized for hydrocarbon burning from pipeline breaks and oil spills only upon proper notification as set forth in §101.6 of this title (relating to Notification Requirements for Major Upset), and if the executive director has determined that the burning is necessary to protect the public welfare. Sampling and monitoring may be required to determine and evaluate environmental impacts.

Adopted August 21, 1996

Effective September 16, 1996

§111.215. Executive Director Approval of Otherwise Prohibited Outdoor Burning.

If not otherwise authorized by this chapter, outdoor burning may be authorized by written permission from the executive director if there is no practical alternative and if the burning will not cause or contribute to a nuisance, traffic hazard or to a violation of any federal or state primary or secondary ambient air standard. The executive director may specify procedures or methods to control or abate emissions from outdoor burning authorized pursuant to this rule. Authorization to burn may be revoked by the executive director at any time if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.

Adopted August 21, 1996

Effective September 16, 1996

§111.219. General Requirements for Allowable Outdoor Burning.

Outdoor burning which is otherwise authorized shall also be subject to the following requirements when specified in any section of this subchapter.

(1) Prior to prescribed or controlled burning for forest management purposes, the Texas Forest Service shall be notified.

(2) Burning must be outside the corporate limits of a city or town except where the incorporated city or town has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments.

(3) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

(4) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.

(5) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.

(6) Burning shall be conducted in compliance with the following meteorological and timing considerations:

(A) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.

(B) Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.

(C) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.

(7) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

Adopted August 21, 1996

Effective September 16, 1996

§111.221. Responsibility for Consequences of Outdoor Burning.

The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation.

Adopted August 21, 1996

Effective September 16, 1996

Practice (GEP) Stack Height.1 or 2, the administrative authority will notify the public of the availability of the demonstration study and will provide opportunity for public hearing on it. This Section does not restrict, in any manner, the actual stack height of any source.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

§923. Maintenance of Pay

A. In the case of any source which uses a supplemental, or intermittent control for the purpose of meeting the requirements of an order under Section 119(d), or Section 119 (relating to primary nonferrous smelter orders) of the Federal Clean Air Act, the owner or operator of such source may not temporarily reduce the pay of any employee by reason of the use of such supplemental or intermittent or other dispersion dependent control system.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

§925. Mass Emission Rate Control Plan

A. A facility may propose to the administrative authority a control plan for any pollutant that sets a mass emission rate equal to the sum of all sources within the facility or any combination of sources within the facility. The facility may control the emissions contained in the proposal any way it deems appropriate as long as the proposed mass emission rate is not violated. The facility will set emission rates for each proposed source within the facility that when accumulated will demonstrate compliance with the mass emission rate.

B. The administrative authority shall approve the use of the alternative emission reduction proposal if the facility can demonstrate that the proposal will not interfere with the attainment or maintenance of the ambient air quality standard for the pollutant for which the control plan is proposed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

§927. Notification Required (Unauthorized Discharges)

A. The unauthorized discharge of any air pollutant into the atmosphere shall be reported in accordance with the provisions of LAC 33:I.Chapter 39, Notification Regulations and Procedures for Unauthorized Discharges. Written reports pursuant to LAC 33:I.3925 must be submitted to the department. Timely and appropriate follow-up reports should be submitted detailing methods and procedures to be used to prevent similar atmospheric releases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of the Secretary, LR 19:1022 (August 1993).

§929. Violation of Emission Regulations Cannot Be Authorized

A. The standards of ambient air quality listed in Tables 1 and 1a define the limits of air contamination by particulates and gases. No person or group of persons shall allow particulate matter or gases to become airborne in amounts which cause the ambient air quality standards to be exceeded. The limits stated include normal background levels of particulates and gases.

B. Nothing in any other part or section of these regulations shall in any manner be construed as authorizing or legalizing emissions in such manner as prohibited by these regulations. For example, compliance with ambient air quality standards does not authorize emissions in excess of emission limitations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

Chapter 11. Control of Emissions of Smoke

§1101. Control of Air Pollution from Smoke

A. Purpose. It is the purpose of this regulation to establish emission standards on smoke.

B. Control of Smoke. The emission of smoke from any combustion unit (other than a flare, as described in LAC 33:III.1105 below) or from any type of burning in a combustion unit (other than a flare), including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity as to obscure vision to a degree equivalent to the above (see LAC 33:III.1503.D.2, Table 4) except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal and rapping of precipitators which may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995).

§1103. Impairment of Visibility on Public Roads Prohibited

A. The emissions of smoke which passes onto or across a public road and creates a traffic hazard by *impairment of visibility* as defined in LAC 33:III.111 or intensifies an existing traffic hazard condition is prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.2, Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007).

§1107. Exemptions

A. Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent, and limit the excess emission, shall be submitted to SPOC within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007).

§1109. Control of Air Pollution from Outdoor Burning

A. Purpose. It is the purpose of this Section to control outdoor burning of waste or other combustible material.

B. Outdoor Burning Prohibited. No person shall cause or allow the outdoor burning of waste material or other combustible material on any property owned by him or under his control except as provided in Subsections C and D of this Section.

C. Statutory Exceptions. The following activities are not subject to the prohibition created in Subsection B of this Section:

1. the burning of leaves, grass, twigs, branches, and vines by a private property owner on his own property for noncommercial purposes in parishes with a population of 300,000 or less, provided the property owner attends the burning of yard waste at all times. This exception shall not apply in the parish of East Baton Rouge;

2. the burning of trees, brush, grass, or other vegetable matter in any parish having a population of 90,000 or less, provided the location of the burning is not within the territorial limits of a city or town or adjacent to a city or town in such proximity that the ambient air of the city or town will be affected by smoke from the burning;

3. the burning of trees, branches, limbs, or other wood as a bonfire that is specifically authorized by ordinance in the parishes of St. James, St. John the Baptist, or St. Charles;

4. the burning of agricultural by-products in the fields in connection with the planting, harvesting, or processing of agricultural products;

5. the controlled burning of cotton gin agricultural wastes in connection with cotton gin operations;

6. the controlled burning in connection with timber stand management; and

7. the controlled burning of pasture land or marshland in connection with trapping or livestock production.

D. Exceptions to Prohibition against Outdoor Burning. Outdoor burning of waste material or other combustible material may be conducted in the situations enumerated below if no public nuisance is or will be created and if the burning is not prohibited by and is conducted in compliance with other applicable laws and with regulations and orders of governmental entities having jurisdiction, including air control regulations and orders. The authority to conduct outdoor burning under this regulation does not exempt or excuse the person responsible from the consequences of or the damages or injuries resulting from the burning:

1. outdoor burning in connection with the preparation of food;

2. campfires and fires used solely for recreational purposes or for ceremonial occasions;

3. outdoor burning in a rural park or rural recreation area of trees, brush, grass, and other vegetable matter for game management purposes in accordance with practices

acceptable to Louisiana Parks and Recreation Commission and Louisiana Wildlife and Fisheries Commission;

4. small fires, by tradesmen and contractors, in such activities as street repair, installation or repair of sewer, water, electric, telephone mains, and services;

5. the operation of contrivances using open flames such as welding torches, blow torches, portable heaters, and other flame making devices;

6. outdoor burning, in other than rural park or rural recreation area, of trees, brush, grass, and other vegetable matter from such area in land clearing and right-of-way maintenance operations if the following conditions are met:

a. prevailing winds at the time of the burning must be away from any city or town, the ambient air of which may be affected by smoke from the burning;

b. the location of the burning must be at least 1,000 feet (305 meters) from any dwelling other than a dwelling or structure located on the property on which the burning is conducted;

c. care must be used to minimize the amount of dirt on the material being burned;

d. heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth which produce unreasonable amounts of smoke may not be burned; nor may these substances be used to start a fire;

e. the burning may be conducted only between the hours of 8 a.m. and 5 p.m. Piles of combustible material should be of such size to allow complete reduction in this time interval; and

f. the burning must be controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

7. fire purposely set as a part of an organized program of drills for the training of fire fighting personnel or for testing fire fighting materials or equipment if the following conditions are met:

a. the duration of the burning held to the minimum required for such purposes;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created;

8. outdoor burning of waste hydrocarbon products (from petroleum exploration, development or production operations, natural gas processing, such as, but not limited to, basic sediments, oil produced in testing an oil well, and paraffin) may be conducted at the site of origin when it is not practicable to transport the waste products for sale or reclamation, or to dispose of them lawfully in some other manner. In addition, hydrocarbons spilled or lost from pipeline breaks or other transport failure which cannot practicably be recovered or be disposed of lawfully in some

other manner may be outdoor burned at the site where the spill occurred or at another appropriate place due to safety considerations. Except when the immediate or continuous burning of hydrocarbon spills is reasonably necessary to abate or eliminate an existing or imminent threat of injury to human life or significant damage to property, the outdoor burning shall be conducted under the following conditions:

a. the location of the burning must not be within or adjacent to a city or town or in such proximity thereto that the ambient air of the city or town may be affected by smoke from the burning;

b. the burning is conducted only between the hours of 8 a.m. and 5 p.m.; and

c. the burning is controlled so that a traffic hazard as prohibited by Subsection E of this Section is not created; and

9. special situations approvable for exemption by the administrative authority prior to initiation of burning operation, as follows:

a. outdoor burning of explosives, pyrophoric, or any other materials where there is no practicable or safe method of disposal;

b. experimental burning for purposes of data gathering and research; and

c. nonrecurring unusual circumstances or any condition not covered above.

E. Traffic Hazards Prohibited. The emission of smoke, suspended particulate matter or uncombined water or any air contaminants or combinations thereof which passes onto or across a public road and creates a traffic hazard by *impairment of visibility*, as defined in LAC 33:III.111, or intensifies an existing traffic hazard condition is prohibited.

F. Exclusion from Application of This Section. Outdoor burning pursuant to and in compliance with the terms of a variance granted by the administrative authority is excluded from the application of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995), LR 24:652 (April 1998).

§1111. Exclusion

Any person claiming exclusion from the application of this Section under this provision shall apply to the administrative authority for exclusion in accordance with R.S. 30:2056 of the act. The applicant shall furnish such information as the administrative authority may reasonably require to enable it to make a determination. The administrative authority may make such determination and apply such conditions as may be appropriate to the activity in question. A person granted an exclusion under this provision may be required to furnish the administrative authority with plans satisfactory to the administrative

authority for implementing any reasonable control measures which may be developed or which otherwise become available.

A. Variance. Emissions of smoke pursuant to and in compliance with the terms of a variance granted by the administrative authority.

B. Unpopulated Areas. Emissions of smoke from an activity when the following conditions are met.

1. The source of the emissions is in a relatively unpopulated area of the state.

2. The administrative authority determines it is not technically practicable nor economically reasonable to eliminate the emissions.

C. Water Vapor. Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of LAC 33:III.1101.B of this regulation, LAC 33:III.1101.B will not apply. In addition, emissions already less than that allowed by LAC 33:III.1313.C of these regulations shall be considered by the administrative authority for exemption from the above stated opacity limitation.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987).

Chapter 13. Emission Standards for Particulate Matter (Including Standards for Some Specific Facilities)

Subchapter A. General

§1301. Emission Standards for Particulate Matter

A. Purpose. The purpose of this Section shall be to limit the quantity of particulate matter emitted.

B. Scope. This Section applies to any operation, process, or activity from which particulate matter is emitted except the wood pulping industry, the primary aluminum industry (horizontal stud Soderberg and prebake processes), and the burning of fuel for indirect heating in which the products of combustion do not come into direct contact with process materials.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988).

§1303. Provisions Governing Specific Activities

A. Toxic Substances. Substances which are by nature toxic to human or animal life or vegetation may be controlled to more restrictive levels than is required for particulate matter in general.

B. Impairment of Visibility. The emissions which pass onto or across a public road and create a traffic hazard by impairment of visibility or intensify an existing traffic hazard condition are prohibited.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:1081 (October 1995).

§1305. Control of Fugitive Emissions

A. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. These precautions shall include but shall not be limited to the following:

1. use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;

2. application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dusts;

3. installation and use of dust collectors to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;

4. open-bodied trucks transporting materials likely to give rise to airborne dust shall be covered at all times when in motion;

5. conducting agricultural practices such as tilling of land, application of fertilizers and insecticides in such a manner as to prevent dust from becoming airborne;

6. paving roadways and maintaining the roadways in a clean condition;

7. the prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or other means.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988).

§1307. Degradation of Existing Quality Restricted

A. Emissions whose quality as of the effective date of these regulations is higher than the standards set forth in LAC 33:III.1321, Table 3 and LAC 33:III.1311.B shall be maintained at the higher quality unless it can be affirmatively demonstrated to the department that a change in quality is justifiable and will not be contrary to the guidelines as set forth by these regulations.

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