

## CHANGES TO GENERAL CONDITIONS OF LOUISIANA AIR PERMITS

When was the last time you looked at the general conditions of your air permit? If the answer is “not recently,” this is the time to review them. In the April 20, 2009 *Louisiana Register*, the Louisiana Department of Environmental Quality revised the general conditions in all air quality permits. Furthermore, the new general conditions supersede those in currently issued permits, meaning that the changes apply to all permits.

### What types of permits are affected?

All air permits are affected—both Title V permits and minor permits.

### What are the changes to the Title V Permit General Conditions?

Notable changes to the Title V Permit General Conditions include:

- Deviation reports required under General Condition R are now due semiannually rather than quarterly. As before, the deviation reports can be combined with the semiannual monitoring reports.
- Written reports that are submitted for excess emissions lasting 7 days or longer are now due 14 days after the initial occurrence. Previously, these reports were due 7 days after the initial occurrence.

### What are the changes to the Louisiana general conditions?

Both Title V and minor permits contain Louisiana general conditions. Changes include:

- Semiannual construction reports associated with modifications are no longer required.
- Written reports that are submitted for excess emissions lasting 7 days or longer are now due

14 days after the initial occurrence. Previously, these reports were due 7 days after the initial occurrence.

- Provisions of a newly issued permit may still be appealed, but now only those specific provisions will be suspended during the appeal process. The remainder of the permit will now remain in effect.
- Each specific requirement in the permit must be accompanied by an underlying state or federal regulation. If there is a discrepancy between the requirement and the underlying regulation (or if the regulation is modified during the life of the permit), then the regulation takes precedence.

### What other changes do I need to be concerned about?

The changes listed above are to the *most recent version* of the general conditions. Permits issued at an earlier date may have additional changes. Every permittee should compare his general conditions to the newest version.

### Where can I find a copy of the new general conditions?

Providence has attached the new conditions as part of this PROVision. The conditions are, for the first time, codified in the Louisiana Administrative Code (LAC) under LAC 33:III.535 and LAC 33:III.537.

### When do these new general conditions take effect?

The new conditions were published in the *Louisiana Register* on 20 April 2009 and are effective immediately. In addition, they supersede the general conditions in all currently active permits, regardless of the date of issue.

*For further questions concerning this rule and other air quality management issues, please contact Yousheng Zeng, Ph.D., P.E. using the following contact information.*



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**§535. Part 70 General Conditions**

- A. The Part 70 General Conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each *Part 70 source* as defined in LAC 33:III.502 upon issuance of the initial Part 70 permit for the source and shall continue to apply until such time as the Part 70 permit is terminated, rescinded, or replaced in its entirety by a state (minor source) permit issued pursuant to LAC 33:III.501. These Part 70 General Conditions shall supersede any previous versions of such conditions contained in Part 70 permits.

<b>40 CFR Part 70 General Conditions</b>	
A.	The term of the permit shall be five years from date of issuance unless otherwise specified. Unless a timely and complete renewal application has been submitted pursuant to LAC 33:III.507, the permit shall expire at the end of the effective duration. Permit expiration terminates the owner's and operator's right to operate the source pursuant to 40 CFR 70.7(c)(ii). Any permit application to renew an existing permit shall be submitted at least six months prior to the date of permit expiration, or at such earlier time as may be required by the existing permit or approved by the permitting authority. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration. Operation may continue under the conditions of the permit during the period of the review of the application for renewal.
B.	The conditions of the permit are severable; and if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of that provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
C.	The permittee shall comply with all conditions of the 40 CFR Part 70 permit. Any permit noncompliance constitutes a violation of the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
D.	It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
E.	The permit does not convey any property right of any sort, or an exclusive privilege.
F.	The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the permitting authority copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to the administrator along with a claim of confidentiality. A claim of confidentiality does not relieve the permittee of the requirement to provide the information.
G.	The permittee shall pay fees in accordance with LAC 33:III.Chapter 2 and 40 CFR 70.6(a)(7).
H.	Upon presentation of such credentials and other documents as may be required by law, the permittee shall allow the permitting authority or authorized representative to: <ol style="list-style-type: none"> <li>1. enter upon the permittee's premises where a 40 CFR Part 70 source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit;</li> <li>2. have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;</li> <li>3. inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and</li> <li>4. as authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.</li> </ol>
I.	All required monitoring data and supporting information shall be kept available for inspection at the facility or alternate location approved by the agency for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes calibration and maintenance records and all original strip-chart recordings from continuous monitoring instrumentation, and all reports required by the permit.
J.	Records of required monitoring shall include the following: <ol style="list-style-type: none"> <li>1. the date, place as defined in the permit, and time of sampling or measurements;</li> <li>2. the dates analyses were performed;</li> <li>3. the company or entity that performed the analyses;</li> <li>4. the analytical techniques or methods used;</li> <li>5. the results of such analyses; and</li> <li>6. the operating conditions that existed at the time of sampling or measurement.</li> </ol>
K.	The permittee shall submit, at least semiannually, a report of any required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements. For previously-reported deviations, in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be certified by a responsible official and submitted to the Office of Environmental Compliance by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June. The semiannual report shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation. The semiannual report may include any semiannual deviation report required to be submitted by March 31 or September 30 in accordance with Part 70 General Condition R as long as the report clearly indicates

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this, and all required information is included and clearly delineated in the consolidated report.

- L. The permittee shall submit at least semiannual reports on the status of compliance pursuant to 40 CFR 70.5(c)(8) and a progress report on any applicable schedule of compliance pursuant to 40 CFR 70.6(c)(4).
- M. Compliance certifications required by LAC 33:III.507.H.5 shall be submitted to the administrator as well as the permitting authority. For previously-reported compliance deviations, in lieu of attaching the individual deviation reports, the annual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The compliance certifications shall be submitted to the Office of Environmental Compliance by March 31 for the preceding calendar year. The compliance certification shall be submitted for each reporting period after the permit has been issued, including during any construction phase and regardless of whether the facility or unit was in operation.
- N. If the permittee seeks to reserve a claim of an affirmative defense as provided in LAC 33:III.507.J.2, the permittee shall, in addition to complying with any emergency or upset provisions in any applicable regulation, notify the permitting authority within two working days of the time when emission limitations were exceeded due to the occurrence of an upset, as defined in LAC 33:III.507.J.1. In the event of such an upset, which results in excess emissions, the permittee shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:
  1. an upset occurred and the cause was identified;
  2. the permitted facility was being operated properly at the time;
  3. during the period of the upset, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standard or requirement of the permit; and
  4. the permittee notified the permitting authority in accordance with LAC 33:I.Chapter 39.
- O. The permittee shall maintain emissions at a level less than or equal to that provided for under the allowances that the 40 CFR Part 70 source lawfully holds in accordance with Title IV of the Clean Air Act or the regulations promulgated thereunder. No permit revision shall be required for increases in emissions that are authorized by allowances acquired in accordance with the federal acid rain program (40 CFR Parts 72-78), provided that such increases do not require a permit revision under any other applicable requirement. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.
- P. Any permit issued in accordance with 40 CFR Part 70 may be subject to reopening prior to the expiration of the permit for any of the conditions specified in 40 CFR 70.7(f) or LAC 33:III.529.
- Q. The permittee may request an administrative amendment to the permit to incorporate test results from compliance testing if the criteria in LAC 33:III.523.A.1.a-f are met.
- R. The permittee shall submit prompt reports of all permit deviations as specified below to the Office of Environmental Compliance. All such reports shall be certified by a responsible official as defined in LAC 33:III.502.A.
  1. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33:I.Chapter 39.
  2. A written report shall be submitted for any emission in excess of permit emission limitations, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.
  3. A written report shall be submitted semiannually to address all permit deviations not included in Paragraph 1 or 2 of Part 70 General Condition R. Unless required by an applicable reporting requirement, a written report is not required during periods in which there is no deviation. The semiannual deviation reports may be consolidated with the semiannual reports required by Part 70 General Condition K as long as the report clearly indicates this, and all required information is included and clearly delineated in the consolidated report. For previously-reported permit deviations (not reported in accordance with Paragraph 1 or 2 of Part 70 General Condition R), in lieu of attaching the individual deviation reports, the semiannual report may clearly reference the communications or correspondences constituting the prior report, including the date the prior report was submitted. The semiannual report shall be submitted by March 31, for the preceding period encompassing July through December, and by September 30, for the preceding period encompassing January through June.
  4. Any written report submitted in advance of the time frames specified in Paragraphs 1-3 of Part 70 General Condition R, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided the report is certified in accordance with 40 CFR 70.5(d) and contains all information relevant to the permit deviation. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33:I.Chapter 39, LAC 33:III.Chapter 9, and LAC 33:III.5107.
- S. The permittee shall continue to comply with applicable requirements on a timely basis, and shall meet on a timely basis applicable requirements that become effective during the permit term.
- T. The permittee shall comply with the standards for recycling and emissions reduction in 40 CFR Part 82, Subpart F, except as provided for Motor Vehicle Air Conditioners (MVACs) in Subpart B.
  1. Persons opening appliances for maintenance, service, repair, or disposal must comply with the practices required in 40 CFR 82.156.
  2. Equipment used during the maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment in 40 CFR 82.158.
  3. Persons maintaining, servicing, repairing, or disposing of appliances must be certified by an approved technician certification program in accordance with 40 CFR 82.161.
  4. Persons disposing of small appliances and MVACs, and MVAC-like appliances as defined in 40 CFR 82.152, must comply with recordkeeping requirements in 40 CFR 82.166.
  5. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements in 40 CFR 82.156.
  6. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of refrigerant purchased and added to such appliances in accordance with 40 CFR 82.166.

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- U. If the permittee performs a service on motor vehicles that involves an ozone-depleting substance refrigerant (or a regulated substitute substance) in the motor vehicle air conditioner (MVAC), the permittee is subject to all the applicable requirements specified in 40 CFR Part 82, Subpart B, Servicing of Motor Vehicle Air Conditioners. The term “motor vehicle” as used in Subpart B does not include a vehicle whose final assembly has not been completed. The term “MVAC” as used in Subpart B does not include an air-tight sealed refrigeration system used for refrigerated cargo, or a system used on passenger buses that uses HCFC-22 refrigerant.
- V. Data Availability for Continuous Monitoring, or Monitoring to Collect Data at Specific Intervals. Except for monitoring malfunctions, associated repairs, and required quality assurance or control activities (including calibration checks and required zero and span adjustments), the permittee shall conduct all monitoring in continuous operation (or shall collect data at all required intervals) at all times that the emissions unit is operating. For purposes of reporting monitoring deviations under Part 70 General Conditions K and R, and unless otherwise provided for in the permit or an applicable federal or state regulation, the minimum degree of data availability shall be at least 90 percent (based on a monthly average) of the operating time of the emissions unit or activity being monitored. This Condition does not apply to leak detection and repair (LDAR) programs for fugitive emissions (e.g., 40 CFR 60 Subpart VV, 40 CFR 63 Subpart H).
- W. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation. This Condition shall not be construed as a “permit shield” as described in 40 CFR 70.6(f) and LAC 33:III.507.1.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:658 (April 2009).

**§537. Louisiana General Conditions**

- A. The Louisiana General Conditions listed in the table in this Section (numbered as historically designated in a permit) apply to each source that requires an air permit according to LAC 33:III.501 upon issuance of the initial air permit for the source and shall continue to apply until such time as the permit is terminated or rescinded. These Louisiana General Conditions shall supersede any previous versions of such conditions contained in air permits.

<b>Louisiana Air Emission Permit General Conditions</b>	
I.	Permits are issued on the basis of the emissions reported in the application for approval of emissions and in no way guarantee that the design scheme presented will be capable of limiting the emissions to the type and quantities stated. Failure to install, properly operate, and/or maintain all proposed control measures and/or equipment as specified in the application and supplemental information shall be considered a violation of the permit and LAC 33:III.501. If the emissions are determined to be greater than those allowed by the permit (e.g., during the shakedown period for new or modified equipment) or if proposed control measures and/or equipment are not installed or do not perform according to design efficiency, an application to modify the permit must be submitted. All terms and conditions of the permit shall remain in effect unless and until revised by the permitting authority.
II.	The permittee is subject to all applicable provisions of the Louisiana Environmental Quality Act (the EQA, R.S. 30:2001 et seq.) and the Louisiana air quality regulations. Violation of any of the terms and conditions of the permit constitutes a violation of the EQA.
III.	The Emission Rates for Criteria Pollutants, Emission Rates for TAP/HAP and Other Pollutants, and Specific Requirements sections of the permit establish the emission limitations and are a part of the permit. Any operating limitations are noted in the Specific Requirements of the permit.
IV.	A permit issued in advance of commencement of construction shall become invalid, for the sources not constructed, if: <ul style="list-style-type: none"> <li>A. construction is not commenced, or binding agreements or contractual obligations to undertake a program of construction of the project are not entered into, within two years (18 months for PSD permits) after issuance of the permit; or</li> <li>B. construction is discontinued for a period of two years (18 months for PSD permits) or more.</li> </ul> The permitting authority may extend this time period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. However, each phase must commence construction within two years (18 months for PSD permits) of its projected and approved commencement date.
V.	Reserved.
VI.	The permittee shall notify the Department of Environmental Quality, Office of Environmental Services, of construction completion, within ten calendar days from the date that construction is complete, and provide the estimated date of start-up of operation. The appropriate Regional Office shall also be so notified within the same time frame.
VII.	Any emissions testing performed for purposes of demonstrating compliance with the limitations set forth in Louisiana General Condition III shall be conducted in accordance with the methods described in the Specific Requirements of the permit. Any deviation from or modification of the methods used for testing shall have prior approval from the Office of Environmental Assessment.
VIII.	The emission testing described in Louisiana General Condition VII, or established in the Specific Requirements of the permit, shall be conducted within 60 days after achieving normal production rate or after the end of the shakedown period, but in no event later than 180 days after initial start-up (or restart-up after modification). The Office of Environmental Assessment shall be notified at least 30 days prior to testing and shall be given the opportunity to conduct a pretest meeting and observe the emission testing. The test results shall be submitted to the Office of Environmental Assessment within 60 days after the completion of testing. As required by LAC 33:III.913, the permittee shall provide necessary sampling ports in stacks or ducts and such other safe and proper sampling and testing facilities as are necessary for proper determination of the emission limits.
IX.	The permittee shall, within 180 days after start-up and shakedown of each project or unit, report to the Office of Environmental Compliance any significant difference in operating emission rates as compared to those limitations specified in Louisiana General Condition III. This report shall also include, but not be limited to, malfunctions and upsets. A request for permit modification shall be submitted, if necessary, as required in Louisiana General Condition I.
X.	The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of the permit for a minimum of at least five years.
XI.	If for any reason the permittee does not comply with, or will not be able to comply with, the emission limitations specified in the permit, the permittee shall provide the Office of Environmental Compliance with a written report as specified below. <ul style="list-style-type: none"> <li>A. A written report shall be submitted within seven days of any emission in excess of permit requirements by an amount greater than the reportable quantity established for that pollutant in LAC 33:III.39.</li> <li>B. A written report shall be submitted for any emission in excess of permit emission limitations, regardless of the amount, where such emission occurs over a period of seven days or longer. The report shall be submitted no later than 14 days from the initial occurrence of the release event.</li> <li>C. A written report shall be submitted semiannually to address all emission limitation exceedances not included in Paragraph A or B of Louisiana General Condition XI. The semiannual report shall be submitted by March 31 for the preceding period encompassing July through December, and by September 30 for the preceding period encompassing January through June.</li> <li>D. Each report submitted in accordance with this Condition shall contain the following information: <ol style="list-style-type: none"> <li>1. a description of noncomplying emissions;</li> <li>2. the cause of noncompliance;</li> <li>3. the anticipated time the noncompliance is expected to continue or, if it has been corrected, the duration of the period of noncompliance;</li> <li>4. the steps taken by the permittee to reduce and eliminate the noncomplying emissions; and</li> </ol> </li> </ul>

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5. the steps taken by the permittee to prevent recurrences of the noncomplying emissions.  
E. Any written report submitted in advance of the time frames specified in Paragraphs A-C of Louisiana General Condition XI, in accordance with an applicable regulation, may serve to meet the reporting requirements of this Condition provided all information specified in Paragraph D of Louisiana General Condition XI is included. For Part 70 sources, reports submitted in accordance with Part 70 General Condition R set forth in LAC 33:III.535.A shall serve to meet the requirements of this Condition provided all specified information is included. Reporting under this Condition does not relieve the permittee from the reporting requirements of any applicable regulation, including LAC 33:I.Chapter 39, LAC 33:III.Chapter 9, and LAC 33:III.5107.

XII. The permittee shall allow the authorized officers and employees of the Department of Environmental Quality, at all reasonable times and upon presentation of identification, to:

- A. enter upon the permittee's premises where regulated facilities are located, where regulated activities are conducted, or where records required under the permit are kept;
- B. have access to and copy any records that are required to be kept under the terms and conditions of the permit, the Louisiana Environmental Quality Act, or the federal Clean Air Act;
- C. inspect any facilities, equipment (including inspections of monitoring methods and operation and maintenance inspections), or operations regulated under the permit; and
- D. sample or monitor, for the purpose of assuring compliance with the permit or as otherwise authorized by the Clean Air Act or regulations adopted thereunder, any substances or parameters at any location.

XIII. If samples are taken under Louisiana General Condition XII, the officer or employee obtaining such samples shall give the owner, operator, or agent in charge a receipt describing the samples obtained. If requested to do so prior to leaving the premises, the officer or employee shall give a portion of each sample equal in volume or weight to the portion retained to the owner, operator, or agent in charge. If an analysis is made of such samples, a copy of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

XIV. The permittee shall allow authorized officers and employees of the Department of Environmental Quality, upon presentation of identification, to enter upon the permittee's premises to investigate potential or alleged violations of the Clean Air Act or the regulations adopted thereunder. In such investigations, the permittee shall be notified at the time entrance is requested of the nature of the suspected violation. Inspections under this Condition shall be limited to the aspects of alleged violations. However, this shall not in any way preclude prosecution of all violations found.

XV. Reserved.

XVI. In the event of any change in ownership of the source described in the permit, the permittee and the succeeding owner shall notify the Office of Environmental Services in accordance with LAC 33:I.Chapter 19.

XVII. Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must:

- 1. generally be less than 5 TPY;
- 2. be less than the minimum emission rate (MER);
- 3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or
- 4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example).

This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.

XVIII. Provisions of the permit may be appealed to the secretary in writing pursuant to La. R.S. 30:2024(A) within 30 days from notice of the permit action. Only those provisions specifically appealed will be suspended by a request for hearing, unless the secretary or the assistant secretary elects to suspend other provisions as well. Construction cannot proceed, except as specifically approved by the secretary or assistant secretary, until a final decision has been rendered on the appeal. A request for hearing must be sent to the Office of the Secretary.

XIX. If any Part 70 General Condition conflicts with any Louisiana General Condition, then the Part 70 General Condition controls. If any Part 70 General Condition duplicates any Louisiana General Condition, then the Part 70 and Louisiana provisions shall be enforced as one Condition.

XX. Associated with each Specific Requirement in the permit shall be a citation of a federal or state regulation upon which the authority to include that Specific Requirement is based. In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009).