



JOHN BEL EDWARDS
GOVERNOR

State of Louisiana
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

THOMAS F. HARRIS
SECRETARY

MONIQUE M. EDWARDS
COMMISSIONER OF CONSERVATION

August 29, 2023

The Honorable Patrick Page Cortez, Senate President
The Honorable Bob Hensgens, Senate Natural Resource Committee Chairman
The Honorable Clay Schexnayder, Speaker of the House
The Honorable Jean-Paul Coussan, House Natural Resources and Environment Committee Chairman

Via Statutorily Prescribed E-mail

Re: Summary Report of Proposed Amendment to
Office of Conservation Rules and Regulations
Venting and Flaring of Natural Gas
LAC 43:XIX.103, 3503, 3507, 3509, 3511

Dear Oversight Authorities,

The Commissioner of Conservation proposes to amend LAC 43:XIX.103, 3503, 3507, 3509, and 3511 in accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed rule prohibits venting and flaring of natural gas except as authorized in Subpart 15. Benefits of these amendments include reducing natural gas waste and recovering reserves.

In accordance with La R.S. 49:966 (B) and (C), the Commissioner forwarded a Notice of Intent on July 7, 2023 for the proposed amendments to the appropriate legislative committees, presiding officers of the House and Senate, and other state offices.

A public comment period was open until August 21, 2023, which afforded interested parties an opportunity to comment on the proposed rule amendments. Pursuant to La R.S. 49:966 (D)(1)(b), the Commissioner of Conservation submits the following summary report.

I. La R.S. 49:966 (D)(1)(b)(i) – A summary of public hearing testimony:

No hearing was requested so no hearing was held.

II. La R.S. 49:966 (D)(1)(b)(ii) – A summary of all comments received, a copy of the agency’s responses, and a statement of the agency’s action resulting from comments received:

The agency received written comments regarding the proposed amendments to LAC 43:XIX.103, 3503, 3507, 3509, and 3511. Over one-hundred-forty (140) comments were received from various interested parties in support of the proposed amendments and do not include technical feedback that warrant a response. Copies of the referenced comments are grouped together as comments in support. Some of these comments included concern for evaluation of economic hardship; however, consideration of economic hardship is included in §3507.B and is a necessary criteria to evaluate for oil and gas production operations.

Comments which warrant specific responses to the text of the rule as received in ascending order by date are from Mr. Larry L. Bates, Founder/President/CEO of Ryca Energy Partners, LLC; Mr. Craig McMillin, Vice President of HSE and Carbon with BPX Operating Company (bpx); Ms. Elizabeth Lieberknecht, Midcontinent Regulatory and Legislative Manager of the Environmental Defense Fund (EDF); Mr. Tommy Faucheux, President of the Louisiana Mid-Continent Oil and Gas Association; and Mr. Mike Moncla, President of the Louisiana Oil and Gas Association.

The comments received are summarized below. The proposed actions by the agency follow each comment and are in italics.

Summary of written comments on LAC 43:XIX.103, 3509 from Mr. Larry L. Bates

- We propose to add language to “Application to Drill” that would be specific to stripper wells. Language could be added as A.4 that stripper wells are exempt from A.3.
Section 3509 specifically excludes stripper wells from the requirement. The Office of Conservation plans to generate a checklist to accompany the Permit to Drill Application to satisfy the requirements of the proposed LAC 43:XIX.103.A.3 which will include an option for proposed stripper wells.
- We propose that “Exceptions and Hearings” should be changed to read “Exceptions, Exemptions, and Hearings.”
The rule has read Exceptions and Hearings and does not need to be changed.
- Item §3509.A.2 could be changed to read “recognized stripper areas and stripper wells certified by the Louisiana Department of Revenue are exempt”
Section 3509.A.2 references an exception to the rule in recognized stripper areas. Recognized stripper areas are those Fields defined as such via the annual Stripper Field designation as part of the Annual Production Fee as well as wells certified by the Louisiana Department of Revenue as stripper. A change in the rule is not warranted.

Summary of written comments on LAC 43:XIX.3507, 3509, 3511 from Mr. Craig McMillin

- In §3507.A, bpx requests the following changes: “The venting of natural gas from any well producing in the state of Louisiana is hereby expressly prohibited except in those instances where ~~permissible~~ routine flaring as specified in §3507.B is not an economical or safe alternative or those instances which are included as exceptions under §3509.”
The rule language has been updated as suggested.
- In §3507.D, bpx requests the following changes: “Any ~~permissible~~ flares allowed under this subpart must be placed a sufficient distance from wells, storage tanks, and any other significant structures or objects so that the flare does not create a safety hazard.”
The rule language has been changed to remove “permissible.”

- In §3507.E, bpx requests the following changes: “Any permissible venting or flaring allowed under this Subpart, except in those instances which are included as exceptions under §3509, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.”
The rule language has been changed to clarify that “Any permissible venting or flaring, except in those instances which are included as exceptions under §3509.A.3, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.”
- In §3509.A.3, bpx requests the following changes: “venting or flaring during drilling, completion, and hydraulic fracturing operations, and during workover or intervention operations.”
The rule language has been changed to “venting or flaring during drilling, completion, and hydraulic fracturing operations, workover, intervention, and maintenance operations.”
- In §3511.A (Violations), bpx requests the following changes: “However, any venting or flaring which contradicts ~~the spirit or intent of~~ this Statewide Order shall be a violation...”
The rule language has been changed to “~~Unless specifically prohibited by the commissioner or his authorized staff, the venting or flaring of gas due to unavoidable situations will not be considered a violation of this Statewide Order. However, a~~Any venting or flaring which contradicts ~~the spirit or intent of~~ this Statewide Order shall be a violation hereof, and subject the operator to appropriate regulatory sanctions.”

Summary of written comments on LAC 43:XIX.103, 3507, 3511 from EDF

- Recommends a clarifying change to proposed §103.A.3.b.iii. This provision allows an operator who cannot certify connection to a gathering system to submit a gas capture plan “that evaluates or selects” one or more beneficial uses. We suggest replacing the “or” in “evaluates or selects” with “and.”
The rule language has been changed to reflect “and” in lieu of “or.”
- Recommends a clarifying change to §3507.B – suggests revising the sentence to state “revenue or economic benefit from a beneficial use identified in §103.A.3.b.ii.I-IV exceeds the cost in implementing the same.”
The rule language has been modified as suggested with the understanding that the cost of implementing a beneficial use does not exceed the value of the economic benefit.
- Recommends a clarifying change to §3507.B - citation to §103 in §3507.B is incorrect- believes the proper citation is §103.A.3.b.iii.(a)-(d). The draft rule reflects §103.A.3.b.ii.I-IV which does not exist.
Rule language references to §103.A.3.b.ii.I-IV have been corrected to §103.A.3.b.iii.(a)-(d).
- Informational requirement of §3507.B.4 applies to “rate.” We assume this refers to rate of production of oil and gas for which an operator seeks an exception, however we suggest clarifying.
Section 3507.B.4 “rate” refers to the rate of natural gas to be flared. Applicants will be required to provide units with their application and if none are provided, they shall be requested by the District Manager.
- Informational requirement of §3507.B.5 applies to “length of time.” It is unclear if this is meant to refer to the length of time for which an operator seeks an exception or the length of time that the well for which the exception is requested has been producing.
Section 3507.B.5 “length of time” refers to the length of time for which the operator is requesting the exception for the well(s). Length of time is a variable factor based on evaluating criteria.

- Recommends definition of “unavoidable situations” in §3511.A. Suggested definition is “a sudden unavoidable failure, breakdown, event, or malfunction, beyond the reasonable control of the Operator, of any equipment or process that results in abnormal operations and requires correction but does not include an event arising from or related to an operator's negligence, failure to install appropriate equipment, or failure to perform scheduled maintenance.”
The rule language in §3509.A.3 has been amended to include “workover, intervention, and maintenance operations.” As such, reference to “unavoidable situations” is not necessary. The rule language in §3511.A has been amended to “~~Unless specifically prohibited by the commissioner or his authorized staff, the venting or flaring of gas due to unavoidable situations will not be considered a violation of this Statewide Order. However, a~~Any venting or flaring which contradicts the spirit or intent of this Statewide Order shall be a violation hereof, and subject the operator to appropriate regulatory sanctions.”
- Recommends clarifying changes to §3507.E – require operators to report the amount of venting or flaring during “unavoidable situations” and exempt activities.
The rule language in §3507.E has been amended to read “Any permissible venting or flaring, except in those instances which are included as exceptions under §3509.A.3, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.” Unavoidable situations has been removed from the rule.

Summary of written comments on LAC 43:XIX.3507, 3509, 3511 from Mr. Faucheux

- LMOGA comments that the scope of §3507.A seems limited and should be broadened to encompass routine flaring and the scenarios provided as exceptions in §3509.
Section 3507.A is specific to venting. Routine flaring is discussed in the following sections and venting exceptions are listed in §3509.
- Clarification of §3507.D. LMOGA is concerned that using undefined terms will create confusion. There are no “permissible” flaring instances in the rule- it prohibits all such actions unless exempted. LMOGA suggests amending §3507.D to state: “Any ~~permissible~~ flares allowed under this Subpart must be placed a sufficient distance...”
The rule language has been changed to remove “permissible.”
- Clarification of §3507.E. LMOGA is concerned that using undefined terms will create confusion. There are no “permissible” flaring instances in the rule – it prohibits all such actions unless exempted. LMOGA suggests amending §3507.E to state: “Any ~~permissible~~ venting or flaring allowed under this Subpart, except in those instances which are included as exceptions under §3509, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.”
Permissible flaring is intended to reflect routine flaring for conventional oil wells (vertical or directional wells with a GOR less than 2,001:1) and routine flaring approved after application as per §3507.B. The rule language in §3507.E has been changed to clarify that “Any permissible venting or flaring, except in those instances which are included as exceptions under §3509.A.3, shall be reported, including measured or estimated volumes of each, on the monthly OGP and R5D.”

- Expansion of §3509.A.3. The scope of §3509.A.3 seems limited and should be broadened to encompass routine flaring and the scenarios proved as exceptions in §3509.A.3. LMOGA suggests amending §3509.A.3 to state: “These rules and regulations shall govern the production of oil and gas or both in the state of Louisiana, except venting or flaring during drilling, completion and hydraulic fracturing operations, during maintenance activities such as liquid unloading, during workover or intervention operations, delineation or wildcat wells, sour oil wells with associated gas far down the decline curve, and declined oil wells with associated gas where uneconomic to install a gas line.”
The rule language in Section 3509.A.3 has been changed to reflect “venting or flaring during drilling, completion, and hydraulic fracturing operations, workover, intervention, and maintenance operations.” Liquids unloading is considered a maintenance operation. Delineation or wildcat wells shall have to comply with §3507.B.
- Rule 3511.A - LMOGA comments that the wording is overly vague and couple be interpreted too broadly. LMOGA suggests amending §3511.A as follows: “However, any venting or flaring which contradicts the spirit or intent of this Statewide Order shall be a violation [...]”
The rule language has been changed to “Unless specifically prohibited by the commissioner or his authorized staff, the venting or flaring of gas due to unavoidable situations will not be considered a violation of this Statewide Order. However, any venting or flaring which contradicts the spirit or intent of this Statewide Order shall be a violation hereof, and subject the operator to appropriate regulatory sanctions.”

Summary of written comments on LAC 43:XIX.103, 3507, 3509 from Mr. Mike Moncla

- In some instances, for maintenance work, equipment will have to be blown down and isolated. So, if spelling out venting as a result of maintenance activities for producing wells is exempt, that would remove any ambiguity.
The rule language in §3509.A.3 has been changed to reflect “venting or flaring during drilling, completion, and hydraulic fracturing operations, workover, intervention, and maintenance operations.”
- It would be beneficial to see venting for liquids unloading specifically excluded from this rule (perhaps in 3501). The interpretation of the order, as described in 3511, is that its intention is to minimize waste. That is a rather subjective topic. Having that specific exclusion would close that gap on a common practice to keep wells producing when they have fallen below critical velocity, have had corrosion batch treatments, etc.
The rule language in §3509.A.3 has been changed to reflect “venting or flaring during drilling, completion, and hydraulic fracturing operations, workover, intervention, and maintenance operations.” Liquids unloading is considered a maintenance operation.
- The new proposal addresses wells with GORs in excess of 2,000:1. It doesn’t seem clear that wells with GORs of less than 2,000:1 will still be allowed to flare without a lot of additional burden and time to prove things beyond today’s requirements. If we’re adapting to a new mindset that makes it difficult to flare, it should be made clear that there is NO change in how wells with GORs of less than 2000 are handled.
The proposed rule amendment speaks for itself. Routine flaring shall be considered permissible for conventional oil wells (vertical or directional wells with a GOR less than 2,001:1).

- The applicability is too broad in scope. As proposed, it is possible to interpret gas vented during maintenance activities would be subject to the proposed requirements of no venting, request to flare, and reporting. Liquid unloading is another example. Swabbing operations are used to vent gas to tanks in order to try to lift water off of the gas wells. This is a very common practice that pumpers in the field do when necessary, it's not something that is or can be scheduled.
The rule language in §3509.A.3 has been changed to reflect "venting or flaring during drilling, completion, ~~and~~ hydraulic fracturing operations, workover, intervention, and maintenance operations." Liquids unloading and swabbing are considered maintenance operations.
- A pipeline issue could shut operators in as water builds up and there is not enough gas to buck line pressure to get to sales. Water has to be blown off of the top and then the wells will produce normally. When this is done, there is gas that is sent to the water tank and vented. Again, this is not something that can be scheduled but happens.
The rule language in §3509.A.3 has been changed to reflect "venting or flaring during drilling, completion, ~~and~~ hydraulic fracturing operations, workover, intervention, and maintenance operations." Liquids unloading is considered a maintenance operation.
- Avoiding unnecessary flaring as well as bottlenecks in the approval processes would be beneficial to limiting the scope. We suggest the applicability be limited to primary gas, along with a definition of primary gas.
The amended rule is intended to prevent routine flaring of primary gas wells based on the GOR threshold of 2,000:1.
- If there are specific activities associated with primary gas production that are allowed to be vented or flared, these should be outlined in the rule text, i.e. wildcat wells, delineation wells, stripper wells, and declined oil wells where it's uneconomic to install a gas line.
An exception is listed in §3509.A.2 for stripper wells. The rule language in Section 3509.A.3 has been changed to reflect "venting or flaring during drilling, completion, ~~and~~ hydraulic fracturing operations, workover, intervention, and maintenance operations." All others must apply for an exception as referenced in §3507.B.
- Section 103.A.3 iii. IV. Other alternative beneficial use that does not result in venting or flaring could be very problematic. Not only is this a condition to obtaining a drilling permit, it is also a continuing requirement for a producing well pursuant to 3507. B. Because other alternative beneficial use is not defined, it could force an operator to make capital investments in activities completely unrelated to oil and gas. This type of ambiguous language allows environmental groups to sue regulators for lack of enforcement. The first thing that came to mind as another beneficial use was bitcoin mining... no thanks. LOGA suggests that A.3 iii. IV be struck or deleted altogether.
Section A.3.b.iii.(d) is one of the options permissible to the applicant. The applicant will suggest the alternative beneficial use or have the opportunity to select from the remaining options.

- With regards to stripper wells we propose the following suggestions that would help clarify the current form of the NOI. We propose adding language to the “Application to Drill.” Language could be added to A.4, that stripper wells are exempt from A.3. The operator can state the well is expected to be a stripper well on the form, then the permit can be granted. We also propose that “Exceptions and Hearing” should be changed to “Exceptions, Exemptions, and Hearing.” Lastly, item A.2 could be changed to read “recognized stripper areas and stripper wells certified by the Louisiana Department of Revenue are exempt.

Section 3509 specifically excludes stripper wells from the requirement. The Office of Conservation plans to generate a checklist to accompany the Permit to Drill Application to satisfy the requirements of the proposed LAC 43:XIX.103.A.3 which will include an option for proposed stripper wells. The rule has read Exceptions and Hearings and does not need to be changed. Recognized stripper areas are those Fields defined as such via the annual Stripper Field designation as part of the Annual Production Fee as well as wells certified by the Louisiana Department of Revenue as stripper. A change in the rule is not warranted.

Based on the comments received, minor changes or clarifications were made to the proposed amendments to LAC 43:XIX.103, 3503, 3507, 3509, and 3511.

III. La R.S. 49:966 (D)(1)(b)(iii) – A revision of the proposed rule since submitting the report of La R.S. 49:966 B, or a statement that no changes were made:

A revised copy of the proposed rule amendments to LAC 43:XIX.103, 3503, 3507, 3509, and 3511 is attached.

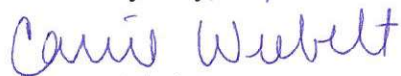
IV. La R.S. 49:966 (D)(1)(b)(iv) – A concise statement of the principal reasons for and against adoption of any amendments or changes suggested:

The proposed rule prohibits venting and flaring of natural gas except as authorized in Subpart 15. Benefits of these amendments include reducing natural gas waste and recovering reserves.

The Office of Conservation expects to publish the final rule in the Louisiana Register as soon as permissible under the Administrative Procedures Act. Please inform us of your decision on whether or not you intend to hold a hearing as permitted by La R.S. 49:966 (D)(2)(a).

Please contact me at 225-342-9380 if there are any questions.

Yours very truly,



Carrie Wiebelt
Director, Engineering-Administrative Division
Office of Conservation

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Attachments