

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Use of Reclaimed Oilfield Waste (ROW) for Downhole Well Operations (LAC 43:XIX.301, 303, 311, 313, 501, 519 & 565)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950, et seq) and Title 30 of the Louisiana Revised Statutes of 1950 (R.S. 30:4 et seq), the Louisiana Department of Natural Resources, Office of Conservation hereby gives notice of its intent to amend LAC 43:XIX Subpart 1 (Statewide Order No. 29-B) Chapter 3 (Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E&P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)) and Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells to expand the use of produced water for all downhole well operations and allow operator-to-operator transfers. Benefits of these amendments include conservation of fresh water resources; reduced costs associated with disposal, transportation and water sourcing; reduced truck traffic and strain on disposal infrastructure.

Title 43 NATURAL RESOURCES Part XIX. Office of Conservation—General Operations Subpart 1. Statewide Order No. 29-B

Chapter 3. Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E and P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)

Editor's Note: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the Title 43, Part XIX injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 Louisiana Register, page 2798, indicates the locations for the rules in each existing Section.

§301. Definitions

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ROW Fluid - Reclaimed Oilfield Waste fluid as defined in §501.

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Staging Location - a registered site used by the operator for receiving and storing Reclaimed Oilfield Waste fluid for use in that operator's onsite or nearby downhole well operations.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2798 (December 2000), amended LR 33:1653 (August 2007), LR 36:2570 (November 2010), LR 49: (2023).

§303. General Requirements

A.- O.6. ...

P. ROW fluid received by an operator regulated pursuant to this Chapter shall be used solely as media for downhole well operations. Upon receiving possession of ROW fluid from a commercial facility, wellsite or staging location, the operator shall be solely responsible for ensuring that this requirement is met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:254 (February 2004), LR 33:1654 (August 2007), LR 36:2570 (November 2010), LR 49: (2023).

§311. Pit Closure

A. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification, onsite land development, or other techniques approved by the Office of Conservation only if done so in compliance with §313 and §315. Otherwise, all E and P waste must be manifested according to §511 and transported offsite to a permitted commercial facility unless used in downhole well operations in accordance with the requirements of LAC 43:XIX.313.J.

B. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000), amended LR 33:1658 (August 2007), LR 35:2464 (November 2009), LR 40:2596 (December 2014), LR 49: (2023).

§313. Pit Closure Techniques and Onsite Disposal of E and P Waste

A. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of §313.C, D, E, F, or G below are met, as applicable. All E and P waste must be either disposed of on-site, used in downhole well operations in accordance with the requirements of LAC 43:XIX:313.J or transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX.Chapter 5 or under the direction of the commissioner.

B. – I.3. ...

J. Use of E and P Waste (Produced Water, Rainwater, Drilling, Workover, Completion and Stimulation Fluids) for Downhole Well Operations

1. Produced water, rainwater, drilling, workover, completion and stimulation fluids generated at a wellsite (originating wellsite) that are classified as E and P Waste as defined in LAC 43:XIX.501 may be transported offsite for use in downhole well operations at another wellsite (receiving wellsite) in accordance with the following provisions.

a. Nothing in this rule is intended to authorize interstate transfer of E and P Waste between different operators or the intrastate transportation, storage, treatment, use, or disposal of such E and P Waste.

- b. All residual waste generated in the treatment or processing of E and P Waste prior to its use in downhole well operations must be properly disposed of in accordance with the following:
- i. All residual waste generated as a result of treatment or processing conducted at the originating wellsite must be either disposed of onsite at the originating wellsite in accordance with all the requirements of LAC 43:XIX.311 and 313, except and not including Subsection 313.J, or offsite in accordance with the requirements of LAC 43:XIX.Chapter 5.
 - ii. All residual waste generated as a result of treatment or processing conducted at the receiving wellsite meeting the definition of E and P Waste in LAC 43:XIX.501 must be disposed of offsite in accordance with the requirements of LAC 43:XIX.Chapter 5.
- c. The types and volumes of E and P Waste generated for use along with the well name and well serial number of the receiving wellsite, and the receiving operator (if different) must be reported on either Form ENG-16 (Oilfield Waste Disposition) for the originating well and/or Form ENG-17 (Reclaimed Oilfield Waste Fluid Tracking Ticket) and/or maintained in a substantively similar manifest system depending on the waste types involved. Waste tracking records documenting transfers between operators must be maintained for at least three years and must be submitted in a timely and legible manner to the Office of Conservation upon request.
- d. Operators must have authority from surface owners to store and use E and P Waste from an offsite location at the receiving wellsite or staging location.
- e. E and P Waste intended for use must be stored at the receiving wellsite or at a staging location operated by the same operator of record as the receiving wellsite in an above ground storage tank or a lined production pit which conforms to the liner requirements and operational provisions of LAC 43:XIX.307.A.
- f. The receiving operator assumes responsibility for ROW fluid once it is off-loaded from a transport or exits a transfer line at the receiving operator's staging location or wellsite.
2. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana shall be held harmless from and indemnified for any and all liabilities arising from use of E and P Waste pursuant to this Subsection, and the operator of record and the surface owner shall execute agreements as the commissioner requires for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000), amended LR 33:1659 (August 2007), LR 35:2464 (November 2009), LR 36:1265 (June 2010), LR 40:2596 (December 2014), LR 49: (2023).

Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

EDITOR'S NOTE: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 Louisiana Register, page 2798, indicates the locations for the rules in each existing Section.

EDITOR'S NOTE: Chapter 5 was amended in November 2001. A chart showing the restructuring of Chapter 5 is found on page 1898 of the Louisiana Register, November 2001.

§501. Definitions

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Reclaimed Oilfield Waste Fluid (ROW fluid)—a material that would otherwise be classified as E and P Waste, but which has been reclaimed for the sole use as media for Office of Conservation permitted downhole well operations

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Reusable Material—a material that would otherwise be classified as E and P Waste, but which is capable of resource conservation and recovery and has been processed in whole or in part for reuse. To meet this definition, the material must have been treated physically, chemically, or biologically or otherwise processed so that the material is significantly changed (i.e., the new material is physically, chemically, or biologically distinct from the original material), and meets the criteria §565.F. This term does not include ROW Fluid

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:536 (March 2017), LR 45:1600 (November 2019), LR 49: (2023).

§519. Permit Application Requirements for Commercial Facilities

A. – A.1. ...

2. A major modification to an existing commercial facility or transfer station permit is one in which the facility requests approval to include ROW fluid operations or make significant technological changes to an existing E and P Waste treatment and/or disposal system, including the construction and operation of additional equipment or systems to treat and/or dispose of E and P Waste streams other than those previously accepted by the facility. A major modification request may include a request to expand an existing commercial facility or transfer station onto adjacent property not previously permitted for E and P Waste disposal activities

A.3. - C.21. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2823 (December 2000), amended LR 27:1905 (November 2001), LR 29:938 (June 2003), LR 36:2570 (November 2010), LR 45:1601 (November 2019), LR 49: (2023).

§565. Resource Conservation and Recovery of Exploration and Production Waste

A. In order to encourage the conservation and recovery of resources in the oilfield industry, the processing of E and P Waste into reusable materials or ROW fluid, in addition to or beyond extraction

and separation methods which reclaim raw materials such as crude oil, diesel oil, etc., is recognized as a viable alternative to other methods of disposal.

B. Commercial facilities may function for the purpose of generating reusable material or ROW fluid only, or they may generate reusable material or ROW fluid in conjunction with other storage, treatment or disposal operations.

C. Commercial facilities that generate reusable material or ROW fluid are subject to all of the permitting requirements imposed on other commercial facilities. They are also subject to the same operational requirements without regard to the distinction between E and P Waste and reusable material or ROW fluid. Existing permits may be amended to allow re-use or ROW fluid operations at commercial facilities which acquire the capability to engage in processing for reuse or ROW fluid operations. Commercial facilities which utilize extraction or separation methods to reclaim raw materials such as crude oil, diesel oil, etc. may do so without amendment of existing permits.

D. – I. ...

J. Onsite use of E and P Waste for downhole well operations is permissible only as authorized by the Office of Conservation and in accordance with the requirements of LAC 43:XIX.313.J.

K. Existing commercial facilities who desire to commence ROW fluid operations must comply with the notification, application and permitting requirements of LAC 43:XIX.519.

L. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana upon issuance of a permit to a commercial facility operator for ROW fluid operations shall be held harmless from and indemnified for any and all liabilities arising from such operations and use of ROW fluid, and the commercial facility operator shall execute such agreements as the commissioner requires for this purpose.

M. Reporting. Each commercial facility which generates ROW fluid must furnish the commissioner a monthly report showing the disposition of all such material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 27:1916 (November 2001), amended LR 29:939 (June 2003), LR 34:1422 (July 2008), LR 36:2571 (November 2010), LR 49: (2023).

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as described in R.S. 49:965.6; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference “Use of Reclaimed Oilfield Waste (ROW) for Downhole Well Operations”. Such comments must be received no later than Friday, March 10, 2023, at 4:30 p.m., and should be sent to Mr. Chris Sandoz, Office of Conservation, Engineering Regulatory Division, P. O. Box 94275, Baton Rouge, LA 70804-9275; hand delivered to 617 North Third Street, 9th Floor, Baton Rouge, LA 70802; by email to christopher.sandoz@la.gov; or by fax to (225) 342-2584.

Public Hearing

If requested, a public hearing will be held on Tuesday, March 28, 2023 at 9:00 a.m. in the LaSalle Building, LaBelle Hearing Room, 617 N. Third Street, Baton Rouge, LA 70802. If accommodations are required under the Americans With Disabilities Act, please advise the Office of Conservation, Engineering Division at P.O. Box 94275, Baton Rouge, LA 70804-9275 in writing within ten (10) working days of the hearing date.

Richard P. Ieyoub
Commissioner of Conservation

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES **RULE TITLE: Use of Reclaimed Oilfield Waste (ROW) for Downhole Well Operations**

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change expands the use of produced water for all downhole well operations and allows operator-to-operator transfers, reducing costs associated with disposal, transportation and water sourcing. The intent of the proposed rule change is to expand the use of Exploration and Production (E&P) Waste in lieu of fresh water to conserve fresh water resources while protecting public health and the environment.

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

There is no effect on revenue collections of state or local government units anticipated due to the proposed rule change.

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

The primary group impacted by these rule changes will be Exploration and Production (E&P) companies. There are no anticipated cost increases associated with the proposed rule change. The proposed rule change may result in cost savings for certain E&P companies with high levels of activity in the Haynesville Shale Area.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.