



# Office of Environmental Services Update

Air & Waste Management Association  
Louisiana Section  
Environmental Focus 2014

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# Presentation Outline

- New Ozone Standard
- Advance Program
- Offsets and Banking
- EPA's Proposed Clean Power Plan
- SO<sub>2</sub> Nonattainment Update
- Proposed SO<sub>2</sub> Data Requirements Rule
- SIP Plans for Startups/Shutdowns/Malfunctions
- 316(b)
- Waters of the United States
- Current Water Quality Standards Projects
- Waste Regulations



## New Ozone Standard

EPA is set to propose a new ozone NAAQS later this year.

- A proposed standard between 60 and 70 parts per billion (ppb) is anticipated.
- Based on CASAC's insinuations that 70 ppb is not sufficiently protective, many believe the final standard will be somewhere between 65 and 68 ppb.



# New Ozone Standard

Implementation schedule assuming a proposal date of December 1, 2014:

- EPA has 1 year to finalize NAAQS – December 1, 2015.
- State has 1 year following promulgation to recommend designations – December 1, 2016.
  - Recommendations would be based on 2013 – 2015 design values.
  - Before designations are finalized, EPA must give states 120 days' notice to comment.



## New Ozone Standard

- EPA has another year (2 years from promulgation) to complete designations – December 1, 2017.
  - Designations may be extended for an additional year (2018) if EPA finds that it has insufficient information to make a designation.
    - EPA did so for the 1-hour SO<sub>2</sub> NAAQS.
  - If the standard is delayed, recommendations could possibly be based on 2014 – 2016 design values.







# Advance Program Participation

Baton Rouge: Baton Rouge Clean Air Coalition

- Active coalition working to keep Baton Rouge in attainment.

New Orleans: Regional Planning Commission

- Recently established a Clean Air Coalition.

Houma-Thibodaux: South Central Planning & Development

- Working to establish a coalition.





# Advance Program Participation

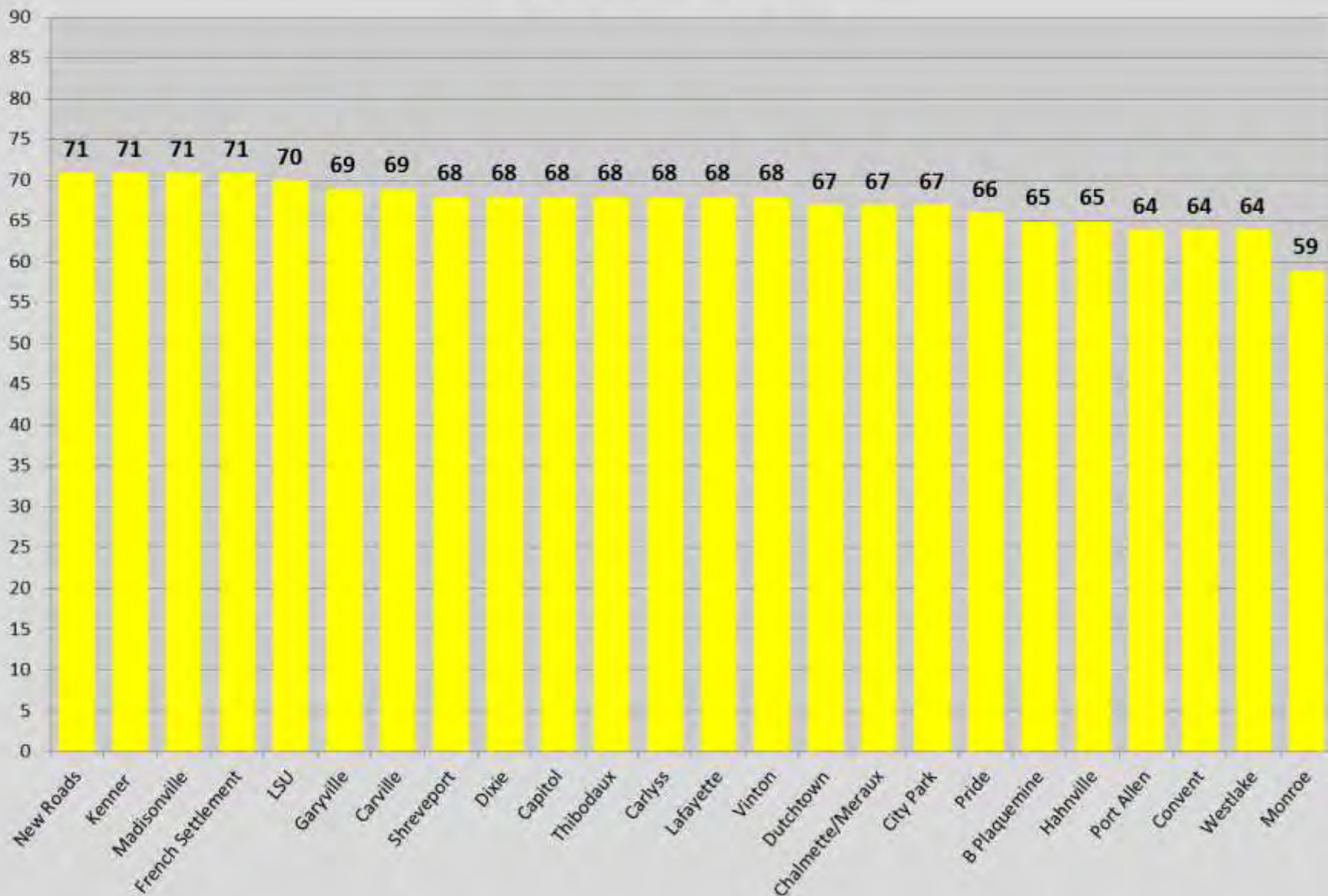
## Lafayette Consolidated Parish Government

- Pursuing transportation-related projects such as a CNG-fueled city bus fleet and CNG fueling stations.

## Cities of Shreveport & Bossier City

- Conducting sensitivity runs for control strategies;
- Pursuing energy-efficiency projects; and
- Implementing a public education and awareness program.

# 8-hr Design Value 2014





## Offsets and Banking

LDEQ will soon propose revisions to §504 and Chapter 6 allowing:

- for offset purposes, one ozone precursor ( $\text{NO}_x$  and VOC) to be substituted for another at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA; and
- reductions from mobile sources, *nonroad sources*, and *nonpoint sources* to be banked as emission reduction credits (ERC).

Bryan and Dr. McDaniel will discuss in more detail in tomorrow morning's session.



## EPA's Proposed Clean Power Plan

On June 18, 2014, EPA proposed a rule pursuant to its authority under section 111(d) of the Clean Air Act which will require states to regulate CO<sub>2</sub> from existing electric generation units (EGUs).

- LDEQ has a number of concerns with the rule, both its legal basis and the data EPA used to calculate Louisiana's state goal.
- Comments are due December 1, 2014.

Bryan will discuss in more detail at tomorrow morning's Air Permits Update.



# SO<sub>2</sub> Nonattainment Update

- St. Bernard Parish is the only SO<sub>2</sub> nonattainment area in Louisiana.
- State Implementation Plans (SIPs) are due on April 6, 2015.
- LDEQ and Industry representatives are collaborating on attainment modeling.
- The attainment deadline is October 2018.



## SO<sub>2</sub> Data Requirements Rule

On May 13, 2014, EPA proposed its “Data Requirements Rule” for the 1-hour SO<sub>2</sub> NAAQS.

Affected sources (3 options were proposed):

- Option 1: SO<sub>2</sub> emissions > 1000 TPY in metro areas (population > 1 million); SO<sub>2</sub> emissions > 2000 TPY everywhere else.
- Option 2: SO<sub>2</sub> emissions > 2000 TPY in metro areas; SO<sub>2</sub> emissions > 5000 TPY everywhere else.
- Option 3: SO<sub>2</sub> emissions > 3000 TPY in metro areas; SO<sub>2</sub> emissions > 10,000 TPY everywhere else.



## SO<sub>2</sub> Data Requirements Rule

Only New Orleans–Metairie has a 2013 population estimate in excess of 1 million.

For frame of reference (per 2012 ERIC data):

- 21 sources reported actual SO<sub>2</sub> emissions in excess of 1000 tons;
- 11 in excess of 5000 tons; but
- only 4 in excess of 10,000 tons.

LDEQ advocated Option 3.



## SO<sub>2</sub> Data Requirements Rule

LDEQ must state by January 15, 2016, whether it will characterize air quality through monitoring or modeling.

- For any area with multiple affected sources, the same technique (monitoring or modeling) must be used to characterize air quality for all sources in the area.

If monitoring is selected, all new or relocated ambient monitors must be operational by January 1, 2017.

If modeling is selected, LDEQ must submit a protocol to Region 6 by January 15, 2016, and the modeling analysis to Region 6 by January 13, 2017.





## SIP Plans to Address SSM

On February 22, 2013, EPA, in granting a petition submitted by the Sierra Club, concluded that the following LDEQ regulations are “substantially inadequate to meet CAA requirements” and proposed “to issue a SIP call”:

LAC 33:III.1107	Flares
LAC 33:III.1507.A.1	Sulfuric Acid Plants
LAC 33:III.1507.B.1	
LAC 33:III.2153.B.1.i	Industrial Wastewater Tanks
LAC 33:III.2201.C.8	Control of Emissions of NO <sub>x</sub>
LAC 33:III.2307.C.1.a	Nitric Acid Plants
LAC 33:III.2307.C.2.a	



## SIP Plans to Address SSM

These provisions ostensibly provide exemptions from SIP-approved limitations during periods of startup, shutdown, malfunction, and/or maintenance.

- LDEQ submitted comments countering EPA's conclusion.

The agreed-to deadline by which EPA will take final action on its proposal is now May 22, 2015.



## 316(b)

- Final Rule was published on August 15, 2014.
- Addresses cooling water intake structures (CWIS) with a design or actual intake flow of greater than 2 MGD AND that use 25% or more of this water for cooling
- Addresses both Impingement and Entrainment of organisms
- Application requirements and rule conditions must be implemented in permits by July 14, 2018, with some interim requirements (LDEQ is currently developing)



## 316(b)

- LDEQ is still reviewing and is developing language for applications and permits.
- States may utilize compliance schedules in permits
- Has been challenged in court. The challenges have been consolidated into the 4<sup>th</sup> Circuit.



## 316(b)

### Industry Challenges:

Cooling Water Intake Structure Coalition (CWISC), Utility Water Act Group (UWAG), and American Petroleum Institute (API) filed petitions for review in the 4<sup>th</sup>, 5<sup>th</sup>, and 7<sup>th</sup> Circuit Court of Appeals claiming the rule would present significant operational and compliance challenges mostly related to testing requirements that are unattainable for new facilities. Facility must exist to meet the submittal requirements.



## 316(b)

### Other Challenges:

Coalition of environmental groups (Riverkeeper, Waterkeeper Alliance, Sierra Club, Natural Resources Defense Council) filed a petition for review at the 1<sup>st</sup>, 2<sup>nd</sup>, and 9<sup>th</sup> Circuit Court of Appeals claiming that the rule fails to prescribe the best technology available (closed cycle cooling) which is required by Clean Water Act.



## 316(b)

- All suits have been consolidated in the 4<sup>th</sup> Circuit.
- Opening briefs were due by October 20, 2014.
- A response brief (EPA) is due by November 20, 2014.
- A clearer direction on the rule will be known after the response brief has been filed.



# Waters of the United States

Definition of “Waters of the United States” Under Clean Water Act, Docket Identification (ID) No. EPA-HQ-OW-2011-0880,

- Proposed April 21, 2014
- Comment deadline November 14, 2014 (extended from October 20, 2014)
- EPA and the Corps issued a draft rule that intended to incorporate several court decisions.
- LDEQ has concerns about the rules potential effects on agriculture and how the rule was developed.





# Waters of the United States

Concerns over the proposed definition of Waters of the U.S. include:

- the subjectivity inherent in the proposed definition,
- concerns over how the rule may affect voluntary conservation program participation and results,
- how it may affect traditional farming practices,
- that it improperly expands the holdings of the Supreme Court decisions to reach waters that are truly non-jurisdictional,
- and that it considers upland but not coastal wetlands



## The New Vision

- EPA and the states are working on a new Vision for improving water quality in the US.
- EPA is recognizing that TMDLs are not the only answer for improving water quality.
- Each state is being allowed to set its own priorities for developing watershed protection plans (in lieu of TMDLs).



## The New Vision

- Stakeholder involvement is essential and required in the new process. LDEQ expects to submit a draft framework for prioritization in December 2014.
- LDEQ expects to begin stakeholder involvement in the first quarter of 2015.
- The 2016 Integrated Report is required to contain our state's priorities for developing watershed protection plans (or TMDLs).



# Current Water Quality Standards Projects

1. Reviewing and revising criteria for dissolved oxygen in both coastal and inland areas.
2. Nutrient Management Strategy – Final in May, 2014. Currently working on the implementation phase.
3. Minerals ion breakdown and toxicity studies are being conducted.
4. Anti-degradation rule expected to be promulgated in November 2014.



# Solid Waste Regulations Revisions

- **Purpose:** develop a path forward to implement opportunities for streamlining the permit process and develop recommendations for changes to both regulations and statutes
- **Strategy:** regulations being amended based on recommendations from a comprehensive workgroup
- **Stakeholders:** representatives of environmental protection groups; regulated industry; LA Chemical Assoc. (LCA); LA Mid-Continent Oil & Gas Assoc. (LMOGA); geologists; consultants; engineers; attorneys; and LDEQ personnel from permitting, geology, engineering, surveillance & enforcement
- **Anticipated Results:** three major phases of revisions



## Solid Waste Regulations Revisions

- Phase I - final November 20, 2011
- Phase II - Recycling & Vegetative Debris– SW060
- Phase III - Geology & Groundwater



## Phase II - Summary of Proposed Changes

- Proposed Rule SW060 is ready for review by the Executive Staff
- Entire workgroup will resume meetings to review the draft rule after internal LDEQ review is complete
- Focus of SW060
  - Encourage resource recovery (aka, recycling, reuse)
  - Vegetative debris would be less regulated
  - Various other issues



## Phase III - Summary of Proposed Changes

- Geology & Groundwater Subgroup to reconvene in near future
  - Updating Chapter 8 (standards governing general facility geology, subsurface characterization, and facility groundwater monitoring for Type I, I-A, II, II-A, and III Facilities)
  - Major focus on 801 (general facility geology) and 805.D (assessment monitoring program for Type I and Type II facilities)





## Phase III - Summary of Proposed Changes

- Potential Revisions:
  - Soil boring requirements for Type III facilities
  - Clarification of the assessment requirements
  - Setting timelines for assessment submittals



## Questions/Comments?

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## Phase II - Summary of Proposed Changes

- Certain regulatory obstacles would be removed for conducting resource recovery/recycling activities
- “Resource Recovery” and associated terms would be excluded from the definition of “processing” of a solid waste, and vice versa
- Further clarification on “resource recovery activities” would be added



## Phase II - Summary of Proposed Changes

In order to ensure resource recovery activities are protective of human health and the environment, several safeguards would be emphasized and/or added:

- Solid waste to be recycled would still be classified as a solid waste
- The term “environmentally sound manner” would be defined in the regulations



## Phase II - Summary of Proposed Changes

- Emphasis would be added that recyclable materials are subject to proper storage requirements and speculative accumulation (i.e., maximum of one-year)
- Emphasis/clarification would be added that recyclable materials must be in such condition as to have value



## Phase II - Summary of Proposed Changes

- A new category of exempt waste with no storage or speculative accumulation requirements
  - Must be done in an environmentally sound manner
  - Examples – concrete, “uncontaminated” sand blast media, etc.
- Beneficial Use (Chapter 11)
  - Clarification of technical requirements
  - 3-tier approach (potentially impacted, impacted, other)



## Phase II - Summary of Proposed Changes

- Financial Assurance – continuation of cleanup from Phase I
- Type III-A – new processing category created
  - Substantive permitting requirements and standards not changed
  - Examples – C&D processing, woodwaste incinerators, etc.



## Phase II - Summary of Proposed Changes

- A new definition, broader in scope, would be created for “vegetative debris”
  - Defined as “discarded vegetative matter resulting from activities such as landscaping, landscape maintenance, and right-of-way or land-clearing operations, including trees, shrubs, leaves, limbs, stumps, grass clippings, and flowers”
  - Terms such as “yard trash” would no longer be used to describe “vegetative debris”





## Phase II - Summary of Proposed Changes

- “Vegetative debris” would be removed from the definition of “wood waste” (i.e., “processed” and “dimensional” lumber)
- Vegetative debris would be less regulated under certain circumstances
- Facilities managing vegetative debris would be less regulated under certain circumstances



## Phase II - Summary of Proposed Changes

- Annual Certification of Compliance (Section 525)
  - Clarification on general contents (includes post-closure)
  - Clarification on specific permit conditions requiring annual certification
  - Duly authorized representative would be allowed to sign



## Phase II - Summary of Proposed Changes

- Miscellaneous
  - Definitions added
  - Additional exemptions added
  - Re-notification of transporters
  - Minor changes to the permitting process
  - New streamlined emergency preparedness and contingency planning requirements
  - Other edits and miscellaneous changes