

# Development of Laws and Regulations



**AWMA Fall Conference**

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# **HOW REGULATIONS ARE MADE**

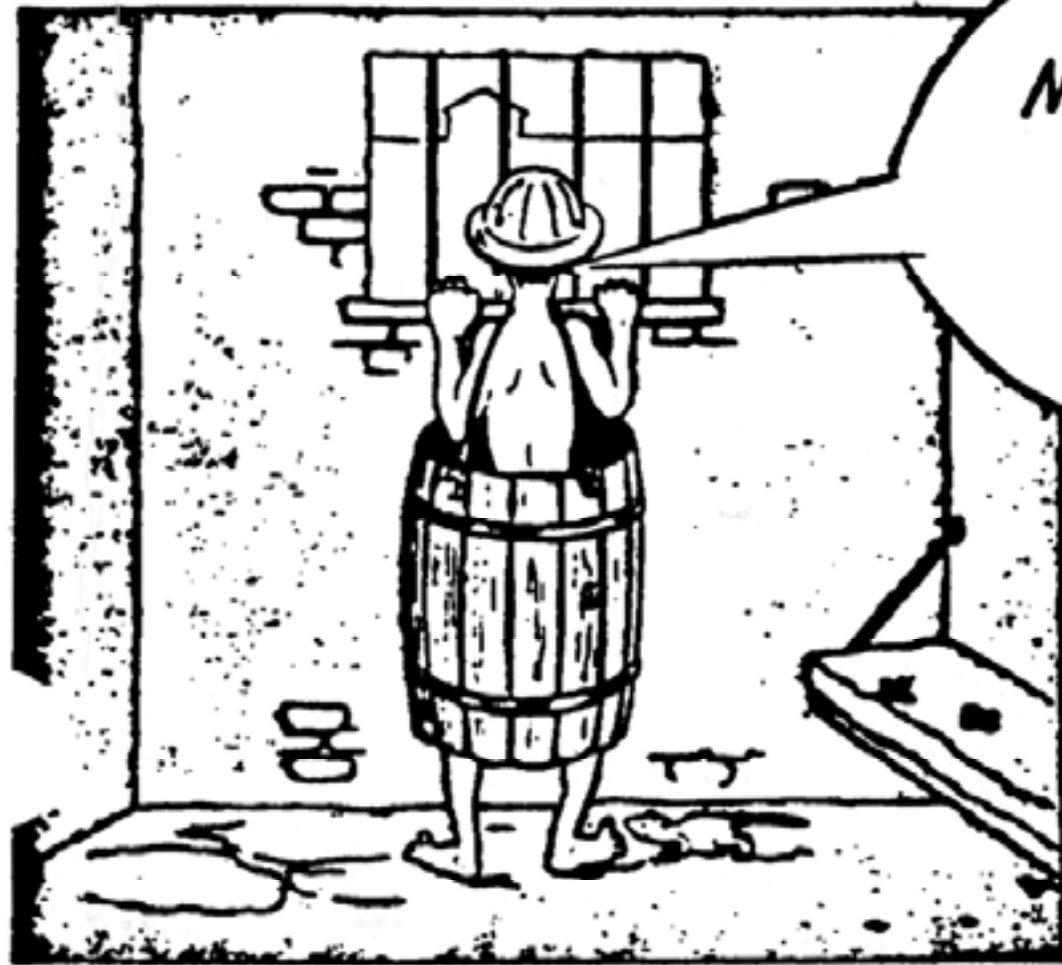
**ALTERNATE TITLE:**

**WHAT RICHARD AND HENRY  
ACTUALLY DO FOR A LIVING**

# OVERVIEW

- **WHY UNDERSTANDING THIS PROCESS IS IMPORTANT**
- **THE PROCESS**
- **HELPFUL HINTS/WORDS OF WISDOM**

**WHY UNDERSTANDING THE  
REGULATIONS IS IMPORTANT**



NEXT TIME  
I'LL READ  
MY RULEBOOK!

# THE PROCESS

- **LEGISLATIVE AUTHORIZATION**
- **OFFICIAL PROPOSAL IN LEGAL DOCUMENT**
- **COMMENT PERIOD**
- **RESPONSE TO COMMENTS**
- **LEGISLATIVE OVERSIGHT**
- **ADOPTION**

# LEGISLATIVE AUTHORITY

- **RULES CAN NOT BE WRITTEN  
UNLESS AUTHORIZED BY STATUTE**
- **SOME AUTHORIZATIONS BROAD**
- **OTHERS VERY SPECIFIC**



# **BROAD STATUTORY AUTHORITY**

**THE DEQ MAY WRITE RULES  
TO REDUCE THE LEVELS  
OF AIR CONTAMINANTS  
IN LOUISIANA**

# **LIMITED AUTHORITY**

**THE DEQ SHALL DEVELOP  
A LIST OF NOT MORE THAN  
100 TOXIC AIR POLLUTANTS  
PER THE FOLLOWING CRITERIA**

# OFFICIAL PROPOSAL

- **ALL PROPOSED RULES MUST APPEAR IN THE LOUISIANA REGISTER**
- **LOUISIANA REGISTER IS PUBLISHED ON THE 20<sup>TH</sup> OF EVERY MONTH**
- **[www.doa.louisiana.gov/osr/osr.htm](http://www.doa.louisiana.gov/osr/osr.htm)**

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**KATHLEEN BABINEAUX BLANCO**  
GOVERNOR

**JERRY LUKE LEBLANC**  
COMMISSIONER  
OF ADMINISTRATION



# COMMENT PERIOD

- **ALL PROPOSED RULES SPECIFY A COMMENT PERIOD**
- **AGENCIES VARY BUT DEQ USUALLY ABOUT 40 DAYS**
- **A PUBLIC HEARING MAY OR MAY NOT BE HELD BUT DEQ ALWAYS DOES USUALLY ABOUT 30 DAYS**
- **THERE IS NO DIFFERENCE IN WEIGHT BETWEEN ORAL OR WRITTEN COMMENTS**

# RESPONSE TO COMMENTS

- **ALL AGENCIES MUST PREPARE A “RESPONSE TO COMMENT” DOCUMENT**
- **THE DOCUMENT IDENTIFIES:**
  - **WHO SUBMITTED THE COMMENT**
  - **THE PROS/CONS OF ACCEPTING THE COMMENT**
  - **THE FINAL AGENCY ACTION ON THE COMMENT**

# RESPONSE TO COMMENT

- **VERY IMPORTANT DOCUMENT**
- **DOES HELP WITH UNDERSTANDING DEQ'S INTENT**
- **ESPECIALLY TRUE WHEN DEQ AGREES WITH COMMENT BUT MAKES NO WORDING CHANGE**

# LEGISLATIVE OVERSIGHT

- **ALL RULES PROPOSED FOR FINAL ADOPTION MUST BE APPROVED BY LEGISLATURE**
- **LEGISLATIVE OVERSIGHT SUBCOMMITTEE HAS 30 DAYS TO APPROVE/DISAPPROVE RULE ONCE RECEIVED**
- **IF SUBCOMMITTEE DOES NOT MEET, RULE IS AUTOMATICALLY APPROVED**



# LEGISLATIVE OVERSIGHT

- **IF SUBCOMMITTEE DOES NOT APPROVE RULE, IT CAN NOT BE ADOPTED**
- **GOVERNOR CAN OVERRIDE LEGISLATIVE SUBCOMMITTEE DISAPPROVAL OF A RULE**

# ADOPTION

- **THE FULL RULE MUST APPEAR IN THE LOUISIANA REGISTER TO BE CONSIDERED ADOPTED**
- **THE TEXT IN THE LOUISIANA REGISTER IS THE “OFFICIAL” RULE TEXT**

# DEQ SPECIAL REQUIREMENTS

- **RULES IDENTICAL TO FEDERAL RULES CAN BE “FAST TRACKED”**
- **“DIFFERENCES” FROM FEDERAL RULES MUST BE PROPOED SEPARATELY FROM RULES THAT ARE IDENTICAL TO THE FEDERAL RULE**
- **A COST AND RISK BENEFIT ANALYSIS MUST BE PERFORMED ON RULES THAT DIFFER FROM THE FEDERAL RULE AND HAVE A \$1,000,000 IMPACT**

# **HELPFUL HINTS/WORDS OF WISDOM**

**WORDS MEAN SOMETHING –  
READ THE WORDS CAREFULLY**

# HELPFUL HINTS/WORDS OF WISDOM

**“AND” MEANS “AND”**

**“OR” MEANS “OR”**

# HELPFUL HINTS/WORDS OF WISDOM

**“SHALL” MEANS “YOU MUST” –  
“SHOULD” OR “MAY” MEANS  
IT IS OPTIONAL**

# **HELPFUL HINTS/WORDS OF WISDOM**

**NEVER ASSUME YOU REMEMBER  
WHAT THE REGULATION REQUIRES –  
GO BACK AND READ IT CAREFULLY**

# **HELPFUL HINTS/WORDS OF WISDOM**

**THE PUBLISHED REGISTER VERSION IS  
THE “ONLY” OFFICIAL VERSION**



# **HELPFUL HINTS/WORDS OF WISDOM**

**THE REGULATIONS MAY NOT INCLUDE ALL KEY DEFINITIONS, TERMS, EXEMPTIONS – CHECKING THE UNDERLYING LAW MAY BE HELPFUL**

# **HELPFUL HINTS/WORDS OF WISDOM**

**CLARIFICATIONS MAY BE FOUND IN THE PREAMBLES (USUALLY FEDERAL RULES) OR IN THE RESPONSE TO COMMENTS**

# **HELPFUL HINTS/WORDS OF WISDOM**

**CLARIFICATIONS TO THE RULE MAY BE  
INCLUDED IN PERMIT LANGUAGE**

# HELPFUL HINTS/WORDS OF WISDOM

**AGENCY “POLICIES” THAT HAVE NOT BEEN THROUGH THE PROCESS (UNLESS DIRECTLY REQUIRED BY LAW) CAN BE CHALLENGED**

# HELPFUL HINTS/WORDS OF WISDOM

USE THE “EXPERIENCED” PERSONNEL  
AVAILABLE TO YOU

**QUESTIONS**

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