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 20TH OF EVERY MONTH

• www.doa.louisiana.gov/osr/osr.htm
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 CANNOT 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 PROPOSED 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