Message

From: Pham, Lisa [Pham.Lisa@epa.gov]
Sent: 9/21/2020 7:14:07 PM
To: Laura Sorey [Laura.Sorey@LA.GOV]
CC: Johnson, Ken-E [Johnson.Ken-E@epa.gov]; Kelly, Suzanne [Kelly.Suzanne@epa.gov]; Przyborski, Jay [Przyborski.Jay@epa.gov]; Stephen Lee [Stephen.Lee@la.gov]; Corey Shircliff [Corey.Shircliff@la.gov]; Kellie McNamara [Kellie.McNamara@LA.GOV]
Subject: RE: Louisiana Class VI Crosswalk Revisions

Good afternoon Laura,

We will review them and let you know.

Thank you.

Lisa

From: Laura Sorey <Laura.Sorey@LA.GOV>
Sent: Monday, September 21, 2020 2:06 PM
To: Pham, Lisa <Pham.Lisa@epa.gov>
Cc: Johnson, Ken-E <Johnson.Ken-E@epa.gov>; Kelly, Suzanne <Kelly.Suzanne@epa.gov>; Przyborski, Jay <Przyborski.Jay@epa.gov>; Stephen Lee <Stephen.Lee@la.gov>; Corey Shircliff <Corey.Shircliff@la.gov>; Kellie McNamara <Kellie.McNamara@LA.GOV>
Subject: Louisiana Class VI Crosswalk Revisions

Hey Lisa,

Our updated Class VI draft rule and crosswalk are attached here. A few responses to items from the EPA's 8/27/20 response to note:

Line 239 & 311 – "under the SDWA" was restored to the rule text.

Line 440 – The draft provision stating "The commissioner may grant a variance to application requirements upon proof that the exception does not present a danger to the USDW or to the health and safety of the public or the environment, " was removed entirely.

Line 508 – References to the Carbon Dioxide Geologic Storage Trust Fund were removed, as the CDGSTF doesn't pertain to standby trusts. A more detailed description of the CDGSTF is provided in the attached email. However, 40 CFR 146.85(a)(6)(iii) won't be adopted into state rule. As part of the authority granted by La R.S. 30:4(R) and 30:4.1.B.1, the commissioner may require that instruments of financial responsibility be issued in sole favor of the Office of Conservation, thereby averting the need to establish a standby trust for third party instruments.

Line 506 – The draft rule addresses any potential vulnerability by requiring that certificates of deposit be issued, "in sole favor of the Office of Conservation in a form prescribed by the commissioner." (§609.C.1.A) As mentioned in the updated discussion on Line 508 / 40 CFR 146.85(a)(6)(iii), the commissioner has statutory authority to require that financial instruments (such as certificates of deposit) designate DNR-OC as beneficiary or recipient of the funds. This is implemented in DNR-OC's **Pledge of Certificate of Deposit** form, which states that, "The undersigned financial institution hereby acknowledges that this Certificate of Deposit shall be presumed to be in the possession of the Office of Conservation, not the Principal, until all regulatory obligations of the Principal are satisfied and/or the Commissioner releases all rights to the collateral at issue in accordance with the Law and the Regulations on this __ day of ____, 20__." Any financial instruments for any submitted forms of surety are held by the commissioner rather than by a third party.

In addition to the minor edits requested in the EPA's 8/27/20 response, the following sections have also been updated:
Line 82
Lines 291-295
Unnumbered line prior to Line 337
Line 338

Please let me know if you have any questions or if there's any additional info we can provide.

Thanks,

Laura Sorey, PG
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