

APPENDIX A –
PUBLIC NOTIFICATION

result in an increase in the number of educated/trained workers in the state and that will have a positive impact on competition and employment.

George Badge Eldredge
General Counsel
0803#004

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Clean Air Interstate Rule (LAC 33:III.506)(AQ292)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506 (Log #AQ292).

This revision for the Clean Air Interstate Rule (CAIR) nitrogen oxide (NO_x) trading programs allocation methodology addresses the following issues: updates citations to all federal revisions to the CAIR; revises and adds definitions; provides that allowances for petroleum coke-fired electrical generating units (EGUs) are to be calculated using the same methodology as allowances for coal-fired EGUs; adds a provision for repowered utility units; adds a provision for the reclassification of units from utility to non-utility and vice versa; and adds language to cease allocation of NO_x allowances to certified units that are not built (If the unit does not commence operations by a certain date, then the permit becomes void. Once the permit is void, no additional allocations will be made.). EPA promulgated a CAIR Federal Implementation Plan (FIP) on April 28, 2006, which allows a state to allocate CAIR NO_x allowances in a manner that is different from the FIP. The initial state allocation rule was promulgated on August 20, 2007. Since that time the department has determined that some operating circumstances were inadvertently omitted, and these are included in this revision. In this rulemaking the department is also updating the regulations to include the latest changes to the federal program. This rule is also being proposed as a revision to the air quality CAIR State Implementation Plan (SIP). The basis and rationale for this proposed rule are to improve air quality through the reduction of intrastate and interstate emissions of NO_x from electrical generating units. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Annual Program. This Subsection is adopted in lieu of 40 CFR 97.141 and 97.142 as promulgated under the CAIR

Federal Implementation Plan (FIP) NO_x Annual Trading Program on April 28, 2006, at 71 FR 25328 and as amended on October 19, 2007, at 72 FR 59190. All provisions of 40 CFR Part 97, Subparts AA-HH, continue to apply, with the exception of §97.141 (Timing Requirements for CAIR NO_x Allowance Allocations) and §97.142 (CAIR NO_x Allowance Allocations). The provisions of this Subsection state how the CAIR NO_x annual allowances shall be allocated in accordance with this Section and 40 CFR 97.144(a).

1. Definitions. The terms used in Subsection A of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), except for those terms defined herein.

Certified Unit—an electricity-generating unit that has been certified by the LPSC or approved by a municipal authority but was not in operation on, or approved by, December 31, 2004.

Certified Unit or Contract—Repealed.

* * *

Electric Public Utility—any person furnishing electric service within this state, including any electric cooperative transacting business in this state, provided, however, that the term shall not be construed to apply to co-generators who consume any or all of the electric power and energy generated by such facility or independent power producers who sell the entire production of electric power and energy generated by such facility to an *electric public utility* as herein defined.

Fuel Types—for the allocation of allowances under Louisiana's program, *fuel types* include solid, gaseous, or liquid fuel. The following definitions apply to *fuel types*.

i. *Solid Fuel*—includes, but is not limited to, coal and petroleum coke. Any amount of solid fuel that is combusted, alone, in series, or in combination with any other fuel, during any control period shall meet the definition of solid fuel.

ii. *Gaseous Fuel*—includes, but is not limited to, natural gas, propane, coal gas, and blast furnace gas. Any mixture containing at least 50 percent of gaseous fuel that is combusted with any liquid fuel during any control period shall meet the definition of gaseous fuel.

iii. *Liquid Fuel*—includes, but is not limited to, petroleum-based oils and glycerol.

* * *

LPSC or Municipal Certification—the process under which the LPSC certifies, or the relevant municipal authority approves, construction, conversion, or repowering of an electricity-generating unit as being in the public convenience and necessity. This process includes the certification or approval of long-term contracts that dedicate a portion of the electrical output of any generation facility to a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or utility unit expects to receive power under the contract within one year of the contract execution.

* * *

Utility Unit—a certified unit that is in operation, a previously-operational certified unit, a non-utility unit purchased by an electric public utility, or a non-utility unit that has an effective and active long-term contract with a utility unit. Long-term contracts are those contracts of at least one year in duration, provided that the municipality or

utility unit expects to receive power under the contract within one year of the contract execution.

2. - 2.a....

b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO_x allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO_x allowances have been previously allocated until operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three calendar years of operating data immediately preceding the allocation submittal deadline, the converted heat input as calculated in Clause A.2.b.i or ii of this Section shall be used to allocate allowances for the unit. The certified unit shall be treated as a utility unit for the purposes of this allocation, except that converted heat input shall be used instead of adjusted heat input. Repowered utility units will be allocated in the same manner as certified units in the control period of certification. Converted heat input is calculated as follows.

i. For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

ii. For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the year.

c. Utility Units. The department shall allocate CAIR NO_x allowances to each CAIR utility unit by multiplying the CAIR NO_x budget for Louisiana (40 CFR 97.140), minus the allowances allocated under Subparagraph A.2.a of this Section, by the ratio of the adjusted heat input of the CAIR utility unit to the total amount of adjusted heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The adjusted heat input (in MMBTU) used with respect to the CAIR NO_x annual allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period adjusted heat input for calendar years 2002, 2003, and

2004), with the control period adjusted heat input for each year calculated as follows.

(a). If the unit is solid fuel-fired during a year, the unit's control period heat input for that year shall be multiplied by 100 percent.

(b). If the unit is liquid fuel-fired during a year, the unit's control period heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause A.2.c.i.(a) or (b) of this Section, the unit's control period heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period heat input, fuel type, and total tons of NO_x emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. - 3.b....

4. Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances, beginning with the next allocation period, using the new classification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without written notification from the electric public utility.

B. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Ozone Season Program. This Subsection is adopted in lieu of 40 CFR 97.341 and 97.342 as promulgated under the CAIR Federal Implementation Plan (FIP) NO_x Ozone Season Trading Program on April 28, 2006, at 71 FR 25328 and as amended on October 19, 2007, at 72 FR 59190. All provisions of 40 CFR Part 97, Subparts AAAA-HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO_x Ozone Season Allowance Allocations) and §97.342 (CAIR NO_x Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO_x ozone season allowances shall be allocated in accordance with this Section and 40 CFR 97.343(a).

1. - 2.a....

b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO_x allowances for the ozone season of the control period in which the unit will begin operation, and for each successive ozone season in a control period, for which no NO_x allowances have been previously allocated until ozone season operating data are available for the three calendar years immediately preceding the deadline for submission of the control period allocations. Until a unit has three years of ozone season operating data preceding the allocation submittal deadline, the converted heat input as calculated in Clause B.2.b.i or ii of this Section shall be used to allocate ozone season allowances for the unit. The certified unit shall be treated as a utility unit for purposes of this allocation, except that ozone season converted heat input shall be used instead of ozone season adjusted heat input. Repowered utility units will be allocated in the same manner as certified units in the control period of certification. Ozone season converted heat input is calculated as follows.

i. For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900

BTU/KWh and divided by 1,000,000 BTU/MMBTU, or the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

ii. For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU, or the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12. The control period gross electrical output as stated in the documentation presented for the LPSC or municipal certification shall be used in this calculation. If a generator is served by two or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of all the units for the specified ozone season.

c. Utility Units. The department shall allocate CAIR NO_x ozone season allowances to each CAIR utility unit by multiplying the CAIR NO_x ozone season budget for Louisiana (40 CFR 97.340), minus the allowances allocated under Subparagraph B.2.a of this Section, by the ratio of the ozone season adjusted heat input of the CAIR utility unit to the total amount of ozone season adjusted heat input and converted heat input of all CAIR utility units and certified units in the state and rounding to the nearest whole allowance. The ozone season adjusted heat input (in MMBTU) used with respect to the CAIR NO_x ozone season allowance for each CAIR utility unit shall be established as follows.

i. The average of the unit's control period ozone season adjusted heat input for the three calendar years immediately preceding the deadline for submission of allocations to the administrator shall be used (except that the allocation submitted in 2007 shall use the average of the control period ozone season adjusted heat input for calendar years 2002, 2003, and 2004), with the control period ozone season adjusted heat input for each year calculated as follows.

(a). If the unit is solid fuel-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 100 percent.

(b). If the unit is liquid fuel-fired during a year, the unit's control period ozone season heat input for that year shall be multiplied by 60 percent.

(c). If the unit is not subject to Subclause B.2.c.i.(a) or (b) of this Section, the unit's control period ozone season heat input for the year shall be multiplied by 40 percent.

ii. A unit's control period ozone season heat input, fuel type, and total tons of NO_x ozone season emissions during a calendar year shall be determined in accordance with 40 CFR Part 97 and reported in accordance with LAC 33:III.919.

3. - 3.b....

4. Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances, beginning with the next allocation period, using the new classification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without written notification from the electric public utility.

C. Annual Sulfur Dioxide. Except as specified in this Section, the Federal SO₂ Model Rule, published in the *Code of Federal Regulations* at 40 CFR Part 96, July 1, 2006, and as revised at 72 FR 59190-59207, October 19, 2007, is hereby incorporated by reference, except for Subpart III-CAIR SO₂ Opt-in Units and all references to opt-in units.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the CAIR SIP to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ292. Such comments must be received no later than May 1, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ292. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive,

Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Clean Air Interstate Rule**

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

Implementation costs or savings are expected to be very minimal from promulgation of this revision. There may be increased or decreased utility costs to state or local governments as electrical ratepayers, as a result of this rule, but only when an affected facility starts to operate in one of the added operating circumstances, such as repowering, combusting petroleum coke, losing certification because a new project was not completed, or reclassification from regulated to nonregulated and vice versa. There are six municipalities in Louisiana that own affected electrical generating units (EGUs). The department anticipates that very few units will change their modes of operation and that the effects of those few units that do may cancel out each other. There are so many variables and unknowns that no impact can be estimated, but the department expects the overall impact to be minimal.

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

Impact on revenue collections will be minimal to state or local governmental units that own affected units. These governmental units may pass on the costs or savings to their electrical ratepayers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Affected regulated facilities that have the ability and are permitted to combust petroleum coke will get some additional NO_x allowances due to the increase in the fuel adjustment factor in the methodology, tending to increase their income by increasing the number of NO_x allowances allocated by the department. This amount may be significant. Seldom are these affected facilities singly owned, and this increase of allowances will cause a decrease to other facilities, some owned by the same company with the petroleum coke combustion.

Affected repowered facilities will tend to receive additional allowances, thus increasing their income. This amount may be significant. The estimate of the amount cannot be made because it will depend upon the repowered unit's certified heat output, which is not known but will be certified by the Louisiana Public Service Commission. Once again, seldom are these affected facilities singly owned, and this increase of allowances will cause a decrease to other facilities, some owned by the same company with the repowered unit.

Affected facilities that are reclassified from regulated to nonregulated, and vice versa, may receive more, or less, NO_x allowances than before. The amount may be significant. Typically, nonregulated units receive only sufficient NO_x allowances to operate, where regulated units receive less than needed. However, regulated facilities have the ability to put on control equipment and receive an excess of allowances.

Affected certified units that are not built would no longer receive allocations. Allocations will cease when the department is informed that a previously-certified unit will not be constructed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be little or no effect on competition or employment.

Herman Robinson, CPM
Executive Counsel
0803#049

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Incorporation by Reference—2007
(LAC 33:I.3931; V.3099; IX.2301, 4901,
and 4903; and XV.1517)(MM007ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:955 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Environmental Quality regulations, LAC 33:I.3931; V.3099; IX.2301, 4901, and 4903; and XV.1517 (Log #MM007ft).

This proposed rule is identical to federal regulations found in 10 CFR Part 71, Appendix A, January 1, 2007; 40 CFR 117.3, Part 136, Part 266, Appendices I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), Part 401, Parts 405-415, and Parts 417-471, July 1, 2007; and 72 FR 40245-40250, July 24, 2007, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This rule incorporates by reference into LAC 33:I, V, IX, and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2007; administrative reporting exemptions for certain air releases of NO_x in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2007; hazardous waste regulations in 40 CFR Part 266, Appendices I-X and XI-XIII, July 1, 2007; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-415, and 417-471, July 1, 2007; radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2007; and amendments to the Concentrated Animal Feeding Operations (CAFO) Point Source Category Regulations (40 CFR Part 412) at 72 FR 40245-40250, July 24, 2007. In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted into the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package is being proposed to keep Louisiana's regulations current with their federal counterparts. The basis and rationale for this rule are to mirror the federal

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REGULATION DEVELOPMENT SECTION

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THE ADVERTISER

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OSEC/Legal Affairs Division
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I, **ROSE PENFOLD**, do solemnly swear that I am the **LEGAL CLERK** of **THE ADVERTISER**, a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and that from my personal knowledge and reference to the files of said publication, the advertisement of

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Clean Air Interstate Rule
(LAC 33:III.506) (AQ292)

was published in **THE ADVERTISER** on the following dates:

***Friday, March 14, 2008**



ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 18th day of March, 2008.



Notary Public - Christie Veazey ID# 058555

955239

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate Rule
(LAC 33:111.506)
(AQ292)

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This revision for the Clean Air Interstate Rule (CAIR) nitrogen oxide (NOx) trading programs allocation methodology addresses the following issues: updates citations to all federal revisions to the CAIR; revises and adds definitions; provides allowances for petroleum coke fired electrical generating units (EGUs) are to be calculated using the same methodology as allowances for coal fired EGUs; adds a provision for repowered utility units; adds a provision for the reclassification of units from utility to non-utility and vice versa; and adds language to cease allocation of NOx allowances to certified units that are not built (if the unit does not commence operations by a certain date, then the permit becomes void. Once the permit is void, no additional allocations will be made.) EPA promulgated a CAIR Federal Implementation Plan (FIP) on April 28, 2006, which allows a state to allocate CAIR NOx allowances in a manner that is different from the FIP. The initial state allocation rule was promulgated on August 20, 2007. Since that time, the department has determined that some operating circumstances were inadvertently omitted, and these are included in this revision. In this rulemaking, the department is also updating the regulations to include the latest changes to the federal program. This rule is also being proposed as a revision to the air quality CAIR State Implementation Plan (SIP). The basis and rationale for this proposed rule are to improve air quality through the reduction of intrastate and interstate emissions of NOx from electrical generating units. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on April 24, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. The hearing will also be for the revision to the CAIR SIP to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Scherman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

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Herman Robinson,
CPM
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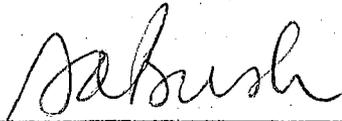
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4/14/08

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PROOF OF PUBLICATION

The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

03/13/08



Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

March 13, 2008



Pegeen Singley, Notary Public, #66565
My Commission Expires: Indefinite
Baton Rouge, Louisiana

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MAR 28 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate Rule
(LAC 33:III.506) (AQ292)

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All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ292. Such comments must be received no later than May 1, 2008, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ292. This regulation is available on the internet at www.deq.louisiana.gov/portals/tabid/1669/default.aspx

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

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DEQ - OSEC/LAD REG

3838388

REMENDER WEATHERSPOON

PO BOX 4302

BATON ROUGE

LA 70821-4314

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2/11/08

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MAR 19 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

AFFIDAVIT OF PUBLICATION

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate
Rule
(LAC 33:111.506)
(AQ292)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:111.506 (Log #AQ292).

This revision for the Clean Air Interstate Rule (CAIR) nitrogen oxide (NOx) trading programs allocation methodology addresses the following issues: updates citations to all federal revisions to the CAIR; revises and adds definitions; provides that allowances for petroleum coke-fired electrical generating units (EGUs) are to be calculated using the same methodology as allowances for coal-fired EGUs; adds a provision for repowered utility units; adds a provision for the reclassification of units from utility to non-utility and vice versa; and adds language to cease allocation of NOx allowances to certified units that are not built (if the unit does not commence operations by a certain date, then the permit becomes void. Once the permit is void, no additional allocations will be made.) EPA promulgated a CAIR Federal Implementation Plan (FIP) on April 28, 2006, which allows a state to allocate CAIR NOx allowances in a manner that is different from the FIP. The initial state allocation rule was promulgated on August 20, 2007. Since that time the department has determined that some operating circumstances were inadvertently omitted, and these are included in this revision. In this rulemaking the department is also updating the regulations to include the latest changes to the federal program. This rule is also being proposed as a revision to the air quality CAIR State Implementation Plan (SIP). The basis and rationale for this proposed rule are to improve air quality through the reduction of intrastate and inter-

state emissions of NOx from electrical generating units. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs, is required.

This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

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I, Harold Constance, Classified Sales Manager

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Public Notice (AQ292)

advertisement, as per clipping attached, was

published in the regular and entire issue of said

newspaper, and not in any supplement thereof

for one insertion(s) commencing with the issue

dated March 12, 2008 and ending with the

issue dated March 12, 2008.

Subscribed and sworn to before me

this 12th day of March, 2008.

Notary Number 019888

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

HERMAN ROBINSON,
CPM
Executive Counsel

CERTIFIED COPY

4/11/08

RECEIVED

MAR 19 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

Affidavit of Publication

NOTICE OF INTENT
Department of Environmental Quality, Office of the Secretary Legal Affairs Division
Clean Air Interstate Rule (LAC 33:111.506) (AQ292)
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STATE OF LOUISIANA
Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Karen Hollister
who being duly sworn, deposes and says:

He/She is a duly authorized agent of
LAKE CHARLES AMERICAN PRESS
a newspaper published daily at 4900 Highway 90 East,
Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893
Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s) dated:

00429881 - \$46.00

March 14, 2008

Karen Hollister

Duly Authorized Agent

Subscribed and sworn to before me on this 14th day of March, 2008 at
Lake Charles, LA

Winnie P. Gullory



Winnie P. Gullory
Notary #66592
My Commission Is For Life

00053262

Notary Public

LDEQ-OSEC-LAD

30:2019(D)(2) and R.S. 49:953(C)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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Herman Robinson,
CPM
Executive Counsel

CERTIFIED COPY

920
4/14/08

RECEIVED

MAR 24 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate Rule
(LAC 33:III.506) (AQ292)

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Publisher of

THE NEWS-STAR
MONROE, LOUISIANA
PROOF OF PUBLICATION

The hereto attached advertisement
Was published in the NEWS-STAR.
A daily newspaper of general circulation.

Published in Monroe, Louisiana.
Parish of Ouachita in the issues of:

March 14, 2008
Kenn Draef

LEGAL AD DEPT.

Sworn and subscribed before me by

The person whose signature appears above in Monroe, LA on this

14 day of March 20 08 AD

Steven L. Turner

NOTARY PUBLIC

Steven L. Turner # 43154

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Herman Robinson,
CPM

Executive Counsel

Monroe, LA
March 14, 2008

CERTIFIED COPY

Handwritten initials and date: P H/W/08

The Times

RECEIVED
MAR 19 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

PROOF OF PUBLICATION

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Clean Air Interstate Rule
(LAC 33:III.506)
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STATE OF LOUISIANA
PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the Classified Advertising Manager of The Times, and that the attached Advertisement entitled:

NOTICE OF INTENT Department of Environmental Quality Office of the Secretary Legal Affairs Division Clean Air Interstate Rule (LAC 33:III.506) (AQ292)

As per copy of advertisement hereto annexed, was published in The Times on the following dates to wit:

March 12, 2008

(Signed) Altheas Critton

Sworn to and subscribed before me this 12th day of March, 2008

Diana W. Barber

DIANA W. BARBER, NOTARY PUBLIC # 60491
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE

(Notary)



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Herman Robinson,
CPM
Executive Counsel

The Times
March 12, 2008

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE:

CLEAN AIR INTERSTATE RULE
WHICH AMENDS LAC 33:III.506

LOG #: AQ292

PUBLIC HEARING

The Public Hearing held by the Department of Environmental Quality, Regulation Development Section, at the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, Louisiana, beginning at 1:30 p.m., on April 24, 2008.

BEFORE:

Lori B. Overland
Certified Court Reporter
In and For the State of
Louisiana

ASSOCIATED REPORTERS, INC.
(225) 216-2036

RECEIVED

APR 28 2008

LDEQ/OSEC/LAD
REGULATION DEVELOPMENT SECTION

A P P E A R A N C E S

**FOR THE LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY:**

Stan Hazard
Hearing Officer

Department of Environmental Quality
Legal Affairs Division, 8th Floor
Regulation Development
602 N. Fifth Street
Baton Rouge, Louisiana 70802

* * * * *

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

7

REPORTER'S CERTIFICATE

8

* * * * *

1 **MR. HAZARD:**

2 Good afternoon! My name is Stan
3 Hazard. I'm employed by the Louisiana
4 Department of Environmental Quality.
5 I'll be serving as hearing officer this
6 afternoon to receive comments regarding
7 proposed amendments to the environmental
8 quality regulations.

9 The comment period for these
10 amendments began on March 20, 2008, when
11 the notice of intent was published in the
12 Louisiana Register. The comment period
13 will close at 4:30 p.m., today, April 24,
14 2008, for the Log Number MM007ft, and at
15 4:30 p.m., May 1, 2008, for the Log
16 Number AQ292. It would be helpful to us
17 if all oral comments received today were
18 followed up in writing.

19 This public hearing provides a forum
20 for all interested parties to present
21 comments on the proposed changes. This
22 hearing is not being conducted in a
23 question and answer format. Please
24 remember that the purpose of this public
25 hearing is to allow you, the public, an

1 opportunity to express your thoughts
2 concerning today's proposed amendments.

3 The first amendment is designated by
4 the Log Number AQ292.

5 This revision for the Clean Air
6 Interstate Rule, (CAIR) Nitrogen Oxide
7 (NOx) trading programs allocation
8 methodology addresses the following
9 issues: updates citations to all federal
10 revisions to the CAIR; revises and adds
11 definitions; provides that allowances for
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13 generating units (EGUs) are to be
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17 adds a provision for the reclassification
18 of units from utility to non-utility and
19 vice versa; and adds language to cease
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21 recertified units that are not built (If
22 the unit does not commence operations by
23 a certain date, then the permit becomes
24 void. Once the permit is void, no
25 additional allocations will be made.).

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7 August 20, 2007. Since that time the
8 department has determined that some
9 operating circumstances were
10 inadvertently omitted, and these are
11 included in this revision. In this
12 rulemaking the department is also
13 updating the regulations to include the
14 latest changes to the federal program.
15 This rule is also being proposed as a
16 revision to the CAIR State Implementation
17 Plan (SIP).

18 Does anyone care to comment on this
19 regulation?

20 If not, the hearing on AQ292 is
21 closed.

22 Thank you for your attention and
23 participation.

24 This hearing is closed.

25 **THE HEARING CONCLUDED AT 1:33 P.M.**

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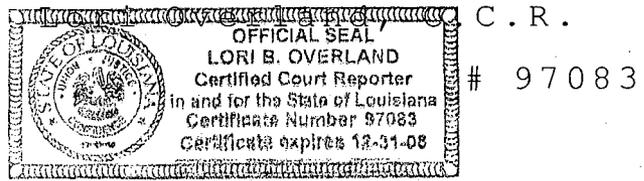
R E P O R T E R ' S P A G E

I, Lori B. Overland, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana code of Civil Procedure, before whom this sworn testimony was taken, do hereby state on the Record

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporters's transcription of proceeding, and that the dashes (--) do not indicated that words or phrases have been left out of this transcript;

That any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."

Lori Overland



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C E R T I F I C A T I O N

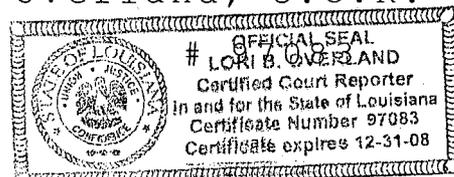
I, the undersigned reporter, do hereby certify that the above and foregoing is a true and correct transcription of the stenomask tape of the proceedings had herein, taken down by me and transcribed under my supervision, to the best of my ability and understanding, at the time and place hereinbefore noted, in the above entitled cause.

I further certify that the witness was duly sworn by me in my capacity as a Certified Court Reporter pursuant to the provisions of R.S. 37:2551 et seq. in and for the state of Louisiana; that I am not of counsel nor related to any of the counsel of any of the parties, nor in the employ of any of the parties, and that I have no interest in the outcome of this action.

I further certify that my license is in good standing as a court reporter in and for the state of Louisiana.



Lori Overland, C.C.R.



<p>A</p> <p>ability 8:8 above 8:3,9 action 8:19 additional 5:25 addresses 5:8 adds 5:10,15,17,19 Affairs 2:6 afternoon 4:2,6 Air 1:6 5:5 allocate 6:3 allocation 5:7,20 6:6 allocations 5:25 allow 4:25 allowances 5:11,15 5:20 6:4 allows 6:3 amendment 5:3 amendments 4:7,10 5:2 AMENDS 1:7 and/or 7:5,13,19 answer 4:23 anyone 6:18 April 1:14 4:13 6:2 AQ292 1:8 4:16 5:4 6:20 Article 7:6 attention 6:22 August 6:7</p>	<p>changes 4:21 6:14 7:13 circumstances 6:9 citations 5:9 Civil 7:5,7 Clean 1:6 5:5 close 4:13 closed 6:21,24 coal-fired 5:15 code 7:6 coke-fired 5:12 commence 5:22 comment 4:9,12 6:18 comments 4:6,17,21 concerning 5:2 CONCLUDED 6:25 conducted 4:22 Conference 1:13 correct 8:4 counsel 8:16,16 court 1:20 7:2,15 8:13,21 C.C.R 7:24 8:24</p>	<p>3:2 EXHIBITS 3:5 express 5:1</p> <p>F</p> <p>F 8:1 federal 5:9 6:1,14 7:5 Fifth 1:13 2:7 FIP 6:2,5 first 5:3 Floor 2:6 followed 4:18 following 5:8 foregoing 8:3 format 4:23 forum 4:19 from 5:18 6:5 further 8:11,20</p>	<p>Log 1:8 4:14,15 5:4 Lori 1:19 7:2,24 8:24 Louisiana 1:3,14,21 2:2,7 4:3,12 7:3,6 8:15,22</p> <p>M</p> <p>made 5:25 manner 6:4 March 4:10 material 7:20 May 4:15 method 7:14 methodology 5:8,14 MM007ft 4:14</p>	<p>place 8:9 Plan 6:2,17 Please 4:23 Pollock 1:13 present 4:20 Procedure 7:5,7 proceeding 7:11,16 proceedings 8:5 program 6:14 programs 5:7 promulgated 6:1,6 proper 7:14 proposed 4:7,21 5:2 6:15 provides 4:19 5:11 provision 5:16,17 provisions 8:14 public 1:9,12 4:19 4:24,25 published 4:11 purpose 4:24 pursuant 8:13 p.m 1:14 4:13,15 6:25</p>
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX, 75202-2733

APR 28 2008

Ms. Judith A. Schuerman, Ph.D.
Office of the Secretary
Legal Affairs Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, LA 70821-4302

RE: Comments on AQ292 – Louisiana’s Proposed Revision to the State Implementation Plan (SIP) for the Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Annual, NO_x Ozone Season, and Sulfur Dioxide (SO₂) Trading Programs

Dear Dr. Schuerman:

Thank you for the opportunity to review the proposed changes to the State Implementation Plan and the Louisiana Administrative Code (LAC) 33:III.506. The proposed action updates the Clean Air Interstate Rule provisions to address recent Federal rulemakings, revises and adds definitions specific to the Louisiana programs, and updates the Louisiana NO_x annual and ozone season allocation methodologies. We greatly appreciate the time and attention your staff has devoted to processing this proposed rulemaking and your willingness to consult Region 6 during the rule development.

Based on our review of the proposed SIP revision, we would like to submit the following comments for your consideration.

1. Please clarify the definition of “Electric Public Utility” at LAC 33:III.506(A)(1). This definition uses the phrase “by such facility” twice, and it is not clear which type of facility is being referenced.
2. We recommend that the reclassification of unit provisions at LAC 33:III.506(A)(4) and (B)(4) be revised to clarify the date from which the “next allocation period” would be determined. We recommend the following language for your consideration:

Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances using the new classification beginning with the allocation submission deadline after the effective date of the unit reclassification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without written notification from the electric public utility.

3. It is our understanding that the allocation provisions for NO_x ozone season CAIR allowances at LAC 33:III.506(B)(2)(b)(i) and (ii) are intended to create a hierarchy of preferences; the LDEQ prefers to use control period gross electrical output for the calculation but if this information is not available the calculations will be performed with annual gross electrical output. We recommend the following clarification to LAC 33:III.506(B)(2)(b)(i) to capture the Louisiana Department of Environmental Quality (LDEQ) intent in the solid fuel-fired allocation provisions:

For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generators(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal the annual gross electrical output, including the capacity factor, of the generators(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12.

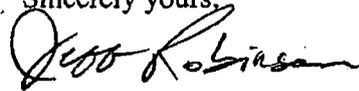
In addition to the hierarchy clarification discussed above, we note there is a typographical error in the proposed allocation provisions for gaseous and liquid fuel-fired units at LAC 33:III.506(B)(2)(b)(ii) such that the annual gross electrical output is calculated with the solid fuel-fired adjustment. We recommend the following language:

For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generators(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal the annual gross electrical output, including the capacity factor, of the generators(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12.

4. The proposed revision to LAC 33.III.506(C) should include the most recent Code of Federal Regulations (CFR) publication date for the Federal SO₂ Model Rule at

40 CFR Part 96 and all EPA rulemakings subsequent to the CFR publication:
Please update the CFR publication date to July 1, 2007, instead of July 1, 2006.
Thank you for the opportunity to provide comments. Please note that these
comments do not constitute final determinations concerning approvability of the
Louisiana CAIR NO_x Annual, NO_x Ozone Season, or SO₂ Trading Programs SIP
revision. We look forward to working with LDEQ as you move forward in
responding to these comments and finalizing the Louisiana CAIR SIP. If you
have any questions, please call Ms. Adina Wiley of my staff at (214) 665-2115.

Sincerely yours,



Jeff Robinson
Chief
Air Permits Section

**Comment Summary Response & Concise Statement – AQ292
Amendments to the Air Regulations
Clean Air Interstate Rule
LAC 33:III.506**

Concise Statement arguments:

FOR: [The reason supporting WHY the suggestion in the comment should be adopted by DEQ. Usually this is the commenter's perspective.]

AGAINST: [The reason WHY the department feels the suggestion should NOT be adopted.]

Use these standardized statements where you feel they may be appropriate:

~~FOR/AGAINST -- No arguments necessary; comment does not suggest amendment or change.~~

~~FOR/AGAINST -- The department agrees with the comment; no arguments are necessary.~~

~~FOR/AGAINST -- No arguments necessary since the provision in question is not part of this rulemaking.~~

~~RESPONSE -- The department appreciates the support.~~

COMMENT 1: 506.A.1 — Clarify the definition of *Electric Public Utility*. This definition uses the phrase “by such facility” twice, and it is not clear which type of facility is being referenced.

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 1: The department will insert language to clarify the definition.

COMMENT 2: 506.A.4, B.4 — Revise these Paragraphs to clarify the date from which the next allocation period would be determined, as follows:

“Reclassification of Units. When the ownership of a unit is transferred, the unit is reclassified accordingly as a utility or non-utility unit. The department will allocate future allowances using the new classification beginning with the allocation submission deadline after the effective date of the unit reclassification. The electric public utility must notify the department of the transfer of ownership. No changes will be made without official notification from the electric public utility.”

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 2: The department will clarify the timeframe when allocations will be re-calculated based upon changes in classification.

COMMENT 3: 506.B.2.b.i — In order to clarify the department's intent that there be a hierarchy of preferences for calculating ozone season heat input, change 506.B.2.b.i to the following:

“For a solid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 7,900 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12.”

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 3: The department will clarify that when allocating ozone season NO_x allowances, the preference is to use control period gross electrical output when it is available over calendar year gross electrical output.

COMMENT 4: 506.B.2.b.ii — There is a typographical error in this Clause such that the annual gross electrical output for gaseous or liquid fuel-fired units is calculated using the solid fuel-fired adjustment. Also, in order to clarify the department's intent that there be a hierarchy of preferences for calculating ozone season heat input, change 506.B.2.b.ii to the following:

“For a gaseous or liquid fuel-fired unit, the hourly heat input for a specified calendar year shall equal the control period gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal the annual gross electrical output, including the capacity factor, of the generator(s) served by the unit multiplied by 6,675 BTU/KWh and divided by 1,000,000 BTU/MMBTU, and multiplied by 5/12.”

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 4: See Response 3 and the typographical error will be corrected.

COMMENT 5: 506.C — Change the publication date of the Federal SO₂ Model Rule in 40 CFR 96 to the most current version, which is July 1, 2007.

FOR/AGAINST: The department agrees with the comment; no arguments are necessary.

RESPONSE 5: The annual sulfur dioxide incorporation by reference will be corrected.

**Comment Summary Response & Concise Statement – AQ292
Amendments to the Air Regulations
Clean Air Interstate Rule
LAC 33:III.506**

COMMENT #

SUGGESTED BY

1 – 5

Jeff Robinson / Environmental Protection Agency

repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2515 (October 2005), repealed LR 34:

§6705. Amount of Required Financial Security

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:48 (January 2001), repromulgated LR 30:233 (February 2004), repealed by the Office of the Secretary, Legal Affairs Division, LR 34:

§6707. Conditions for Forfeiture

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:48 (January 2001), repromulgated LR 30:233 (February 2004), repealed by the Office of the Secretary, Legal Affairs Division, LR 34:

§6709. Use of Proceeds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Sections 2074(B)(3) and (4) and 2075.2 and 3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:49 (January 2001), repromulgated LR 30:233 (February 2004), repealed by the Office of the Secretary, Legal Affairs Division, LR 34:

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids

Subchapter A. Program Requirements

§7305. Siting and Operation Requirements for Commercial Preparers of Sewage Sludge

A. - C.3.d.iii. ...

4. The financial assurance requirements for commercial preparers of sewage sludge and commercial land appliers of biosolids are as indicated in LAC 33:IX.Chapter 17.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:794 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2382 (November 2007), LR 34:

§7307. Financial Assurance Requirements for Commercial Preparers of Sewage Sludge and Commercial Land Appliers of Biosolids

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:796 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2386 (November 2007), repealed LR 34:

Subchapter B. Appendices

§7395. Financial Assurances Documents—Appendices A, B, C, D, E, F, G, H, I, and J

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(1)(c), (B)(3), and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:818 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2519 (October 2005), LR 33:2409 (November 2007), repealed LR 34:

Part XV. Radiation Protection

Chapter 14. Regulation and Licensing of Naturally Occurring Radioactive Material (NORM)

§1404. Exemptions

A. - H.5....

I. Produced waters from crude oil and natural gas production are exempt from the requirements of these regulations if the produced waters are reinjected into a well approved by the agency having jurisdiction to regulate such injection or if the produced waters are discharged under the authority of the agency having jurisdiction to regulate such discharge and such discharges comply with the applicable regulations of LAC 33:IX.Chapter 7 and of LAC 33:XV.Chapters 4 and 14.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Nuclear Energy Division, LR 15:736 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), LR 21:25 (January 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2599 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:

Herman Robinson, CPM
Executive Counsel

0806#018

POTPOURRI

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x)
Trading Programs SIP Revision (0806Pot1)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Quality Assessment Division, is proposing a revision to the Louisiana air quality State Implementation Plan (SIP). The proposed revision to the SIP contains the revisions to the Clean Air Interstate Rule (CAIR) nitrogen oxide (NO_x) trading programs allocation methodology rule. Following the promulgation of CAIR, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006.

The FIP became effective on June 27, 2006. The FIP gives limited flexibility in implementation of certain federal rule provisions related to CAIR and provides states with an option to submit an abbreviated SIP. Louisiana submitted an abbreviated SIP for the Annual and Ozone Season allowance allocations method on August 20, 2007, and it was approved by EPA on September 28, 2007, in the *Federal Register* at 72 FR 55064. Louisiana will remain under the other provisions of the FIP for the Annual and Ozone Season NO_x Trading Programs.

On March 20, 2008, the department proposed revisions to the CAIR NO_x Trading Programs allocation methodology rule (AQ292) in the *Louisiana Register*. This rule updates certain citations to all federal revisions to the CAIR; revises and adds definitions, adds provisions for petroleum coke-fired electricity generation units (EGUs) and reclassification of units from utility to non-utility and vice versa; and adds language to cease allocation of NO_x allowances to certified units that aren't built. The state provisions in the rule will be in lieu of 40 CFR 96, Subpart EE – CAIR NO_x Allowance Allocations (§96.141 and §96.142) and Subpart EEEE – CAIR NO_x Ozone Season Allowance Allocations (§96.341 and §96.342). Upon final promulgation, AQ292 will be submitted to EPA as a revision to the Louisiana SIP. The submittal of an approvable abbreviated SIP revision of the CAIR Annual and Ozone Season NO_x Trading Programs satisfies Louisiana's obligation under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA).

The public hearing for the revision to the SIP will be held on July 29, 2008, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed SIP revisions. Should individuals with a disability need an accommodation in order to participate, contact Vivian H. Aucoin, at (225) 219-3575 at the address given below. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Interested persons are invited to submit written comments concerning the proposed CAIR abbreviated SIP revision no later than 4:30 p.m., August 5, 2008. Comments should be sent to Vivian H. Aucoin, Office of Environmental Assessment, Box 4314, Baton Rouge, LA 70821-4314 or FAX to (225) 219-3582 or by e-mail to vivian.aucoin@la.gov. The proposed SIP revisions are available on the Internet at www.deq.louisiana.gov/portal/tabid/2381/Default.aspx under Louisiana SIP Revisions.

A copy of the proposed SIP revision may be viewed at the following DEQ office locations from 8 a.m. to 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0806#017

POTPOURRI

**Department of Health and Hospitals
Office of Public Health**

**Public Hearing—Preventive Health
and Health Services Block Grant**

The Department of Health and Hospitals, Office of Public Health, will hold a public hearing to receive input from the public on the Louisiana Preventive Health Services Block Grant as administered by the agency. The attached public hearing will take place on July 21, 2008 beginning at 2 p.m. at 628 North Fourth Street (Bienville Building), 3rd Floor, Room 372, Baton Rouge, LA 70802. Copies of the grant may be obtained from Avis Richard-Griffin, Policy Planning and Evaluation, Office of Public Health. Ms. Richard-Griffin can be contacted by email at agriffin@dhhs.la.gov or by telephone at (225) 342-9355 for additional information.

Alan Levine
Secretary

0806#040

POTPOURRI

**Department of Insurance
Office of Health**

Annual HIPAA Assessment Rate

Pursuant to Louisiana Revised Statutes 22:250.10(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .0024 percent.

James J. Donelon
Commissioner

0806#043

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Merrimack Resources, Inc.	Grand Cheniere	L	Waste Disposal Well	1	973548
Arkansas Nat. Gas Co.	Elm Grove	S	Vanhoose (97)	A-1	8339
Carl P. Roppolo, Jr.	Elm Grove	S	M L Johnson	1	55156
D & B Inc.	Wildcat-No La Monroe Dist	M	Louise Gilbert Etal	1	108196
Continental Asphalt &	Wildcat-No La	S	Polly	8	1473