

APPENDIX A –
PUBLIC NOTIFICATION
CAIR NO_x TRADING PROGRAMS SIP

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

CAIR NO_x Annual and Ozone Season Trading Programs (LAC 33:III.506) (AQ285)

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 #AQ285).

This proposed rule defines the state's methodology under the Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO_x) Annual and Ozone Season Trading Programs for allocating NO_x allowances to electrical generating units (EGUs) subject to CAIR. Section 51.123 of the federal CAIR allows states some flexibility in implementation of certain rule provisions related to methods for allocating NO_x allowances. This rule substitutes for 40 CFR Part 97, Subpart EE (CAIR NO_x Allowance Allocations), §97.141 and §97.142, and for 40 CFR Part 97, Subpart EEEE (CAIR NO_x Ozone Season Allowance Allocations), §97.341 and §97.342. This rule is concurrently being proposed as a revision to the Louisiana State Implementation Plan for air quality.

The CAIR was promulgated by the U.S. EPA on May 12, 2005. The federal rule addresses ozone and fine particulate air pollution by regulating emissions of sulfur dioxide (SO₂) and NO_x from EGUs in certain states and the District of Columbia. The federal rule establishes a budget cap for each state for emissions of these pollutants and allows for emissions trading. Following promulgation of CAIR in 2005, EPA promulgated a Federal Implementation Plan (FIP) for the rule on April 28, 2006. The FIP, which became effective on June 27, 2006, includes the federal methodology for allocation of NO_x allowances. The FIP provides states with an option to submit an abbreviated state implementation plan (SIP), and some limited flexibility in implementation of certain federal rule provisions related to CAIR. Louisiana will remain under the provisions of the FIP for the CAIR NO_x annual and ozone season trading programs with the exception of the provisions established in this rule. Should this rule not be promulgated, the state will remain under the allocation method as set forth in the FIP.

To determine the impact of CAIR implementation on Louisiana electricity ratepayers, DEQ requested assistance from the Louisiana Public Service Commission (LPSC). Pursuant to this request, the LPSC contracted for the service of the Louisiana State University Center of Energy Studies. Recommendations concerning the implementation of CAIR in Louisiana were provided to DEQ from the LPSC in the "Staff Report" and "Supplement to Primary Staff Recommendations." The provisions of this rule are consistent with the LPSC recommendations. Upon promulgation, this rule will be submitted to EPA as a revision to the air quality SIP for Louisiana. The submittal of an approvable abbreviated SIP revision for the CAIR NO_x annual and ozone season trading programs will satisfy Louisiana's obligations under Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). The basis and rationale for this proposed rule are to

improve air quality through a reduction of intrastate and interstate emissions of NO_x from EGUs subject to CAIR.

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 on the proposed rule and SIP revision will be held on June 26, 2007, 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 rule and SIP revision. 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 rule and SIP revision. Persons commenting should reference this proposed regulation by AQ285. Such comments must be received no later than July 3, 2007, 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 AQ285. 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