

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division

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 Quality regulations, LAC 33:III.504 (Log #AQ212).

This rule proposes to revise the minimum offset ratios in LAC 33:III.504. Table 1. Major Stationary Source/Major Modification Emission Thresholds. For a nonattainment area with a classification of serious for ozone, the minimum offset ratio for volatile organic compounds (VOC) will be 1.20 to 1 with LAER (Lowest Achievable Emission Rate) or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for VOC will be 1.30 to 1. This rule also proposes to add a minimum offset ratio for nitrogen oxides (NO<sub>x</sub>). For a nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.30 to 1. During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone nonattainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Therefore, identification and promulgation of regulations to implement emission reduction controls are necessary. Urban Airshed Modeling (UAM) indicates that a reduction in NO<sub>x</sub> emissions and further reduction in VOC emissions are required in at least the 5-parish area to lower ozone levels. LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the ozone NAAQS. This revision to the minimum offset ratios is only one measure identified to reduce emissions. The basis and rationale for this rule are to protect air quality in Louisiana and comply with the NAAQS for ozone.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) 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 June 25, 2001, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. 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 Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by AQ212. Such comments must be received no later than July 2, 2001, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of AQ212.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 5. Permit Procedures**

**§504. Nonattainment New Source Review Procedures**

\* \* \*

[See Prior Text in A]

1. For an area ~~which~~ that is designated incomplete data, transitional nonattainment, marginal, moderate, serious, or severe nonattainment for ozone, ~~volatile organic compounds~~ VOC and NO<sub>x</sub> are the regulated pollutants under this Section.

\* \* \*

[See Prior Text in A.2 – D.2]

3. Notwithstanding Subsection D.2 of this Section, in the case of any major stationary source that emits or has the potential to emit ~~100~~ 50 tons per year or more of VOC or NO<sub>x</sub> and is located in an area classified as serious, if the owner or operator of the source elects to offset the emissions increase by a reduction in emissions of VOC or NO<sub>x</sub> from other operations, units, or activities within the source at an internal offset ratio of at least ~~1.3~~ 1.40 to 1 for VOC or NO<sub>x</sub>, then the requirements for LAER shall not apply.

\* \* \*

[See Prior Text in D.4 – F]

1. ~~All emission reductions claimed as offset credit shall be from decreases of the same pollutant or pollutant class (e.g., VOC) for which the offset is required. Interpollutant trading, for example using a NO<sub>x</sub> credit to offset a VOC emission increase, is not allowed. Emissions reductions claimed as offset credit for significant NO<sub>x</sub> or VOC increases may be from decreases of either NO<sub>x</sub> or VOC, or any combination thereof. Interprecursor trading is allowed for NO<sub>x</sub> and VOC offsets (e.g., using a NO<sub>x</sub> credit to offset a VOC emissions increase and vice versa).~~

\* \* \*

[See Prior Text in F.2 - G.Major Stationary Source.b ]

c. A major stationary source that is major for ~~volatile organic compounds~~ VOC or NO<sub>x</sub> shall be considered major for ozone.

\* \* \*

[See Prior Text in G.Major Stationary Source.d—Visibility Impairment]

<b>Table 1</b>			
<b>Major Stationary Source/Major Modification Emission Thresholds</b>			
<b>Pollutant</b>	<b>Major Stationary Source Threshold Values (tons/year)</b>	<b>Major Modification Significant Net Increase (tons/year)</b>	<b>Offset Ratio Minimum</b>
OZONE		Trigger Values	
VOC/NO <sub>x</sub> <sup>1</sup>			
Marginal <sup>1</sup>	100	40 (40) <sup>2</sup>	1.10 to 1
Moderate	100	40 (40) <sup>2</sup>	1.15 to 1
Serious	50	25 <sup>3</sup> (5) <sup>4</sup>	1.20 to 1
			w/LAER or <del>1.30</del> 1.40 to 1 internal w/o LAER
Severe	25	25 <sup>3</sup> (5) <sup>4</sup>	1.30 to 1
CO			
Moderate	100	100	>1.00 to 1
Serious	50	50	>1.00 to 1
SO <sub>2</sub>	100	40	>1.00 to 1
PM <sub>10</sub>			
Moderate	100	15	>1.00 to 1
Serious	70	15	>1.00 to 1
Lead	100	0.6	>1.00 to 1

\* \* \*

[See Prior Text in Note 1 – Note 2]

<sup>3</sup> For serious and severe ozone nonattainment areas, the increase in emissions of volatile organic compounds VOC or NO<sub>x</sub> resulting from any physical change or change in the method of operation of a stationary source shall be considered significant for purposes of determining the applicability of permit requirements, if the net emissions increase from the source equals or exceeds 25 tons.

<sup>4</sup> Consideration of the net emissions increase will be triggered for any project ~~which that~~ which that would increase ~~volatile organic compound~~ VOC or NO<sub>x</sub> emissions by five tons or more per year, without regard to any project decreases, or for any project ~~which that~~ which that would result in a 25 ton or more per year cumulative increase in emissions after November 15, 1992, without regard to project decreases.

VOC = volatile organic compounds

NO<sub>x</sub> = oxides of nitrogen

CO = carbon monoxide

SO<sub>2</sub> = sulfur dioxide

PM<sub>10</sub> = particulate matter of less than 10 microns in diameter

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

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES LOG #: AQ 212

Person

Preparing

Statement: Paul Heussner

Dept.: Department of Environmental Quality

Phone: (225) 765-0265

Office: Office of Environmental Assessment

Return

Rule Title: Revision of Minimum Offset Ratios

Address: P. O. Box 82178  
Baton Rouge, LA 70884-2178

(LAC 33:III.504)

Date Rule Takes Effect: Upon Promulgation

**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

There will be no costs or savings to state or local governmental units as a result of this rule.

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

There is no estimated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

The exact effect this rule will have on a facility will vary. If a major source is not planning to apply for a permit that will involve significant increase in emissions, or shows sufficient contemporaneous reductions, the rule will have no effect at all. However, if such a facility is applying to increase VOC or NO<sub>x</sub> emissions beyond the major modification threshold, then Nonattainment New Source Review (NNSR) will be triggered. The source must then offset, i.e. use Emission Reduction Credits (ERCs), the emissions increase at the proposed rate and apply Lowest Achievable Emissions Rate (LAER) or apply ERCs depending on the circumstances. Costs, if any, are dependent on the future plans of individual firms and are not further quantifiable.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment.

\_\_\_\_\_  
Signature of Agency Head or Designee

\_\_\_\_\_  
LEGISLATIVE FISCAL OFFICER OR DESIGNEE

James H. Brent, Ph.D., Assistant Secretary  
Typed Name and Title of Agency Head  
or Designee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature

LFO 7/1/94



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule proposes to revise the minimum offset ratios in LAC 33:III.504, Table 1, Major Stationary Source/Major Modification Emission Thresholds. For a nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for VOC will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for VOC will be 1.30 to 1.

This rule also proposes to add a minimum offset ratio for the pollutant NO<sub>x</sub>. For a nonattainment area with a classification of serious for the pollutant, ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.20 to 1 with LAER or 1.40 to 1 internal without LAER. For a nonattainment area with a classification of severe for ozone, the minimum offset ratio for NO<sub>x</sub> will be 1.30 to 1.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

During the summer of 2000, Louisiana experienced many days of elevated ozone levels, especially in the Baton Rouge area, as a number of the monitored readings have exceeded the one-hour standard. In addition, the 5-parish Baton Rouge ozone non-attainment area, which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge, did not meet the 1999 statutory deadline to comply with the one-hour ozone National Ambient Air Quality Standard (NAAQS). Urban Airshed Modeling (UAM) indicates that a reduction in NO<sub>x</sub> emissions and some further reduction in VOC emissions are required in at least the 5-parish area to lower ozone levels. Therefore, it is necessary to identify and promulgate regulations to implement emission reduction controls. The LDEQ is preparing a revision to the State Implementation Plan (SIP) that will specify emission reduction control strategies so that Louisiana can comply with the NAAQS. This offset ratio revision is only one measure identified to reduce emissions.

- C. Compliance with Act II of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, this proposed rule will not result in any increase in the expenditure of funds.

- 2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?
- (a) \_\_\_\_\_ Yes. If yes, attach documentation.
- (b) \_\_\_\_\_ No. If no, provide justification as to why this rule change should be published at this time.

This proposed rule will not result in any increase in the expenditure of funds.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION**  
**PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There will be no costs or savings to state or local governmental units as a result of this rule.

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COSTS	FY 01-02	FY 02-03	FY 03-04
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
<u>EQUIPMENT</u>	-0-	-0-	-0-
<u>TOTAL</u>	-0-	-0-	-0-
<u>MAJOR REPAIR &amp; CONSTR.</u>	-0-	-0-	-0-
<u>POSITIONS(#)</u>			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There are no costs or savings associated with the proposed rule. Any workload adjustment will be absorbed by existing staff.

3. Sources of funding for implementing the proposed rule or rule change.

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SOURCE	FY 01-02	FY 02-03	FY 03-04
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
<u>OTHER (Specify)</u>	-0-	-0-	-0-
<u>TOTAL</u>	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are required to implement the proposed action.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact of the proposed action on local governmental units.

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

There are no costs or savings to local governmental units and no funding is needed.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

There is no estimated effect on revenue collections of state or local governmental units from the proposed action.

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REVENUE INCREASE/DECREASE	FY 01-02	FY 02-03	FY 03-04
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
<u>LOCAL FUNDS</u>	-0-	-0-	-0-
<u>TOTAL</u>	-0-	-0-	-0-

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There are no estimated effects on revenue collections of state and local governmental units.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The exact effect this rule will have on a facility will vary. If a major source is not planning to apply for a permit that will involve a significant increase in emissions, or shows sufficient contemporaneous reductions, the rule will have no effect at all. However, if such a facility is applying to increase VOC or NO<sub>x</sub> emissions beyond the major modification threshold, then Nonattainment New Source Review (NNSR) is triggered.

A facility may choose to meet its VOC emissions reduction requirement by applying internal offsets at a rate of 1.4:1. Because internal ERCs were originally created by the company requesting the modification, no extra financial expense will be incurred, except for the loss of an additional 0.1 ton ERC per ton of VOC increase.

Informal discussions with industry environmental personnel have indicated that the one ERC (1 ton per year) has a market value of approximately \$5,000. The DEQ maintains a bank database of ERCs, but the financial transactions are strictly between facilities involved. ERCs are valid for 10 years, and a significant portion will expire in the next several years. Remaining ERCs will probably become more valuable in time.

In order to construct a new major facility, or if an existing facility that does not own ERCs plans to make a major modification, the requirement to install Lowest Achievable Emission Rate (LAER) control equipment and offset the emissions increase at a rate of 1.2:1 will be maintained. The only additional cost incurred by such facilities may be the increased cost of ERCs, a figure that cannot accurately be projected.

The previous discussion is also applicable to the new NO<sub>x</sub> offset requirement. A facility may choose to meet its NO<sub>x</sub> emission reduction requirements by applying internal offsets at a rate of 1.4:1. Like VOC ERCs, NO<sub>x</sub> ERCs are valid for 10 years. Because there is no precedent of NO<sub>x</sub> transactions, assigning a value to one NO<sub>x</sub> ERC is not feasible. Interprecursor trading (e.g., using a VOC ERC to offset a NO<sub>x</sub> increase) is allowed.

Without having detailed information on the long-term plans of the relevant facilities, it is not possible to make a more detailed cost projection.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There are no estimated impacts on receipts or income.

#### **IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no effect on competition since all facilities must follow the same rules. There is no estimated effect on employment in the public and private sectors.