

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

Nonattainment New Source Review; Prevention of Significant Deterioration - Louisiana
Revisions
(LAC 33:III.504 and 509) (AQ246L)

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.504 and 509 (Log #AQ246L).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240). This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality.

The department's proposed rule AQ246F adopts the federal rule. This rule, AQ246L, includes Louisiana revisions put forward by the department. These revisions supersede text in proposed rule AQ246F. According to the Administrative Procedure Act (R.S. 49:953(F)(1)), the department is required to propose a rule that differs from a federal rule separately from a proposed rule that is identical to a federal rule.

Louisiana's rule adds consequences for underestimation of projected actual emissions. For projects originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that a project has resulted or will now result in a significant net emissions increase, the owner or operator must either request that the administrative authority limit the potential to emit of the affected emissions units as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result, or submit a revised PSD application within 180 days. Louisiana's rule eliminates "malfunctions" from the definitions of "baseline actual emissions" and "projected actual emissions." For purposes of this regulation, emissions that are permitted or otherwise authorized (e.g., by a variance) are not to be considered malfunctions. Louisiana's rule omits the exclusions for temporary and permanent clean coal technology demonstration projects and for the reactivation of a very clean coal-fired electric utility steam generating unit. Also, non-substantive wording and/or structural changes are made to update the regulations and improve readability (e.g., alphabetized definitions). The basis and

rationale for this proposed rule are to adopt the Federal NSR Reform rule as mandated by the U.S. EPA and include revisions put forward by the department.

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 July 26, 2005, 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 State Implementation Plan (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. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ246L. Such comments must be received no later than August 2, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs and Regulation Development 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 AQ246L. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

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; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

[Editor's Note: Changes to text in AQ246F are shown in SMALL CAPS. These changes supersede text in AQ246F.]

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review Procedures

A. - D.10. ... [See AQ246F]

11. FOR PROJECTS ORIGINALLY DETERMINED NOT TO RESULT IN A SIGNIFICANT NET EMISSIONS INCREASE, IF AN OWNER OR OPERATOR SUBSEQUENTLY REEVALUATES PROJECTED ACTUAL EMISSIONS AND DETERMINES THAT A PROJECT HAS RESULTED OR WILL NOW RESULT IN A SIGNIFICANT NET EMISSIONS INCREASE, THE OWNER OR OPERATOR MUST EITHER:

A. REQUEST THAT THE ADMINISTRATIVE AUTHORITY LIMIT THE POTENTIAL TO EMIT OF THE AFFECTED EMISSIONS UNITS AS APPROPRIATE VIA FEDERALLY ENFORCEABLE CONDITIONS SUCH THAT A SIGNIFICANT NET EMISSIONS INCREASE WILL NO LONGER RESULT; OR

B. SUBMIT A REVISED PERMIT APPLICATION WITHIN 180 DAYS REQUESTING THAT THE ORIGINAL PROJECT BE DEEMED A MAJOR MODIFICATION.

E. - J.3.a. ... [See AQ246F]

b. calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also AUTHORIZED emissions associated with startup, AND shutdown, AND MALFUNCTION;

3.c. - 7.c. ... [See AQ246F]

d. a requirement that emission calculations for compliance purposes include emissions associated with startup, AND shutdown, AND MALFUNCTION;

7.e. - 15.b. ... [See AQ246F]

~~G.K.~~ Definitions. The terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined as follows.

* * *

[See AQ246F]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated pollutant, determined as follows.

a. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups; AND shutdowns; AND MALFUNCTIONS.

a.ii. - b. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups; AND shutdowns; AND MALFUNCTIONS.

b.ii. - d. ... [See AQ246F]

* * *

[See AQ246F]

~~*Clean Coal Technology*—ANY TECHNOLOGY, INCLUDING TECHNOLOGIES APPLIED AT THE PRECOMBUSTION, COMBUSTION, OR POST COMBUSTION STAGE, AT A NEW OR EXISTING FACILITY THAT WILL ACHIEVE SIGNIFICANT REDUCTIONS IN AIR EMISSIONS OF SULFUR DIOXIDE OR OXIDES OF NITROGEN ASSOCIATED WITH THE UTILIZATION OF COAL IN THE GENERATION OF ELECTRICITY, OR PROCESS STEAM, WHICH WAS NOT IN WIDESPREAD USE AS OF NOVEMBER 15, 1990. REPEALED FROM AQ246F.~~

~~*Clean Coal Technology Demonstration Project*—A PROJECT USING FUNDS APPROPRIATED UNDER THE HEADING “DEPARTMENT OF ENERGY CLEAN COAL TECHNOLOGY,” UP TO A TOTAL AMOUNT OF \$2,500,000,000 FOR COMMERCIAL DEMONSTRATION OF CLEAN COAL TECHNOLOGY, OR SIMILAR PROJECTS FUNDED THROUGH APPROPRIATIONS FOR THE ENVIRONMENTAL PROTECTION AGENCY. THE FEDERAL CONTRIBUTION FOR A QUALIFYING PROJECT SHALL BE AT LEAST 20 PERCENT OF THE TOTAL COST OF THE DEMONSTRATION PROJECT. REPEALED FROM AQ246F.~~

* * *

[See AQ246F]

~~*Major Modification*—~~

a. - c.vii. ... [See AQ246F]

viii. the addition, replacement, or use of a PCP, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection I of this Section. A replacement control technology must provide more effective emissions control than that of the replaced control technology to qualify for this exclusion;

~~IX. THE INSTALLATION, OPERATION, CESSATION, OR REMOVAL OF A TEMPORARY CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT, PROVIDED THAT THE PROJECT COMPLIES WITH:~~

~~(A). THE STATE IMPLEMENTATION PLAN FOR THE STATE IN WHICH THE PROJECT IS LOCATED; AND~~

~~(B). OTHER REQUIREMENTS NECESSARY TO ATTAIN AND MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARD DURING THE PROJECT AND AFTER IT IS TERMINATED.~~

d. ... [See AQ246F]

* * *

[See AQ246F]

Projected Actual Emissions —the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit’s design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246F]

b. shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups, AND shutdowns, AND MALFUNCTIONS; and

c. - d. ... [See AQ246F]

* * *

[See AQ246F]

Temporary Clean Coal Technology Demonstration Project—~~A CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT THAT IS OPERATED FOR A PERIOD OF FIVE YEARS OR LESS, AND THAT COMPLIES WITH THE STATE IMPLEMENTATION PLAN FOR THE STATE IN WHICH THE PROJECT IS LOCATED AND OTHER REQUIREMENTS NECESSARY TO ATTAIN AND MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARDS DURING THE PROJECT AND AFTER IT IS TERMINATED. REPEALED FROM AQ246F.~~

* * *

[See AQ246F]

L. ... [See AQ246F]

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 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), LR 31:

§509. Prevention of Significant Deterioration

A. - A.6 ... [See AQ246F]

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

* * *

[See AQ246F]

Baseline Actual Emissions—the rate of emissions, in tons per year, of a regulated NSR pollutant, determined as follows.

a. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups, AND shutdowns, AND MALFUNCTIONS.

a.ii. - b. ... [See AQ246F]

i. The average rate shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups, AND shutdowns, AND MALFUNCTIONS.

b.ii. - d. ... [See AQ246F]

* * *

[See AQ246F]

Clean Coal Technology—~~ANY TECHNOLOGY, INCLUDING TECHNOLOGIES APPLIED AT THE PRECOMBUSTION, COMBUSTION, OR POST COMBUSTION STAGE, AT A NEW OR EXISTING FACILITY THAT WILL ACHIEVE SIGNIFICANT REDUCTIONS IN AIR EMISSIONS OF SULFUR DIOXIDE OR OXIDES OF NITROGEN ASSOCIATED WITH THE UTILIZATION OF COAL IN THE GENERATION OF ELECTRICITY, OR PROCESS STEAM, WHICH WAS NOT IN WIDESPREAD USE AS OF NOVEMBER 15, 1990. REPEALED FROM AQ246F.~~

Clean Coal Technology Demonstration Project—~~A PROJECT USING FUNDS APPROPRIATED UNDER THE HEADING “DEPARTMENT OF ENERGY CLEAN COAL TECHNOLOGY,” UP TO A TOTAL AMOUNT OF \$2,500,000,000 FOR COMMERCIAL DEMONSTRATION OF CLEAN COAL TECHNOLOGY, OR SIMILAR PROJECTS FUNDED THROUGH APPROPRIATIONS FOR THE ENVIRONMENTAL PROTECTION AGENCY. THE FEDERAL CONTRIBUTION FOR A QUALIFYING PROJECT SHALL BE AT LEAST 20 PERCENT OF THE TOTAL COST OF THE DEMONSTRATION PROJECT. REPEALED FROM AQ246F.~~

* * *

[See AQ246F]

Major Modification—

a. - c.vii. ... [See AQ246F]

viii. the addition, replacement, or use of a *pollution control project*, as defined in this Subsection, at an existing emissions unit meeting the requirements of Subsection Z of this Section. A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion.

~~IX. — THE INSTALLATION, OPERATION, CESSATION, OR REMOVAL OF A TEMPORARY CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT, PROVIDED THAT THE PROJECT COMPLIES WITH:~~

~~(A). — THE STATE IMPLEMENTATION PLAN FOR THE STATE IN WHICH THE PROJECT IS LOCATED; AND~~

~~(B). — OTHER REQUIREMENTS NECESSARY TO ATTAIN AND MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARDS DURING THE PROJECT AND AFTER IT IS TERMINATED;~~

~~X. — THE INSTALLATION OR OPERATION OF A PERMANENT CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT THAT CONSTITUTES REPOWERING, PROVIDED THAT THE PROJECT DOES NOT RESULT IN AN INCREASE IN THE POTENTIAL TO EMIT OF ANY REGULATED POLLUTANT EMITTED BY THE UNIT. THIS EXEMPTION SHALL APPLY ON A POLLUTANT-BY-POLLUTANT BASIS;~~

~~XI. — THE REACTIVATION OF A VERY CLEAN COAL-FIRED ELECTRIC UTILITY STEAM GENERATING UNIT.~~

d. ... [See AQ246F]

* * *

[See AQ246F]

Projected Actual Emissions — the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the *projected actual emissions* before beginning actual construction, the owner or operator of the major stationary source:

a. ... [See AQ246F]

b. shall include fugitive emissions to the extent quantifiable, and AUTHORIZED emissions associated with startups, AND shutdowns, AND MALFUNCTIONS; and

c. - d. ... [See AQ246F]

Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit — ANY PHYSICAL CHANGE OR CHANGE IN THE METHOD OF OPERATION ASSOCIATED WITH THE COMMENCEMENT OF COMMERCIAL OPERATIONS BY A COAL-FIRED UTILITY UNIT AFTER A PERIOD OF DISCONTINUED OPERATION, WHERE THE UNIT:

~~A. — HAS NOT BEEN IN OPERATION FOR THE TWO-YEAR PERIOD PRIOR TO THE ENACTMENT OF THE CLEAN AIR ACT AMENDMENTS OF 1990, AND THE EMISSIONS FROM SUCH UNIT CONTINUE TO BE CARRIED IN THE ADMINISTRATIVE AUTHORITY'S EMISSIONS INVENTORY AT THE TIME OF ENACTMENT;~~

~~B. — WAS EQUIPPED PRIOR TO SHUT-DOWN WITH A CONTINUOUS SYSTEM OF EMISSIONS CONTROL THAT ACHIEVES A REMOVAL EFFICIENCY FOR SULFUR DIOXIDE OF NO LESS THAN 85 PERCENT AND A REMOVAL EFFICIENCY FOR PARTICULATES OF NO LESS THAN 98 PERCENT;~~

~~C. — IS EQUIPPED WITH LOW NO_x BURNERS PRIOR TO THE TIME OF COMMENCEMENT OF OPERATIONS FOLLOWING REACTIVATION; AND~~

~~D. — IS OTHERWISE IN COMPLIANCE WITH THE REQUIREMENTS OF THE CLEAN AIR ACT. REPEALED FROM AQ246F.~~

* * *

[See AQ246F]

~~*Repowering*—REPLACEMENT OF AN EXISTING COAL FIRED BOILER WITH ONE OF THE FOLLOWING CLEAN COAL TECHNOLOGIES: ATMOSPHERIC OR PRESSURIZED FLUIDIZED BED COMBUSTION, INTEGRATED GASIFICATION COMBINED CYCLE, MAGNETOHYDRODYNAMICS, DIRECT AND INDIRECT COAL FIRED TURBINES, INTEGRATED GASIFICATION FUEL CELLS, OR AS DETERMINED BY THE ADMINISTRATIVE AUTHORITY, IN CONSULTATION WITH THE SECRETARY OF ENERGY, A DERIVATIVE OF ONE OR MORE OF THESE TECHNOLOGIES, AND ANY OTHER TECHNOLOGY CAPABLE OF CONTROLLING MULTIPLE COMBUSTION EMISSIONS SIMULTANEOUSLY WITH IMPROVED BOILER OR GENERATION EFFICIENCY AND WITH SIGNIFICANTLY GREATER WASTE REDUCTION RELATIVE TO THE PERFORMANCE OF TECHNOLOGY IN WIDESPREAD COMMERCIAL USE AS OF NOVEMBER 15, 1990.~~

~~A. — *REPOWERING* SHALL ALSO INCLUDE ANY OIL AND/OR GAS FIRED UNIT THAT HAS BEEN AWARDED CLEAN COAL TECHNOLOGY DEMONSTRATION FUNDING AS OF JANUARY 1, 1991, BY THE DEPARTMENT OF ENERGY.~~

~~B. — THE ADMINISTRATIVE AUTHORITY SHALL GIVE EXPEDITED CONSIDERATION TO PERMIT APPLICATIONS FOR ANY SOURCE THAT SATISFIES THE REQUIREMENTS OF THIS DEFINITION AND IS GRANTED AN EXTENSION UNDER SECTION 409 OF THE CLEAN AIR ACT. REPEALED FROM AQ246F.~~

* * *

[See AQ246F]

~~*Temporary Clean Coal Technology Demonstration Project*—A CLEAN COAL TECHNOLOGY DEMONSTRATION PROJECT THAT IS OPERATED FOR A PERIOD OF FIVE YEARS OR LESS, AND THAT COMPLIES WITH THE STATE IMPLEMENTATION PLAN FOR THE STATE IN WHICH THE PROJECT IS LOCATED AND OTHER REQUIREMENTS NECESSARY TO ATTAIN AND MAINTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARDS DURING THE PROJECT AND AFTER IT IS TERMINATED. REPEALED FROM AQ246F.~~

C. - R.7. ... [See AQ246F]

~~8. THE REQUIREMENTS OF SUBSECTIONS J-R OF THIS SECTION SHALL APPLY AS IF CONSTRUCTION HAS NOT YET COMMENCED AT ANY TIME THAT A PROJECT IS DETERMINED TO BE A MAJOR MODIFICATION BASED ON ANY CREDIBLE EVIDENCE, INCLUDING BUT NOT LIMITED TO, EMISSIONS DATA PRODUCED AFTER THE PROJECT IS COMPLETED. IN ANY SUCH CASE, THE OWNER OR OPERATOR MAY BE SUBJECT TO ENFORCEMENT FOR FAILURE TO OBTAIN A PSD PERMIT PRIOR TO BEGINNING ACTUAL CONSTRUCTION.~~

~~9. IF AN OWNER OR OPERATOR MATERIALLY FAILS TO COMPLY WITH THE PROVISIONS OF PARAGRAPH R.6 OF THIS SECTION, THEN THE CALENDAR YEAR EMISSIONS ARE PRESUMED TO EQUAL THE SOURCE'S POTENTIAL TO EMIT.~~

~~10. REVISIONS TO PROJECTED ACTUAL EMISSIONS. FOR PROJECTS ORIGINALLY EVALUATED IN ACCORDANCE WITH PARAGRAPH A.3 OF THIS SECTION AND DETERMINED NOT TO RESULT IN A SIGNIFICANT NET EMISSIONS INCREASE, IF AN OWNER OR OPERATOR SUBSEQUENTLY REEVALUATES PROJECTED ACTUAL EMISSIONS AND DETERMINES THAT THE PROJECT HAS RESULTED OR WILL NOW RESULT IN A SIGNIFICANT NET EMISSIONS INCREASE, THE OWNER OR OPERATOR SHALL:~~

~~A. REQUEST THAT THE ADMINISTRATIVE AUTHORITY LIMIT THE POTENTIAL TO EMIT OF THE AFFECTED EMISSIONS UNITS AS APPROPRIATE VIA FEDERALLY ENFORCEABLE CONDITIONS SUCH THAT A SIGNIFICANT NET EMISSIONS INCREASE WILL NO LONGER RESULT; OR~~

~~B. SUBMIT A REVISED PSD APPLICATION WITHIN 180 DAYS.~~

S. - AA.3.a. ... [See AQ246F]

b. calculations of the baseline actual emissions, with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also AUTHORIZED emissions associated with startup, AND shutdown, AND MALFUNCTION;

3.c. - 15.b. ... [See AQ246F]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of Environmental Assessment, LR 31:

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

LOG #: AQ246L

Person

Preparing

Statement: Michael Vince

Dept.: Environmental Quality

Phone: 219-3001

Office: Office of Environmental Services

Return DEQ

Rule: Nonattainment New Source Review;

Address: P.O. Box 4313

Title: Prevention of Significant Deterioration -

Baton Rouge, LA 70821

Louisiana Revisions (LAC 33:III.504 & 509)

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)

The proposed changes have no known impact on state or local governmental units budgets.

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

There are no known effects 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)

Facilities regulated by the department may see minor impacts in cost as a result of this rule change. Implementation costs are expected to be very minimal or non-existent because of the speculative nature of just how many facilities would be impacted by this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no known effects on competition or employment from this rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Wilbert F. Jordan, Jr., Assistant Secretary
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

**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).

On December 31, 2002, the United States Environmental Protection Agency published a final New Source Review (NSR) rule revising the regulations that implement the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) provisions of the Clean Air Act. To be approvable under the State Implementation Plan (SIP), states implementing Part C (PSD permit program in §51.166) or Part D (nonattainment NSR permit program in §51.165) must include EPA's December 31, 2002, changes as minimum program elements. States must adopt and submit revisions to their Part 51 permitting programs implementing these minimum program elements no later than January 2, 2006 (67 FR 80240).

The department's proposed rule AQ246F adopts the federal rule. AQ246L includes Louisiana revisions presented by the department. According to the Administrative Procedure Act (R.S. 49:953(F)(1)), the department is required to propose a rule that differs from a federal rule separately from a proposed rule that is identical to a federal rule.

Louisiana's rule adds consequences for underestimation of projected actual emissions. For projects originally determined not to result in a significant net emissions increase, if an owner or operator subsequently reevaluates projected actual emissions and determines that project has resulted or will now result in a significant net emissions increase, the owner or operator must either request that the administrative authority limit the potential to emit of the affected emissions unit(s) as appropriate via federally enforceable conditions such that a significant net emissions increase will no longer result, or submit a revised PSD application within 180 days.

Louisiana's rule eliminates "malfunctions" from the definition of "baseline actual emissions" and "projected actual emissions." For purposes of this regulation, emissions that are permitted or otherwise authorized (e.g., by a variance) are not to be considered malfunctions.

Louisiana's rule omits the exclusions for temporary and permanent clean coal technology demonstration projects and for the reactivation of a very clean coal-fired electric utility steam generating units.

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

These state-only changes are proposed to adapt the federal rules to be consistent with the nature and intent of existing state rules.

- C. Compliance with Act 11 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.

There are no increases in expenditure of funds that will result from the proposed change.

(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 section is not applicable.

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?

COSTS	FY 05-06	FY 06-07	FY 07-08
PERSONAL SERVICES _____			
OPERATING EXPENSES _____			
PROFESSIONAL SERVICES _____			
OTHER CHARGES _____			
EQUIPMENT _____			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR. _____			
POSITIONS (#) _____			

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.

The proposed changes have no known impact on state agency budgets. The slight rule variations should not require any additional staff time in the review or approval processes for air permitting decisions.

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

SOURCE	FY 05-06	FY 06-07	FY 07-08
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
DEDICATED _____			
FEDERAL FUNDS _____			
OTHER (Specify) _____			
TOTAL	-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?

The department has adequate funding for implementing this proposed rule.

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.

This rule has no known impact on local governmental units.

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

This section is not applicable.

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 are no known increases or decreases in revenues anticipated from the proposed rule.

REVENUE INCREASE/DECREASE	FY 05-06	FY 06-07	FY 07-08
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
RESTRICTED FUNDS* _____			
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
TOTAL	-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.

This section is not applicable.

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.

Facilities regulated by DEQ may see some minor impacts as a result of this rule change. DEQ published an advanced notice of rulemaking in the fall of 2004, to solicit comments on the proposed rule and to collect information relative to the impacts of these changes on facilities regulated by the agency. No cost information was received specific to these changes. Implementation costs are expected to be very minimal or non-existent because of the speculative nature of just how many facilities would be impacted by this rule change.

- 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 should be no change in 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 should be no changes in competition or employment as a result of these minor changes.