

## 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<sub>x</sub>) 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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. 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](mailto: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](http://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

**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<sub>x</sub>) 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<sub>x</sub> 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<sub>x</sub> Allowance Allocations) and §97.142 (CAIR NO<sub>x</sub> Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> 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.an electricity-generating unit or contract 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.~~

\* \* \*

*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 facility and/or all of its component units, additions, and up-rated or re-powered units 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<sub>x</sub> allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO<sub>x</sub> 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 ~~coal~~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 ~~non-coal~~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<sub>x</sub> allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> 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 ~~baseline~~-heat input of the CAIR utility unit ~~and/or converted heat input of a certified unit~~ to the total amount of adjusted ~~baseline~~-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 ~~baseline~~-heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> 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 ~~coal~~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 ~~oil~~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, ~~status as coal-fired or oil-fired~~fuel type, and total tons of NO<sub>x</sub> 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<sub>x</sub>) 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<sub>x</sub> 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<sub>x</sub> Ozone Season Allowance Allocations) and §97.342 (CAIR NO<sub>x</sub> Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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 ~~coal~~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 ~~non-coal~~ 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<sub>x</sub> ozone season allowances to each CAIR utility unit by multiplying the CAIR NO<sub>x</sub> 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 ~~baseline~~ heat input of the CAIR utility unit ~~and/or converted heat input of a certified unit~~ to the total amount of ozone season adjusted ~~baseline~~ 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 ~~baseline~~ heat input (in MMBTU) used with respect to the CAIR NO<sub>x</sub> 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 ~~coal~~ 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 ~~oil~~ 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, ~~status as coal-fired or oil-fired, fuel type,~~ and total tons of NO<sub>x</sub> 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 SO<sub>2</sub> Model Rule, published in the *Code of Federal Regulations* at 40 CFR Part 96, July 1, 2005~~6~~, and as revised at 70~~2~~ FR 25162-25405, May 12, 2005~~59190-59207~~, October 19, 2007, and 71 FR 25328-25469, April 28, 2006, is hereby incorporated by reference, except for Subpart III-CAIR SO<sub>2</sub> 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:\*\*.

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

LOG #: AQ292

Person Preparing Statement:	<u>Jim Orgeron</u>	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225) 219-3578</u>	Office:	<u>Environmental Assessment</u>
Return Address:	<u>P O Box 4314</u> <u>Baton Rouge, LA 70821-43414</u>	Rule Title:	<u>Clean Air Interstate Rule (CAIR)</u> <u>NO<sub>x</sub> Trading Programs</u> <u>(LAC 33:III.506)</u>
		Date Rule Takes Effect:	<u>Upon Promulgation</u>

**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)**

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 NON-GOVERNMENTAL GROUPS (Summary)**

Affected regulated facilities that have the ability and are permitted to combust petroleum coke will get some additional NO<sub>x</sub> allowances due to the increase in the fuel adjustment factor in the methodology, tending to increase their income by increasing the number of NO<sub>x</sub> 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<sub>x</sub> allowances than before. The amount may be significant. Typically, nonregulated units receive only sufficient NO<sub>x</sub> 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.

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

Herman Robinson, CPM, Executive Counsel  
Typed Name and Title of Agency Head or Designee

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

\_\_\_\_\_  
Legislative Fiscal Officer or Designee

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

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 revision to the state's Clean Air Interstate Rule (CAIR) allocation methodology addresses the following:

1. Updates citations to all federal revisions to the CAIR,
2. Revises and adds some definitions,
3. Adds rule language so that combusting petroleum coke is the same as combusting coal in the allocation methodology,
4. Adds a provision to address repowered utility units,
5. Adds a provision to address the reclassification of units from utility to non-utility and vice versa, and
6. Adds rule language to cease allocation of NO<sub>x</sub> 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.)

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

EPA promulgated a CAIR Federal Implementation Plan (FIP) on April 28, 2006, which allows a state to allocate CAIR NO<sub>x</sub> 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.

- 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.

No increase in the expenditure of funds is expected.

(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.

The question 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	FY07-08	FY08-09	FY09-10
PERSONAL SERVICES			
OPERATING EXPENSES	-minimal-	-minimal-	-minimal-
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-minimal-	-minimal-	-minimal-
MAJOR REPAIR & CONSTR			
POSITIONS (#)	-0-	-0-	-0-

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 will be no increase in department workload. As electrical ratepayers, state agencies may experience a minimal change in operating costs (utility costs) when an affected unit that supplies electricity to that state agency changes its mode of operation. It is not possible to estimate the amount, or whether the amount will be positive or negative. The department anticipates very few affected units will change their modes of operation.

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

SOURCE	FY07-08	FY08-09	FY09-10
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 agency has sufficient funds to implement the revisions to this 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.

There are six municipalities in Louisiana that own affected electrical generating units (EGUs). It appears that, due to these revisions, there could be a significant impact to these municipalities from this action depending upon the business decisions the six municipalities make. However, the overall impact to the municipalities will also be affected by the business decisions the non-municipal CAIR affected facilities make. Because there are so many more non-municipal CAIR affected units, and there are only a fixed number of allocations, the resulting final impact to the municipals will be minimal. The department also 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 cost or savings can be estimated, but the department expects the overall impact to be minimal.

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?

REVENUE INCREASE/DECREASE	FY07-08	FY08-09	FY09-10
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS	minimal	minimal	minimal
TOTAL	minimal	minimal	minimal

\*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.

Municipalities owning EGUs may realize a minimal change of revenue. These governmental units may pass on the costs or savings to their electrical ratepayers.

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.

Louisiana electrical ratepayers may experience a minimal increase/decrease in utility cost as affected facilities' operating costs fluctuate due to the change in operations.

For affected units the costs will depend upon the mode of operation changed. The costs are variable and cannot be estimated. Any workload adjustments and additional paperwork are caused by the underlying federal rule and not this revision to the changed allocation methodology.

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.

Affected regulated facilities that have the ability and are permitted to combust petroleum coke will get some additional NO<sub>x</sub> allowances due to the increase in the fuel adjustment factor in the methodology, tending to increase their income by increasing the number of NO<sub>x</sub> allowances allocated by the department. This amount may be significant. For example: A regulated facility usually combusts natural gas. Using the existing methodology, the facility was allocated 349 annual NO<sub>x</sub> allowances. All other things being equal, if the facility began combusting petroleum coke, and these revisions were not promulgated, it would instead be allocated 521 annual NO<sub>x</sub> allowances. With these revisions in place it would be allocated 859 annual NO<sub>x</sub> allowances and, if the price of a single NO<sub>x</sub> allocation is \$1500, then this facility gains about \$500,000. 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<sub>x</sub> allowances than before. The amount may be significant. Typically, nonregulated units receive only sufficient NO<sub>x</sub> 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.

In every case above, it will be a business decision that will also take into account these revisions to the state's CAIR allocation methodology.

#### 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.

It is anticipated that the changes to allowance methodology will not be implemented often, and therefore, there will be little or no effect on competition or employment.