

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Greenhouse Gas (GHG) Tailoring Rule
(LAC 33:III.502.A & 509.B) (AQ314ft)

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.502.A & 509.B (Log #AQ314ft).

This rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, Pages 31606-31607, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO_{2e}). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

On April 2, 2010, EPA published a final rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action, GHGs become "subject to regulation" and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source-

- a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;
- b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

Significant-

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

Consequently, in the absence of thresholds specifically tailored to GHGs, the Title V and PSD major source threshold would be 100 or 250 tons per year (depending on the source category), and any increase in GHG emissions resulting from a physical change or change in the method of operation at a major source would trigger PSD review.

According to the Tailoring Rule, this would greatly increase the number of required permits, impose undue costs on small sources, overwhelm the resources of permitting authorities, and severely impair the functioning of the programs (75 FR 31514). The basis and rationale for this Rule is to adopt the federal major stationary source threshold and PSD significance level for GHGs. This 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 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 November 24, 2010, 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 amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage 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 AQ314ft. Such comments must be received no later than November 24, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to donald.trahan@la.gov. The comment period for this rule ends on the same date as the public hearing. 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 AQ314ft. 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; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

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Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

* * *

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of *greenhouse gases (GHGs)* computed by multiplying the mass amount of emissions for each of the six *GHGs* by its associated global warming potential, published in Table A-1 to Subpart A of 40 CFR Part 98—Global Warming Potentials, and summing the resultant value for each. (See *greenhouse gases (GHGs)*.)

* * *

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six *greenhouse gases*: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Major Source—for the purposes of determining the applicability of 40 CFR Part 70 or of LAC 33:III.507, any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties, that are under common control of the same person (or persons under common control), and that are described in Subparagraph a, b, ~~c~~, or d of this definition:

a. - a.ii. ...

b. any stationary source that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant (except for GHGs) excluding any air pollutant regulated solely under Section 112(r) of the Clean Air Act. Fugitive emissions of a stationary source shall be considered in determining whether it is a major source under this Subparagraph:

i. - ii. ...

c. any major stationary source as defined in Part D (Nonattainment) of Title I of the Clean Air Act, including any source defined as a major stationary source under LAC 33:III.504.K.;

d. as of July 1, 2011, any stationary source that directly emits or has the potential to emit 100,000 tpy CO₂e.

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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 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 36:**.

§509. Prevention of Significant Deterioration

A. -A. 5. ...

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

* * *

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas’s associated global warming potential published in Table A-1 to Subpart A of 40 CFR, Part 98—Global Warming Potentials, and summing the resultant value for each.

* * *

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

* * *

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant (except for GHGs) subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant (except for GHGs) subject to regulation under this Section; ~~or~~

c. as of July 1, 2011, any stationary source which emits, or has the potential to emit, at least 100,000 tons per year CO₂e; or

d. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a, ~~and b,~~ or c of this definition if the change would constitute a major source by itself;

~~e.~~ a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

f. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

* * *

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM ₁₀ emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide	10 tpy
Total reduced sulfur (including H ₂ S)	10 tpy
Reduced sulfur compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy
<u>GHGs (as CO₂e)⁵</u>	<u>75,000 tpy</u>

Pollutant	Emission Rate
¹ Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.	
² Measured as particulate matter.	
³ Measured as sulfur dioxide and hydrogen chloride.	
⁴ Measured as nonmethane organic compounds.	
⁵ Effective January 2, 2011.	

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C.-AA.15.b ...

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 the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:**.