

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Necessary Regulatory Revisions Prompted by GHG Regulation
(LAC 33:III.111, 211, 223, 501, 503, 523, 537, & 2132) (AQ315)

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.111, 211, 223, 501, 503, 523, 537, & 2132 (AQ315).

This rule removes carbon dioxide (CO₂) from the list of pollutants that "need not be included in a permit application". Also, a number of thresholds within the air quality regulations are currently set in terms of a source's emissions of "regulated pollutants" or "regulated air pollutants". These thresholds will be revised to be based on emissions of criteria and toxic air pollutants.

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, greenhouses gas (GHGs) become "subject to regulation," and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.501.B.5, Item C.3 currently specifies that emissions of carbon dioxide (CO₂) "need not be included in a permit application". Information concerning potential emissions of GHGs, which includes CO₂, will be necessary in order to assess major source status and applicability of the PSD program. GHGs also include nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Further, as a consequence of GHGs becoming a "regulated" pollutant, revisions to other state air quality regulations will be necessary. This is because thresholds for small source permits, exemptions, insignificant activities, and General Condition XVII activities are dependent on a source's emissions of "regulated pollutants" or "regulated air pollutants". Moreover, whether a source can be classified as a small business is also based, in part, on its emissions of "regulated pollutants". Affected provisions include:

LAC 33:III.211.B.13.e
LAC 33:III.223, Note 15
LAC 33:III.501.B.2.d.i
LAC 33:III.501.B.4.a.i
LAC 33:III.501.B.5
LAC 33:III.503.B.2
LAC 33:III.523.A.1.b
LAC 33:III.537.A, General Condition XVII
LAC 33:III.2132.A.Small Business Stationary Source.4 & 5

Absent this regulatory change, fuel-burning equipment and other sources/activities emitting GHGs could no longer be considered as insignificant activities or General Condition XVII activities, nor could the facilities from which such emissions originate qualify for an exemption from the need to obtain an air permit, for a small source permit, or as a small business if they were otherwise eligible. The basis and rationale for this rule are to ensure LDEQ can require CO2 emissions data in air permit applications and to preserve existing thresholds within the air quality regulations once GHGs become "subject to regulation" on January 2, 2011. 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 February 22, 2011, 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 AQ315. Such comments must be received no later than March 1, 2011, 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. Copies of these proposed regulations 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 AQ315. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are 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.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 1. General Provisions

§111. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Criteria Pollutant—any compound for which an ambient air quality standard has been listed in LAC 33:III.Chapter 7; however, *volatile organic compounds*, as defined in this Section, shall be included as a surrogate for ozone.

* * *

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 15:1061 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:777 (August 1991), LR 21:1081 (October 1995), LR 22:1212 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2444 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:808 (May 2006), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:70 (January 2008), LR 35:1101 (June 2009), LR 36:1773 (August 2010), LR 37:**.

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§211. Methodology

A. - B.13.d.iii. ...

e. Small Source Permit. The small source permit, as defined by LAC 33:III.503.B.2, applies when a permitted source is not a ~~major source~~ Part 70 source as defined in LAC 33:III.502. The permitted source must also emit ~~and/or~~ have the potential to emit less than 25 tons/year of any ~~regulated~~ criteria pollutant, and less than 10 tons per year of any toxic air pollutant. For permit applications with processes specifically listed in the fee schedule that would also qualify for the small source permit fee, the permit fee shall be the lesser of these listed fees

14. - 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 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:**.

§223. Fee Schedule Listing

Table 1. - Explanatory Notes for Fee Schedule.

Note 1. - Note 14a. ...

Note 15. Applications must be accompanied by a certificate of eligibility authorized by the department's Small Business Technical Assistance Program. Final determination of a facility's eligibility is to be made by the administrative authority or his designee and may be based on (but not limited to) the following factors: risk assessment, proposed action, location, etc. For the purpose of this Chapter a small business is a facility which: has 50 employees or fewer; is independently owned; is a small business concern as defined pursuant to the Small Business Act; emits less than 5 tons/year of any single hazardous air pollutant and less than 15 tons/year of any combination of hazardous air pollutants; emits less than 25 tons/year of any regulated criteria pollutant; has an annual gross revenue that does not exceed \$5,000,000; is not a major stationary source; and does not incinerate, recycle, or recover any off-site hazardous, toxic, industrial, medical, or municipal waste.

Note 16. - Note 20. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, 2341, and 2351 et seq.

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 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January 1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:**.

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.i. ...

(a). five tons per year for each of any regulated air criteria pollutant as defined by the Clean Air Act,

(b). - B.4.a. ...

i. the source emits and has the potential to emit no more than 5 tons per year of any regulated air criteria pollutant;

ii. - 5. ...

Table 1. Insignificant Activities List
A. Based on Size or Emission Rate
Permit applications submitted under Subsection A of this Section for sources that include any of the following emissions units, operations, or activities must either list them as insignificant activities or provide the information for emissions units as specified under LAC 33:III.517:
1. external combustion equipment with a design rate greater than or equal to 1 million Btu per hour, but less than or equal to 10 million Btu per hour, provided that the aggregate <u>criteria pollutant</u> emissions from all such units listed as insignificant do not exceed 5 tons per year;
2. storage tanks less than 250 gallons storing organic liquids having a true vapor pressure less than or equal to 3.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
3. storage tanks less than 10,000 gallons storing organic liquids having a true vapor pressure less than 0.5 psia, provided that the aggregate emissions from all such organic liquid storage tanks listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any Minimum Emission Rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act;
A.4. - A.5. ...
6. emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes, provided that the aggregate emissions from all such equipment vents considered insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
A.7. ...
8. portable fuel tanks used on a temporary basis in maintenance and construction activities, provided that the aggregate <u>criteria or toxic air pollutant</u> emissions from all such tanks listed as insignificant do not exceed 5 tons per year;
9. emissions from process stream or process vent analyzers, provided that the aggregate emissions from all such analyzers listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;

Table 1. Insignificant Activities List	
	10. storage tanks containing, exclusively, soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials, the tanks are not subject to 40 CFR 60, Subpart Kb or other federal regulation, and the aggregate emissions from all such tanks listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act;
	11. catalyst charging operations, provided <u>that the aggregate emissions from</u> all such operations listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act; and
	12. portable cooling towers used on a temporary basis in maintenance activities, provided the aggregate emissions from all such cooling towers listed as insignificant do not exceed 5 tons per year <u>of criteria or toxic air pollutants</u> , do not exceed any minimum emission rate listed in LAC 33:III.5112, Table 51.1, and do not exceed any hazardous air pollutant de minimis rate established in accordance with Section 112(g) of the federal Clean Air Act.
B. - B.46. ...	
C. Based on Type of Pollutant	
Emissions of the following pollutants need not be included in a permit application:	
C.1. - C.2. ...	
	3. carbon dioxide;
	43. nitrogen; and
	54. hydrogen.
D. Exemptions Based on Emissions Levels	
The owner or operator of any source may apply for an exemption from the permitting requirements of this Chapter for any emissions unit provided each of the following criteria are met. Activities or emissions units exempt as insignificant based on these criteria shall be included in the permit at the next renewal or permit modification, as appropriate.	
	a. The emissions unit emits and has the potential to emit no more than 5 tons per year of any regulated <u>criteria or toxic air pollutant</u> .
	b. The emissions unit emits and has the potential to emit less than the minimum emission rate listed in LAC 33:III.5112, Table 51.1, for each Louisiana toxic air pollutant.
	c. The emissions unit emits and has the potential to emit less than the de minimis rate established pursuant to Section 112(g) of the federal Clean Air Act for each hazardous air pollutant.
	d. No new federally enforceable limitations or permit conditions are necessary to ensure compliance with any applicable requirement.

¹ State or federal regulations may apply.

6. - C.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842

(October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:**.

§503. Minor Source Permit Requirements

A. - B.1. ...

2. Small Source Permit. The owner or operator of a stationary source which is not a ~~major source~~ Part 70 source as defined in LAC 33:III.502 may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any ~~regulated~~ criteria pollutant and 10 tons per year of any toxic air pollutant.

3. ...

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 by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 37:**.

§523. Procedures for Incorporating Test Results

A. - A.1.a. ...

b. increases in permitted emissions will not exceed 5 tons per year for any ~~regulated~~ criteria or toxic air pollutant;

c. - B.5. ...

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 the Secretary, Legal Affairs Division, LR 34:1903 (September 2008), LR 37:**.

§537. Louisiana General Conditions

A. ...

Table 1. Louisiana Air Emission Permit General Conditions	
* * *	
XVII.	Very small emissions to the air, resulting from routine operations, that are predictable, expected, periodic, and quantifiable and that are submitted by the permitted facility to, and approved by, the Office of Environmental Services are considered authorized discharges. Approved activities are noted in the Louisiana General Condition XVII Activities List of the permit. To be approved as an authorized discharge, such very small releases must:
1.	generally be less than 5 TPY <u>of criteria and toxic air pollutants;</u>
2.	be less than the minimum emission rate (MER);

- | |
|---|
| <p>3. be regularly scheduled (e.g., daily, weekly, monthly, etc.); or</p> <p>4. be necessary prior to plant start-up or after shutdown (line or compressor pressuring/depressuring, for example).</p> <p>This Condition does not authorize the maintenance of a nuisance, or a danger to public health and safety. The permitted facility must comply with all applicable requirements, including release reporting requirements in LAC 33:I.Chapter 39.</p> <p style="text-align: center;">* * *</p> |
|---|

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:660 (April 2009), LR 37:**.

Chapter 21. Control of Emission of Organic Compounds

§2132. Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities

A. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined as follows.

* * *

Independent Small Marketer of Gasoline (ISBM)—a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under this Section, unless such person:

- 1a. is a refiner; or
- 2b. controls, is controlled by, or is under common control with, a refiner; or
- 3c. is otherwise directly or indirectly affiliated with a refiner or with a person who controls, is controlled by, or is under a common control with, a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person); or
- 4d. receives less than 50 percent of his annual income from refining or marketing of gasoline. The term *refiner* shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. Control of a corporation means ownership of more than 50 percent of its stock.

* * *

Small Business Stationary Source—a stationary source that:

- individuals;
- 1a. is owned or operated by a person that employs 100 or fewer
 - 2b. is a small business concern as defined in the Small Business Act;
 - 3c. is not a major stationary source;
 - 4d. does not emit 50 tons or more per year of any ~~regulated~~criteria or toxic air pollutant; and
 - 5e. emits less than 75 tons per year of all ~~regulated~~criteria or toxic air pollutants.

* * *

B. - I. ...

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 18:1254 (November 1992), repromulgated LR 19:46 (January 1993), amended LR 23:1682 (December 1997), LR 24:25 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 29:558 (April 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2440 (October 2005), LR 33:2086 (October 2007), LR 34:1890 (September 2008), LR 34:2397 (November 2008), LR 37:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ315

Person

Preparing

Statement: Bryan D. Johnston Dept.: Environmental Quality
Phone: (225) 219-3001 Office: Environmental Services

Return

Address: P.O. Box 4313 Rule Title: Necessary Regulatory Revisions
Baton Rouge, LA 70821-4313 Prompted by Greenhouse Gas
Regulation (LAC 33:III.111, 211,
223, 501, 503, 523, 537, & 2132)

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 rule change may result in a minimal increase in Department of Environmental Quality administrative costs associated with reviewing and preparing Prevention of Significant Deterioration (PSD) permits for greenhouse gases. However, these costs will be offset with the surcharge associated with the PSD permit program.

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

The proposed rule change may result in an indeterminable increase in revenue collections due to receipt of fees associated with PSD permit applications for greenhouse gases. Any additional permit fees will be deposited into the Environmental Trust Fund.

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

The owner or operator of sources which emit or have the potential to emit carbon dioxide (CO₂) will be affected by the proposed rule. The rule removes CO₂ from the list of pollutants that "need not be included in a permit application." Information concerning potential emissions of greenhouses gases (GHGs), which include CO₂, will be necessary in order for LDEQ to assess major source status and applicability of the Prevention of Significant Deterioration (PSD) program once GHGs become "subject to regulation" on January 2, 2011. Thus, permit applicants will be required to calculate and include in permit applications estimates of CO₂ emissions.

Because permit applicants are already required to submit calculations addressing criteria and toxic air pollutants, determining emissions of CO₂ (which is necessary to quantify GHGs) should not be overly burdensome. Emission factors for CO₂ are generally available in AP-42, EPA's Compilation of Air Pollutant Emission Factors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector because of the proposed rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

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

Date of Signature

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).

The rule removes carbon dioxide (CO₂) from the list of pollutants that “need not be included in a permit application.” Also, a number of thresholds within the air quality regulations are currently set in terms of a source’s emissions of “regulated pollutants” or “regulated air pollutants.” As described below, greenhouse gases (GHGs) will become regulated pollutants on January 2, 2011, and emissions of these compounds will count against the aforementioned thresholds. This it is necessary to specify that the existing thresholds, which were established prior to the regulation of GHGs, are based solely on emissions of criteria pollutants and toxic air pollutants.

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

On April 2, 2010, the 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 the rule, GHGs become “subject to regulation,” and Title V and Prevention of Significant Deterioration (PSD) program requirements begin to apply on January 2, 2011.

LAC 33:III.501.B.5, Item C.3 currently specifies that emissions of carbon dioxide (CO₂) “need not be included in a permit application.” Information concerning potential emissions of GHGs, which includes CO₂, will be necessary in order to assess major source status and applicability of the PSD program.

As a consequence of GHGs becoming “regulated” pollutants, revisions to other state air quality regulations will be necessary. This is because thresholds for small source permits, exemptions, insignificant activities, and General Condition XVII activities are dependent on a source’s emissions of “regulated pollutants” or “regulated air pollutants.” Whether a source can be classified as a small business is also based, in part, on its emissions of “regulated pollutants.” The affected provisions include:

- LAC 33:III.211.B.13.e;
- LAC 33:III.223, Note 15;
- LAC 33:III.501.B.2.d.i;
- LAC 33:III.501.B.4.a.i;
- LAC 33:III.501.B.5;
- LAC 33:III.503.B.2;
- LAC 33:III.523.A.1.b;
- LAC 33:III.537.A, General Condition XVII; and
- LAC 33:III.2132.A. *Small Business Stationary Source*.4 & 5.

Without this regulatory change, fuel-burning equipment and other sources/activities emitting GHGs could no longer be considered as insignificant activities or General Condition XVII activities. In addition, without the changes, the facility where the emissions originated could no longer qualify for the statutory exemption from the requirement to obtain an air permit, for a small source permit, or as a small business if it was otherwise eligible based on its emissions of criteria and toxic air pollutants.

- 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, this proposed rule will not result in any net 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 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?

There is no anticipated increase or decrease in costs to state agencies as a result of this proposed rule.

COSTS	FY 10-11	FY 11-12	FY 12-13
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-
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 is no anticipated increase or decrease in costs associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

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

SOURCE	FY 10-11	FY 11-12	FY 12-13
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-
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?

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.

No impact on local governmental units is anticipated, including adjustments in workload and paperwork requirements

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

There are no costs or savings to local governmental units; therefore, 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 will be no effect on revenue collections of state or local governmental units from the proposed rule.

REVENUE INCREASE/DECREASE	FY 10-11	FY 11-12	FY 12-13
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
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.

No increase or decrease in revenues will be realized.

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 owner or operator of sources which emit or have the potential to emit carbon dioxide (CO₂) will be affected by the proposed rule. This rule removes CO₂ from the list of pollutants that "need not be included in a permit application." Information concerning potential emissions of greenhouses gases (GHGs), which include CO₂, will be necessary in order for LDEQ to assess major source status and applicability of the PSD program once GHGs become "subject to regulation" on January 2, 2011. Thus, permit applicants will be required to calculate and include in permit applications estimates of CO₂ emissions.

Because permit applicants are already required to submit calculations addressing criteria and toxic air pollutants, determining emissions of CO₂ (which is necessary to quantify GHGs) should not be overly burdensome. Emission factors for CO₂ are generally available in AP-42, EPA's Compilation of Air Pollutant Emission Factors.

- 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.

No impacts on receipts or income will result from the proposed rule.

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 will be no effect on competition or employment in the public or private sectors.