

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Offset Requirements in Specified Parishes
(LAC 33:III.504) (AQ355)

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 (AQ355).

This rule will revise the offset requirements that apply to certain projects in the Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge). Currently, if a physical change or change in the method of operation at an existing stationary source (with a potential to emit 50 tons per year (TPY) or more of NOX/VOC) will increase NOX/VOC emissions by 25 TPY or more, the owner/operator must determine the net emissions increase over the contemporaneous period. If the net emissions increase is 25 TPY or more, the owner/operator must provide NOX/VOC offsets for the project at a 1.1 to 1 ratio. This rule will revise the trigger values and offset ratio as follows:

Netting Thresholds in Tons per Year for Significant Net Increases
in VOC and NOX Emissions and Offset Ratio

	VOC	NOX	Offset Ratio
Existing:	25	25	1.1 to 1
Proposed:	40	40	1.0 to 1

This rule will also establish an exemption for pollution control projects. At present, the Baton Rouge area is designated as a marginal nonattainment area with respect to the 2008 8-hour national ambient air quality standard (NAAQS) for ozone (i.e., 75 parts per billion (ppb)). However, the design value of each ambient air monitor in the region is compliant with this NAAQS, and LDEQ has requested that EPA redesignate the area to attainment. LDEQ anticipates that EPA will approve LDEQ's request in early 2016.

On October 1, 2015, EPA revised the 8-hour ozone NAAQS to 70 ppb, a standard with which the Baton Rouge area does not currently comply. However, designations will not be enacted for up to 2 years from the date the new standard is promulgated (see §107(d)(1)(B)(i) of the Clean Air Act). Thus, during the period between the effective date of the area's redesignation to attainment of the 2008 ozone NAAQS and that of its (potential) nonattainment designation with respect to the 2015 ozone NAAQS, offsets will not be required by the Clean Air Act.

However, LDEQ has elected to retain the offset requirements under LAC 33:III.504.M as an anti-backsliding measure, but align the netting and significant net increase trigger values with those for marginal nonattainment areas (cf. Table 1 of LAC 33:III.504.L), set the offset ratio at 1.0 to 1, and establish an exemption for NOX and VOC increases that are a direct result of and

incidental to the installation of abatement equipment or implementation of a control technique designed to control emissions of another pollutant. The basis and rationale for this rule are to revise the offset requirements that apply to projects in the Baton Rouge area. 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.

This rule has no known impact on poverty as described in R.S. 49:973.

This rule has no known impact on providers as described in HCR 170 of 2014.

A public hearing will be held on January 27, 2016, 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 Deidra Johnson 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 AQ355. Such comments must be received no later than February 3, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@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 AQ355. 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 Baratavia Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
General Counsel

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§504. Nonattainment New Source Review (NNSR) Procedures and Offset Requirements in Specified Parishes

A. – L. ...

* * *

M. Offset Requirements in Specified Parishes. Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge if the parish's designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, marginal nonattainment, or moderate nonattainment.

1. ...

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NO_x by ~~2540~~ tons per year or more, without regard to any project decreases.

b. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of VOC shall provide VOC offsets for each physical change or change in the method of operation that would result in a net emissions increase of ~~2540~~ tons per year or more of VOC.

c. The owner or operator of an existing stationary source with a potential to emit 50 tons per year or more of NO_x shall provide NO_x offsets for each physical change or change in the method of operation that would result in a net emissions increase of ~~2540~~ tons per year or more of NO_x.

3. Offsets shall be required at a ratio of ~~1.40~~ to 1.

4. ...

5. The provisions of this Subsection shall not apply to any increase in NO_x or VOC emissions that is a direct result of and incidental to the:

a. installation of abatement equipment or implementation of a control technique required to comply with another state or federal regulation, consent decree, or other enforcement action; or

b. voluntary installation of a pollution control project on an existing emissions unit that reduces emissions of air pollutants from such unit.

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), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2134 (October 2015), LR 42:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ355

Person Preparing Statement:	<u>Bryan D. Johnston</u>	Dept.:	<u>Environmental Quality</u>
Phone:	<u>(225) 219-3450</u>	Office:	<u>Environmental Services</u>
	<u>bryan.johnston@la.gov</u>		
Return Address:	<u>602 North Fifth Street</u>	Rule Title:	<u>Offset Requirements in Specified</u>
	<u>Baton Rouge, LA 70802</u>		<u>Parishes (LAC 33:III.504)</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)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change aligns state offset thresholds for existing sources to federal Clean Air Act standards for sources in the non-attainment area that includes Ascension, East Baton Rouge, Iberville, Livingston and West Baton Rouge parishes. In addition, the proposed rule lowers the offset ratio from 1.1 to 1 to 1.0 to 1 which will still allow for no net emissions increases.

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

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

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

The proposed rule will affect owners/operators of existing stationary sources with a potential to emit 50 tons per year or more of NO_x/VOC located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge seeking authorization from LDEQ for a project which will increase NO_x and/or VOC emissions. However, because the applicability of the proposed rule is not being expanded to encompass additional projects and the offset ratio is not being increased, there will be no compliance-related costs, workload adjustments, or additional administrative obligations required to comply with the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, General 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).

This rule will revise the offset requirements that apply to certain projects in the Baton Rouge area (i.e., the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge).

Currently, if a physical change or change in the method of operation at an existing stationary source (with a potential to emit 50 tons per year or more of NO_x/VOC) will increase NO_x/VOC emissions by 25 tons per year (TPY) or more, the owner/operator must determine the net emissions increase over the contemporaneous period. If the net emissions increase is 25 TPY or more, the owner/operator must provide NO_x/VOC offsets for the project at a 1.1 to 1 ratio. This rule will revise the trigger values and offset ratio as follows:

	Netting (tons)	Significant Net Increase (tons)	Offset Ratio
Existing:	25	25	1.1 to 1
Proposed:	40	40	1.0 to 1

This rule will also establish an exemption for pollution control projects.

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

At present, the Baton Rouge area is designated as a marginal nonattainment area with respect to the 2008 8-hour national ambient air quality standard (NAAQS) for ozone [i.e., 75 parts per billion (ppb)]. However, the design value of each ambient air monitor in the region is compliant with this NAAQS, and LDEQ has requested that EPA redesignate the area to attainment. LDEQ anticipates that EPA will approve LDEQ's request in early 2016.

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However, LDEQ has elected to retain the offset requirements under LAC 33:III.504.M as an anti-backsliding measure, but align the netting and significant net increase trigger values with those for marginal nonattainment areas (cf. Table 1 of LAC 33:III.504.L), set the offset ratio at 1.0 to 1, and establish an exemption for NO_x and VOC increases that are a direct result of and incidental to the installation of abatement equipment or implementation of a control technique designed to control emissions of another pollutant.

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

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) Yes. If yes, attach documentation.

(b) No. If no, provide justification as to why this rule change should be published at this time.

This 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?

No costs or savings to state agencies are anticipated as a result of the proposed rule.

COSTS	FY 15-16	FY 16-17	FY 17-18
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.

This question is not applicable.

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

SOURCE	FY 15-16	FY 16-17	FY 17-18
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 additional 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.

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

There will be no costs or savings to local governmental units, so no funding sources will be affected.

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?

No increase or decrease in revenues to state or local governmental units will be realized.

REVENUE INCREASE/DECREASE	FY 15-16	FY 16-17	FY 17-18
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 proposed rule will affect owners/operators of existing stationary sources (with a potential to emit 50 tons per year (TPY) or more of NO_x/VOC) located in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge seeking authorization from LDEQ for a project which will increase NO_x and/or VOC emissions.

Currently, if a physical change or change in the method of operation at a stationary source identified above will increase NO_x/VOC emissions by 25 TPY or more, the owner/operator must determine the net emissions increase over the contemporaneous period. If the net emissions increase is 25 TPY or more, the owner/operator must provide NO_x/VOC offsets for the project at a 1.1 to 1 ratio. The proposed rule will align the netting and significant net increase trigger values with those for marginal nonattainment areas (i.e., increase such thresholds from 25 to 40 TPY), set the offset ratio at 1.0 to 1, and establish an exemption for NO_x and VOC increases that are a direct result of the control of another pollutant.

Because the applicability of LAC 33:III.504.M is not being expanded to encompass additional projects and the offset ratio is not being increased, there will be no compliance-related costs, workload adjustments, or additional administrative obligations required to comply with the proposed rule.

- 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 impact on receipts or income of the affected persons or non-governmental groups is expected.

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 sector.