NOTICE OF INTENT

Department of Environmental Quality

Office of the Secretary

Legal Affairs and Criminal Investigations Division

Repeal of LAC 33:III.506

(LAC 33:III.506) (AQ392)

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 (AQ392).

On August 8, 2011, the United States Environmental Protection Agency (EPA) issued the Cross-State Air Pollution Rule (CSAPR) to address Clean Air Act requirements concerning interstate transport of air pollution and to replace the previous Clean Air Interstate Rule (CAIR), which the D.C. Circuit remanded to EPA for replacement.

Per EPA's "Rulemaking to Amend Dates in Federal Implementation Plans Addressing Interstate Transport of Ozone and Fine Particulate Matter" promulgated on December 3, 2014, when CSAPR was implemented in 2015, CAIR sunset in compliance with the terms of the 2008 remand, effective December 31, 2014.

Accordingly, LAC 33:III.506, which prescribes how CAIR annual NOx and ozone season NOx allowances are to be allocated and incorporates the federal SO2 model Rule under 40 CFR 96 by reference, is no longer necessary. This Rule will repeal LAC 33:III.506 (Clean Air Interstate Rule Requirements). The basis and rationale for this Rule are to repeal LAC 33:III.506. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

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

**Small Business Analysis**

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

**Provider Impact Statement**

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

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ392. Such comments must be received no later than October 5, 2023, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or by fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ392. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

**Public Hearing**

A public hearing will be held via Zoom on September 28, 2023, at 1:30 p.m. Interested persons are invited to attend and submit oral comments via PC, Mac, Linux, iOS or Android at https://deqlouisiana.zoom.us/j/86752253289?pwd=YWkwN1J0LzZ6N3NVcnUyTmJFZ1plZz0, password 436469 or by telephone by dialing 636-651-3182 using the conference code 725573. Should individuals with a disability need an accommodation in order to participate, contact William Little at the address given below or at (225) 219-3985.

These proposed regulations are available for inspection at the following LDEQ 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.

Courtney J. Burdette

Executive Counsel

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part III Air**

**Chapter 5.** **Permit Procedures**

**§506. ~~Clean Air Interstate Rule Requirements~~Repealed.**

~~A. Clean Air Interstate Rule (CAIR) Nitrogen Oxide (NO~~~~x~~~~) 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~~~~x~~ ~~Annual Trading Program on April 28, 2006, at 71 FR 25328-25469 and as amended on October 19, 2007, at 72 FR 59190-59207. All provisions of 40 CFR Part 97, Subparts AA-HH, continue to apply, with the exception of §97.141 (Timing Requirements for CAIR NO~~~~x~~ ~~Allowance Allocations) and §97.142 (CAIR NO~~~~x~~ ~~Allowance Allocations). The provisions of this Subsection state how the CAIR NO~~~~x~~ ~~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.~~

*~~Department~~*~~⎯the Louisiana Department of Environmental Quality.~~

*~~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 any co-generator who consumes any or all of the electric power and energy that it generates or to any independent power producer who sells its entire production of electric power and energy 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~~*~~⎯the Louisiana Public Service Commission.~~

*~~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 unit 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.~~

*~~Municipal Authority~~*~~⎯a municipal corporation, public power authority, or other political subdivision including, but not limited to, the Louisiana Energy and Power Authority.~~

*~~Non-Utility Unit~~*~~⎯an electricity-generating unit that has not been certified by the LPSC or approved by a municipal authority, and that does not have an effective and active long-term contract with a utility unit. This includes, but is not limited to, units owned by independent power producers (IPPs) that are the owners or operators of electricity-generating units that produce electricity for sale, and~~ *~~cogeneration units~~* ~~as defined in 40 CFR Part 97.~~

*~~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. Allocation of CAIR NO~~~~x~~ ~~Annual Allowances. Total NO~~~~x~~ ~~allowances allocated per control period shall not be in excess of the CAIR NO~~~~x~~ ~~annual budget as found in 40 CFR 97.140 (35,512 tons per control period from 2009-2014 and 29,593 tons per control period thereafter).~~

~~a. Non-Utility Units. For each CAIR non-utility unit, the NO~~~~x~~ ~~allowances shall be equal to the average of the actual NO~~~~x~~ ~~annual emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The actual NO~~~~x~~ ~~annual emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO~~~~x~~ ~~emissions for calendar years 2002, 2003, and 2004. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO~~~~x~~ ~~annual emissions data are available for only two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO~~~~x~~ ~~annual emissions data for those two years shall be used. When actual reported NO~~~~x~~ ~~annual emissions data are available for only one of the three calendar years, the actual reported NO~~~~x~~ ~~annual emissions data for that one year shall be used. When no actual reported NO~~~~x~~ ~~annual emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.~~

~~b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO~~~~x~~ ~~allowances for the control period in which the unit will begin operation, and for each successive control period, for which no NO~~~~x~~ ~~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 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 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~~~~x~~ ~~allowances to each CAIR utility unit by multiplying the CAIR NO~~~~x~~ ~~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 heat input of the CAIR utility unit to the total amount of adjusted 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 heat input (in MMBTU) used with respect to the CAIR NO~~~~x~~ ~~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 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 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, fuel type, and total tons of NO~~~~x~~ ~~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. Timing Requirements for CAIR NO~~~~x~~ ~~Annual Allowance Allocations~~

~~a. By April 30, 2007, the department shall submit to the administrator the CAIR NO~~~~x~~ ~~annual allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control periods in 2009, 2010, and 2011.~~

~~b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator CAIR NO~~~~x~~ ~~annual allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph A.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.~~

~~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 using the new classification, beginning with the allocation submission deadline after the effective date of the unit reclassification. 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~~~~x~~~~) 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~~~~x~~ ~~Ozone Season Trading Program on April 28, 2006, at 71 FR 25328-25469 and as amended on October 19, 2007, at 72 FR 59190-59207. All provisions of 40 CFR Part 97, Subparts AAAA–HHHH, continue to apply, with the exception of §97.341 (Timing Requirements for CAIR NO~~~~x~~ ~~Ozone Season Allowance Allocations) and §97.342 (CAIR NO~~~~x~~ ~~Ozone Season Allowance Allocations). The provisions of this Subsection state how the CAIR NO~~~~x~~ ~~ozone season allowances shall be allocated in accordance with this Section and 40 CFR 97.343(a).~~

~~1. Definitions. The terms used in Subsection B of this Section have the meaning given to them in the CAIR FIP (40 CFR Part 97 as promulgated on April 28, 2006), and in Paragraph A.1 of this Section.~~

~~2. Allocation of CAIR NO~~~~x~~ ~~Ozone Season Allowances. Total NO~~~~x~~ ~~ozone season allowances allocated per control period shall not be in excess of the CAIR NO~~~~x~~ ~~ozone season budget as found in 40 CFR 97.340 (17,085 tons per control period from 2009-2014 and 14,238 tons per control period thereafter).~~

~~a. Non-Utility Units. For each CAIR non-utility unit, the NO~~~~x~~ ~~allowances shall be equal to the average of the actual NO~~~~x~~ ~~ozone season emissions of the three calendar years immediately preceding the year in which the control period allocations are submitted to the administrator. The actual NO~~~~x~~ ~~ozone season emissions as reported in the emission inventory required by LAC 33:III.919 shall be used, except that the allowances submitted in 2007 shall use the actual NO~~~~x~~ ~~emissions for calendar years 2002, 2003, and 2004 that were reported to the Federal Acid Rain Program. When data is not available in the emission inventory, data reported to the Federal Acid Rain Program shall be used. When actual reported NO~~~~x~~ ~~ozone season emissions data are available for only two of the three calendar years immediately preceding the deadline for submission of the control period allocations, the average of the actual reported NO~~~~x~~ ~~ozone season emissions data for those two years shall be used. When actual reported NO~~~~x~~ ~~ozone season emissions data are available for only one of the three calendar years, the actual reported NO~~~~x~~ ~~ozone season emissions data for that one year shall be used. When no actual reported NO~~~~x~~ ~~ozone season emissions data for any of the three calendar years are available, no allocations shall be made under this Paragraph.~~

~~b. Certified Units. A certified and permitted unit subject to CAIR shall be allocated NO~~~~x~~ ~~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~~~~x~~ ~~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 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. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal 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 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. If the control period gross electrical output is unavailable, the hourly heat input for a specified calendar year shall equal the annual 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, 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~~~~x~~ ~~ozone season allowances to each CAIR utility unit by multiplying the CAIR NO~~~~x~~ ~~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 heat input of the CAIR utility unit to the total amount of ozone season adjusted 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 heat input (in MMBTU) used with respect to the CAIR NO~~~~x~~ ~~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 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 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, fuel type, and total tons of NO~~~~x~~ ~~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. Timing Requirements for CAIR NO~~~~x~~ ~~Ozone Season Allowance Allocations~~

~~a. By April 30, 2007, the department shall submit to the administrator the CAIR NO~~~~x~~ ~~ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control periods in 2009, 2010, and 2011.~~

~~b. By October 31, 2008, for the year 2012, and by October 31 of each year thereafter, the department shall submit to the administrator the CAIR NO~~~~x~~ ~~ozone season allowance allocations, in a format prescribed by the administrator and in accordance with Paragraph B.2 of this Section, for the control period in the fourth year after the year of the applicable deadline for submission under this Section.~~

~~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 using the new classification, beginning with the allocation submission deadline after the effective date of the unit reclassification. 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~~~~2~~ ~~model Rule, published in the~~ *~~Code of Federal Regulation~~* ~~at 40 CFR 96, July 1, 2015, is hereby incorporated by reference, except for subpart III-CAIR SO~~~~2~~ ~~opt-in units and all references to opt-in units.~~

~~D. The volumes containing those federal regulations incorporated by reference may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402 or their website, www.gpoaccess.gov/cfr/index.html.~~

~~E. Modifications or Exceptions. A copy of each report or notice or of any other documentation required by the referenced regulations (i.e., 40 CFR Part 96) to be provided to "the Administrator" shall be provided to the Office of Environmental Services by the person required to make the submission to "the Administrator."~~

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 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 42:1085 (July 2016); repealed by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 49:

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES LOG #: AQ392

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Person  Preparing  Statement: | Bryan D. Johnston |  | Dept.: | Environmental Quality |
| Phone: | (225) 219-3450 |  | Office: | Environmental Services |
|  | bryan.johnston@la.gov |  |  |  |
| Return Address: | 602 North Fifth Street |  | Rule Title: | Repeal of LAC 33:III.506 (Clean Air |
|  | Baton Rouge, LA 70802 |  |  | Interstate Rule Requirements) |
|  |  |  |  | (LAC 33:III.506) |
|  |  |  |  |  |
|  |  |  | Date Rule Takes Effect: | Upon Promulgation |

SUMMARY

(Use complete sentences)

In accordance with Section 961of 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. In light of EPA’s replacement of the Clean Air Interstate Rule with the Cross-State Air Pollution Rule (CSAPR), the proposed rule repeals LAC 33:III.506, the Clean Air Interstate Requirement (CAIR). LAC 33:III.506, which prescribes how CAIR annual NOX and ozone season NOX allowances are to be allocated and incorporates the federal SO2 model rule under 40 CFR 96 by reference, is no longer current or necessary.

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

There is no estimated increase or decrease in revenues to state or local governmental units as a result of the proposed rule.

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

There are no costs or economic benefits to directly affected persons or non-governmental groups as a result of 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.

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Signature of Agency Head or Designee Legislative Fiscal Officer or Designee

Courtney J. Burdette, Executive Counsel a

Typed Name &Title of Agency Head or Designee

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Date of Signature Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

The following information is required 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 proposed rule will repeal LAC 33:III.506 (Clean Air Interstate Rule Requirements).

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

On August 8, 2011, the United States Environmental Protection Agency (EPA) issued the Cross-State Air Pollution Rule (CSAPR) to address Clean Air Act requirements concerning interstate transport of air pollution and to replace the previous Clean Air Interstate Rule (CAIR), which the D.C. Circuit remanded to EPA for replacement.\*

Per EPA’s “Rulemaking to Amend Dates in Federal Implementation Plans Addressing Interstate Transport of Ozone and Fine Particulate Matter” promulgated on December 3, 2014 (79 FR 71663), when CSAPR was implemented in 2015, CAIR sunset in compliance with the terms of the 2008 remand, effective December 31, 2014. See 40 CFR 51.123(ff)(1) and 51.124(s)(1).

Accordingly, LAC 33:III.506, which prescribes how CAIR annual NOX and ozone season NOX allowances are to be allocated and incorporates the federal SO2 model rule under 40 CFR 96 by reference, is no longer current or necessary.

\* *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir.), *modified*, 550 F.3d 1176 (D.C. Cir. 2008)

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.

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COSTS FY 24 FY 25 FY 26

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PERSONAL SERVICES -0- -0- -0-

OPERATING EXPENSES -0- -0- -0-

PROFESSIONAL SERVICES -0- -0- -0-

OTHER CHARGES -0- -0- -0-

EQUIPMENT -0- -0- -0- a

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 are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule.

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

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SOURCE FY 24 FY 25 FY 26

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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- a

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 and local governmental units will be realized.

REVENUE INCREASE/DECREASE FY 24 FY 25 FY 26

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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- a

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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

1. What persons, small businesses, 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 repeal LAC 33:III.506 (Clean Air Interstate Rule Requirements). Because CAIR is no longer effective, no persons or non-governmental groups will be directly affected by the proposed action. Accordingly, there will be no economic effect.

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 directly 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.