

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

PM_{2.5} Increments, Significant Impact Levels and Significant Monitoring Concentration
(LAC 33:III.509) (AQ328ft)

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.509 (Log #AQ328ft).

This rule is identical to federal regulations found in 75 FR 202 pages 64864 - 64907, 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).

This action incorporates the provisions of the Environmental Protection Agency's final rule entitled "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5})—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)" (75 FR 64864, October 20, 2010) into the Louisiana air regulations. The New Source Review (NSR) provisions of the Clean Air Act (CAA) are a combination of air quality planning and air pollution control technology program requirements for new and modified stationary sources of air pollution. In brief, section 109 of the CAA requires EPA to promulgate primary National Ambient Air Quality Standards (NAAQS) to protect public health and secondary NAAQS to protect public welfare. Once EPA has set these standards, states must develop, adopt, and submit to the agency for approval State Implementation Plans (SIPs) that contain emission limitations and other control measures to attain and maintain the NAAQS and to meet the other requirements of section 110(a) of the CAA.

Part C of Title I of the CAA contains the requirements for a component of the major NSR program known as the PSD program. This program sets forth procedures for the preconstruction review and permitting of new and modified major stationary sources of air pollution located in areas meeting the NAAQS ("attainment" areas) and areas for which there is insufficient information to classify an area as either attainment or nonattainment ("unclassifiable" areas).

Louisiana has a SIP-approved PSD program. In the aforementioned rule,

[W]e [EPA] are establishing the final PM_{2.5} increments as minimum program elements for all State PSD programs. Accordingly, states must submit for EPA's approval revised SIPs that incorporate the final PM_{2.5} increments or alternative measures that can be demonstrated to EPA's satisfaction to provide an equivalent level of protection as the PM_{2.5} increments. In accordance with section 166(b) of

the Act, we are requiring states to submit revised implementation plans to EPA for approval within 21 months of promulgation, that is, by July 20, 2012. (75 FR 64898)

The basis and rationale for this rule are to incorporate PSD increments, SILs, and the SMC for PM_{2.5} into LAC 33:III.509. 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 April 25, 2012, 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 Perry Theriot 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 AQ328ft. Such comments must be received no later than April 25, 2012, at 4:30 p.m., and should be sent to Perry Theriot, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to perry.theriot@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 AQ328ft. 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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Executive Counsel

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§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.

* * *

Baseline Area—

a. any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than ~~1 µg/m³ (annual average)~~ the following amounts of the pollutant for which the minor source baseline date is established: 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or 0.3 µg/m³ (annual average) for PM_{2.5};

b. - c. ...

* * *

Baseline Date—

a. *Major Source Baseline Date—*

i. in the case of particulate matter (PM₁₀) and sulfur dioxide, January 6, 1975; ~~and~~

ii. in the case of nitrogen dioxide, February 8, 1988; and

iii. in the case of PM_{2.5}, October 20, 2011.

b. *Minor Source Baseline Date—* the earliest date after the trigger date on which a major stationary source or a major modification subject to this Section submits a complete

application under the relevant regulations. The trigger date is:

- i. in the case of particulate matter (PM₁₀) and sulfur dioxide, August 7, 1977; ~~and~~
- ii. in the case of nitrogen dioxide, February 8, 1988; and
- iii. in the case of PM_{2.5}, October 20, 2011.

c. The *baseline date* is established for each pollutant for which increments or other equivalent measures have been established if:

i. the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved in accordance with 40 CFR 51.166; and

c.ii. - d. ...

* * *

C. Ambient Air Increments. In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Class I	
Particulate matter:	
<u>PM_{2.5}, annual arithmetic mean</u>	<u>1</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>2</u>
PM ₁₀ , annual arithmetic mean	4
PM ₁₀ , 24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
<u>PM_{2.5}, annual arithmetic mean</u>	<u>4</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>9</u>
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hr maximum	30

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter) ¹
Sulfur dioxide: Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide: Annual arithmetic mean	25
Class III	
Particulate matter: <u>PM_{2.5}, annual arithmetic mean</u>	<u>8</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>18</u>
PM ₁₀ , annual arithmetic mean	34
PM ₁₀ , 24-hr maximum	60
Sulfur dioxide: Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide: Annual arithmetic mean	50
¹ For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.	

D. - I.4. ...

5. The administrative authority may exempt a stationary source or modification from the requirements of Subsection M of this Section, with respect to monitoring for a particular pollutant, if:

a. the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide	575 µg/m ³	8-hour average
Nitrogen dioxide	14 µg/m ³	annual average
Particulate matter	10 µg/m ³ of PM ₁₀ <u>4 µg/m³ of PM_{2.5}</u>	24-hour average <u>24-hour average</u>
Sulfur dioxide	13 µg/m ³	24-hour average
Ozone	No <i>de minimis</i> air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to	

	PSD would require the performance of an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 µg/m ³	3-month average
Fluorides	0.25 µg/m ³	24-hour average
Total reduced sulfur	10 µg/m ³	1-hour average
Hydrogen sulfide	0.2 µg/m ³	1-hour average
Reduced sulfur compounds	10 µg/m ³	1-hour average

I.5.b. – J.4. ...

K. Source Impact Analysis-

1. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not cause or contribute to air pollution in violation of:

1a. any national ambient air quality standard in any air quality control region; or

2b. any applicable maximum allowable increase over the baseline concentration in any area.

2. Significant Impact Levels. For purposes of PM_{2.5}, the demonstration required in Paragraph K.1 of this Section is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following amounts:

<u>Pollutant</u>	<u>Micrograms per Cubic Meter</u>
<u>Class I</u>	
<u>Particulate matter:</u>	
<u>PM_{2.5}, annual arithmetic mean</u>	<u>0.06</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>0.07</u>
<u>Class II</u>	
<u>Particulate matter:</u>	
<u>PM_{2.5}, annual arithmetic mean</u>	<u>0.3</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>1.2</u>
<u>Class III</u>	
<u>Particulate matter:</u>	
<u>PM_{2.5}, annual arithmetic mean</u>	<u>0.3</u>
<u>PM_{2.5}, 24-hr maximum</u>	<u>1.2</u>

L. - P.4. ...

5. Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality-related values of any such lands, including visibility, notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the administrative authority, provided that the applicable requirements of this Section are otherwise met, may issue the permit with such emission limitations as may be necessary to ensure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants.

Pollutant	Maximum Allowable Increase (Micrograms per Cubic Meter)
Particulate matter:	
<u>PM_{2.5}, annual arithmetic mean</u>	4
<u>PM_{2.5}, 24-hr maximum</u>	9
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

P.6. - 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 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), LR 38:**.