

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Emission Offsets
(LAC 33:III.504.F) (AQ354)

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.F (AQ354).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and the Environmental Protection Agency (EPA). However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas).

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's Nonattainment New Source Review (NNSR) procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification.

Currently, for all regulated pollutants other than PM_{2.5}, emission reductions claimed as offset credit must be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required. For example, increases in NOX emissions must be offset with decreases in NOX emissions; increases in VOC emissions must be offset with decreases in VOC emissions.

However, in ozone nonattainment areas, both NOX and VOC are regulated as precursors to ozone. Accordingly, when a project triggers NNSR for ozone, reductions in either NOX or VOC emissions can satisfy the requirement that offsets provide a net air quality benefit, provided they are applied at the proper ratio as determined by photochemical models such as the Comprehensive Air Quality Model with Extensions (CAMx).

This rulemaking will allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (currently 1.10 to 1 for marginal ozone nonattainment areas). The basis and rationale for this rule are to allow for increases of one ozone precursor (NOX or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. 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 July 29, 2015, 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 AQ354. Such comments must be received no later than August 5, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, 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 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 AQ354. 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 5. Permit Procedures

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

A. - E.5. ...

F. Emission Offsets. All emission offsets approved by the department shall be surplus, permanent, quantifiable, and enforceable in accordance with LAC 33:III.Chapter 6 and shall meet the following criteria.

1. Offsets shall be required at the ratio specified in Subsection L, Table 1 of this Section unless a higher ratio is required to justify substitution of a precursor pollutant as described in Subparagraphs F.2.a and b of this Section. ~~All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that direct PM_{2.5} emissions or emissions of PM_{2.5} precursors may be offset by reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area.~~

2. ~~Reserved.~~ All emission reductions claimed as offset credit shall be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required, except that:

a. direct PM_{2.5} emissions or emissions of PM_{2.5} precursors may be offset by reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor, if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved SIP for a particular nonattainment area; and

b. one ozone precursor (NO_x and VOC) may be substituted for another at the ratio dictated by photochemical modeling, subject to approval of the department and the U.S. Environmental Protection Agency. This ratio shall be no less stringent than as specified in Subsection L, Table 1 of this Section.

F.3. - M.4. ...

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:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ354

Person Preparing Statement:	<u>Bryan D. Johnston</u>	Dept.:	<u>Environmental Quality</u>
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Return Address:	<u>602 North Fifth Street</u> <u>Baton Rouge, LA 70802</u>	Rule Title:	<u>Emission Offsets</u> <u>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.

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)

Permit applicants seeking to construct a new major stationary source or major modification in an ozone nonattainment area and desiring to offset increases in NO_x emissions with decreases in VOC emissions (or increases in VOC emissions with decreases in NO_x emissions) will be affected by the proposed rule. The offset ratio needed to ensure that a net air quality benefit is achieved must be verified using photochemical modeling. LDEQ estimates that the cost to conduct the required modeling and prepare the supporting documentation will range from \$15,000 to \$25,000 per project and permit applicants will be responsible for these costs.

If the necessary offsets for a new major stationary source or major modification cannot be secured, a permit for the project cannot be issued. Thus, if the supply of NO_x or VOC offsets (i.e., emission reduction credits, or ERC) in a given ozone nonattainment area is limited, the permit applicant may benefit by being able to apply offsets of the other precursor pollutant.

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, 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 proposed rule will allow for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and the Environmental Protection Agency (EPA).

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

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's nonattainment new source review (NNSR) procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification.

Currently, for all regulated pollutants other than $\text{PM}_{2.5}$, emission reductions claimed as offset credit must be from decreases of the same regulated pollutant or pollutant class (e.g., VOC) for which the offset is required. For example, increases in NO_x emissions must be offset with decreases in NO_x emissions; increases in VOC emissions must be offset with decreases in VOC emissions.

However, in ozone nonattainment areas, both NO_x and VOC are regulated as precursors to ozone. Accordingly, when a project triggers NNSR for ozone, reductions in either NO_x or VOC emissions can satisfy the requirement that offsets provide a net air quality benefit, provided they are applied at the proper ratio as determined by photochemical models such as the Comprehensive Air Quality Model with Extensions (CAMx).

The proposed rule will allow for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA. However, the approved ratio must be no less stringent than as specified in Table 1 of LAC 33:III.504 (e.g., 1.10 to 1 for marginal ozone nonattainment areas).

- 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.

In order to construct a new major stationary source or major modification in a nonattainment area, LDEQ's NNSR procedures under LAC 33:III.504 require the owner or operator to offset the increase in emissions of the nonattainment pollutant(s) resulting from the new construction or modification. The proposed rule will allow for increases of one ozone precursor (NO_x or VOC) to be offset with decreases of the other ozone precursor at the ratio dictated by photochemical modeling, subject to approval of LDEQ and EPA.

Therefore, only permit applicants seeking to construct a new major stationary source or major modification in an ozone nonattainment area and desiring to offset increases in NO_x emissions with decreases in VOC emissions (or increases in VOC emissions with decreases in NO_x emissions) will be affected by the proposed rule. The offset ratio needed to ensure that a net air quality benefit is achieved must be verified using photochemical modeling. LDEQ estimates that the cost to conduct the required modeling and prepare the supporting documentation will range from \$15,000 to \$25,000 per project and permit applicants will be responsible for these costs.

If the necessary offsets for a new major stationary source or major modification cannot be secured, a permit for the project cannot be issued. Thus, if the supply of NO_x or VOC offsets (i.e., emission reduction credits, or ERC) in a given ozone nonattainment area is limited, the permit applicant may benefit by being able to apply offsets of the other precursor pollutant.

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.